

# Tenure Policy

<b>Policy ref:</b>	Tenure
<b>Policy author/holder:</b>	Head of Neighbourhoods
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## **1 Purpose and anticipated outcomes**

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This policy sets out the range of tenancies that we may grant for our customers of rented homes. It aims to ensure we provide all legitimate occupiers of accommodation the rights required by law and the regulatory framework for social housing landlords in England.

Our separate Allocations and Lettings Policy sets out how we allocate our homes and how we make use of local letting plans.

This Tenure Policy complies with the requirements of the social housing regulator's Tenancy Standard by setting out:

- The types of tenancies and licences we may grant;
- The circumstances in which we grant a particular tenancy or licence;
- The length of term for our fixed term tenancies and any exceptional circumstances where we would grant a fixed term tenancy of less than 5 years following any probationary period;
- Any circumstance in which we would grant a tenancy of less than 2 years in general needs housing following any probationary period;
- The circumstances in which we will grant a further tenancy (or not) at the end of an existing tenancy;
- How we will take account of the needs of our vulnerable households
- How a customer can appeal against the type of tenancy offered, the length of any fixed term offered and/or the decision not to grant another tenancy on the expiry of the fixed term.

Consistent application of this policy will assist us with our aim to ensure our customers have the right home with LiveWest for as long as they need it. It also fulfils our obligation to consult with the Local Authorities that we work with.

## 2 Scope and definitions

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### Scope:

This policy applies to all LiveWest rented homes.

### Definitions:

- Social rent: a rent that is set in line with the National Rent regime
- Affordable rent: a rent that is set at up to 80% of market rent
- Intermediate market rent: a rent that is set at up to 80% of the market rent where the home has been developed without grant
- Market rent: a rent that is set based on the amount payable for similar properties on the open market

## 3 About this policy

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We aim to offer our customers occupancy agreements that are compatible with their needs, the purpose of accommodation, the sustainability of the community and the efficient use of our homes. Details of the range of occupancy agreements and the circumstances in which each is applicable are detailed in appendix 1.

Unless there's a compelling reason not to do so, we offer joint tenancies to customers where either they already hold a joint tenancy at the time of our offer or their application for housing is in joint names. We do not usually offer joint tenancies to applicants and their adult children.

When offering a tenancy to a customer who is under 18 years old, we advise them that they require a Trustee and Guarantor where possible.

If an existing customer needs to move to temporary accommodation because their home is uninhabitable (whether for reasons of major repair or accidental damage such as flood, fire etc.) they will retain their original tenancy/lease if the intention is for them to return. In this situation we'll offer a use of occupation agreement whilst occupying the temporary home. If another association or local authority provides the temporary accommodation, they should offer a similar agreement. See our procedures 'decants, temporary and emergency moves' procedures.

In accordance with the Social Housing Regulator's Tenancy Standard, we will not usually offer any customer who has been a social housing tenant (either with us or another landlord) continuously since before April 2012 a tenancy with less security than they already enjoy unless they choose a family sized home on an affordable rent which will be let on a fixed term tenancy.

### **3.1 Starter and probationary tenancies**

Other than as described in the section above, customers are usually offered a starter/probationary tenancy. This will normally be for twelve months - if there are no problems with conduct of the tenancy at the end of that period, it will convert to a full assured tenancy or a fixed term tenancy under the terms of the tenancy agreement. The starter/probationary tenancy also contains a clause allowing an extension of the starter/probationary tenancy by a maximum of six months. We will only extend the tenancy if there are concerns about the conduct of the tenancy in terms of nuisance, anti-social behaviour or persistent rent arrears.

We will extend the starter/probationary tenancy:

- At or during months 10-12 where there is a reasonable possibility that the customer can be assisted in changing their behaviour over a further six months; or
- There has been nuisance or anti-social behaviour at an earlier period in the life of the tenancy, which has stopped but there are reasonable concerns that it might reoccur.

We have a separate procedure that details how we manage starter tenancies and ensure that we comply with the pre-court action protocol for possession claims by social landlords. We will always tell a customer if we are not converting their tenancy after a review and explain our reasons. We will also set out the steps we will take before embarking on possession action.

### **3.2 Assured Shorthold tenancies**

Assured Shorthold tenancies that are not starter/probationary tenancies may only be used in the following cases:

- Where LiveWest's ownership/management of the property is temporary;
- Where it is intended to offer short term housing as part of an agreement to provide housing of the homeless, or where a project has the specific aim of offering housing for a defined period only, such as in our supported housing schemes;
- Where we know we have a home planned for future disposal/sale but we're waiting for another home to become available;
- Where we are housing asylum seekers/refugees and they either have limited leave to remain, their status here is still subject to confirmation or there is any doubt about their status;
- Where permanent housing is awaiting major repair and is to be let pending the start of those works;
- Self-build schemes where not all homes are completing on the same date and only until final handover;
- Where the properties are market rent housing;

- Where a local lettings policy has been adopted as part of a strategy to prevent the deterioration of social conditions, or to improve the social conditions of a specified locality;
- Exceptional cases where the applicant's tenancy history means we would have otherwise refused rehousing.

### **3.3 License agreements**

We offer 'excluded' license agreements in some of our specialist short term supported accommodation. These types of agreements are not covered by the Protection from Eviction Act 1977. See appendix 1 for further details where we would issue a licence agreement.

### **3.4 Assured tenancies**

Our Assured tenancies are offered as 'periodic' (following any starter period), which means it's a lifetime tenancy providing no tenancy breaches occur. An Assured tenancy that is not shorthold implies a statutory periodic tenancy - this requires us as the Landlord to obtain an order for possession to evict in line with Chapters 8 & 9 of the Housing Act 1988 so long as we have a valid legal ground as detailed in Schedule 2 of the Housing Act 1988.

### **3.5 Fixed Term tenancies**

Our Fixed-term tenancies are usually for a period of 7 years which includes the first 12 - 18 months of any probationary period. In some circumstances, a shorter term of not less than 2 years may be used where it would be more appropriate to do so. For example:

- The property is subject to a planned regeneration scheme;
- The customer has limits to their leave to remain in the UK and/or their right to rent;
- The tenancy is a re-grant through mutual exchange and the tenancy being exchanged has less than two years remaining on it.

We maintain regular contact with customers with fixed term tenancies to review their tenancy and determine that it is being conducted satisfactorily. Where appropriate, we are able to provide support from our in-house service to assist a customer in sustaining their tenancy.

#### **3.5.1 Fixed Term Tenancy Reviews**

These tenancy reviews do not replace the need for responsive housing management where there is anti-social behaviour or rent arrears for example, where such issues become apparent, we ensure that prompt support and where appropriate, tenancy enforcement action is taken in line with our relevant policies and procedures.

We will normally offer a new fixed term tenancy following a review unless:

- The property is no longer suitable for size or the needs of the household;
- The household's financial circumstances have changed so that other housing options are available such as home ownership, renting at full market value and other tenures;
- Serious breaches of tenancy or tenancy fraud are identified during the fixed term tenancy review process (these will normally have already resulted in enforcement action);
- The resident and/or their advocate do not engage in the end of tenancy review;
- Works are planned on a property in the next five years (which would require its redevelopment or demolition) or where the property is identified for disposal.

We will adhere to partnership homelessness prevention protocols within each local authority area. For example, we are signed up to projects across Bristol and Cornwall for the Homeless Prevention Scheme.

We will provide support for customers to move on if it appears that their home would not be appropriate for them at the end of the fixed term. Where the need to move is the result of under-occupation we will ensure that the customer is registered as a priority applicant on the appropriate Home choice scheme and prioritise the household for a direct offer through our management transfer process. We may also offer support with move costs and expenses.

We will give at least 6 months' notice where we intend not to renew the tenancy at the end of its fixed term and repossess the property using section 21 of the Housing Act (1988) at the end of the tenancy. In doing so, we comply with the pre-court action protocol for possession claims by social landlords.

We will provide advice and assistance to ensure customers are aware of the different housing options open to them given their particular circumstances and that they have appropriate support to access those different options.

### **3.6 Covenants and contracts**

For some homes we have to comply with certain planning agreements such as Section 106 of the Town and Country Planning Act which may require us to offer a certain type of tenancy agreement.

We also have specific arrangements with external agencies, for example our "seaside and country homes" are available to older people who are relocating from London and must always be let on Assured tenancy agreements.

### **3.7 Succession**

In certain circumstances, legislation provides for a tenancy to pass to another person on the tenant's death. In all cases, the customer's tenancy agreement confirms if the right of succession applies to them.

Where there is no right of succession we may however offer, at our sole discretion, a new tenancy to a member of the family, carer or other occupant, if that person has been residing with the tenant and living at the property as his or her only or principal home throughout the year before the tenants' death. A tenancy offered under this clause is at our sole discretion, and may be of this property or of another suitable property.

We have a separate procedure to ensure that we act properly and consistently when responding to a claim for succession.

### **3.8 Assignment**

To promote stable communities, it may be appropriate to allow a person who would be entitled to succeed to a tenancy to take over the tenancy in circumstances other than the tenant's death.

Our tenancy agreements make it clear if and when this opportunity applies. In all cases, our written approval is needed for an assignment to take place.

We have a separate procedure to ensure that we act properly and consistently when responding to an application for assignment.

### **3.9 Mutual exchange**

To assist in making the best use of our stock, we will generally offer a customer the opportunity to swap their home with a tenant of ours or any other social housing provider where this would resolve their housing need or otherwise support their aspirations.

We have a separate procedure to ensure that we act properly and consistently when responding to an application for mutual exchange.

### **3.10 Where homes are managed by other organisations on behalf of LiveWest**

There are several associations who manage homes on behalf of LiveWest and they will issue LiveWest tenancies in line with this policy.

### **3.11 Additional Support**

As part of our aim to build strong communities, we will work to ensure that our customers have the opportunity to access our services and sustain their occupancy.

We realise that some members of our community may require additional support and interventions. We will support customers to remain in their homes and live as independently as possible and are committed to ensuring that we provide every opportunity to support them and signpost to other organisations.

We take into account the needs of those households who are vulnerable for example, by reason of age, disability or illness, and households with children. We offer specialist older persons' housing and have a number of sheltered housing and extra care schemes which provide support dependent on individual needs. We also have a range of adapted properties for people with disabilities where available and where appropriate.

## **4 Service standards, monitoring and review**

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### **4.1 Service standards**

- Offer the most appropriate form of occupancy agreement in line with the type of home offered;
- Explain the type of agreement we will give and what this means for the customer;
- Clearly explain the customer's rights and responsibilities so that they can manage the tenancy/licence well from the start;
- Regularly engage with our customers to check their understanding, obtain their feedback and help us to continually improve our service.

### **4.2 Performance monitoring**

We regularly review a sample of our signed tenancy agreements to make sure the correct tenancy has been issued and our policy and procedures have been followed.

### **4.3 Records**

Copies of occupancy agreements and related documents will be retained on the customers tenancy file.

### **4.4 Review**

This policy will be reviewed on a three yearly basis or in response to changes in legislation, regulatory guidance, good practice or changes in other relevant LiveWest policies.

### **4.5 Complaints**

Any customer who wishes to challenge or seek a review of any tenancy-related decision (such as, but not limited to, refusal to offer a tenancy, the type or term of tenancy offered, refusal to renew a fixed term tenancy, or the enforcement of any of their tenancy conditions) may do so as per our compliments, complaints and feedback policy.

## **5 Legal considerations**

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- Protection from Eviction Act 1977
- The Rent Act 1977
- Housing Act 1985, 1988 & 1996
- Town and Country Planning Act 1990 – Section 106
- The Equality Act 2010
- Localism Act 2011
- Homelessness Act 2002

## **6 Linked/associated policies and other references**

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### **Associated policies:**

- Tenancy management
- Allocations and lettings
- Neighbourhood management
- Anti-social behaviour
- Compliments, complaints and feedback

### **Associated procedures:**

- Changing and ending tenancies or leases
- Mutual exchange
- Anti-social behaviour
- Rent income and debt
- Managing tenancy fraud
- Tenancy reviews and appeals



## Appendix 1

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Tenancy Type	Who will this be offered to?
<b>Licence agreement</b>	<ul style="list-style-type: none"> <li>• Applicants for short term hostel type accommodation with support.</li> <li>• For use of garages or parking spaces.</li> <li>• For renting vegetable plots/allotments.</li> </ul>
<b>Use and occupation conditions agreement</b>	<ul style="list-style-type: none"> <li>• Those occupying homes on a temporary basis whilst work/redevelopment of their current home is under way.</li> <li>• Used by LiveWest or occupants from another Registered Provider when there is a need to be decanted.</li> <li>• Unauthorised occupation.</li> </ul>
<b>Assured Shorthold tenancy (periodic)</b>	<ul style="list-style-type: none"> <li>• An applicant for a property where LiveWest is the leaseholder and where the lease includes break clauses or is for less than 99 years, for example living over the shop schemes (LOTS).</li> <li>• Applicants for key worker accommodation.</li> <li>• Applicants for some types of supported housing (part of the support will be to assist with move-on accommodation).</li> <li>• Applicants with limited leave to remain in the UK.</li> <li>• Applicants where we are waiting for confirmation of their right to remain in the UK.</li> <li>• Applicants where we are otherwise unable to offer a tenancy due to previous tenancy history.</li> </ul>
<b>Tenancy for minors with Trustee Deed</b>  <b>Assured Shorthold tenancy (periodic)</b>	<ul style="list-style-type: none"> <li>• Applicants for some types of supported housing (part of the support will be to assist with move-on accommodation) who are not yet 18 years old.</li> <li>• Applicants who are successful in choosing a home and who are not yet 18 years old or;</li> <li>• Those that have been granted tenancy in lieu of succession or via assignment.</li> <li>• The tenancy must be held in trust for the equitable tenant.</li> </ul>

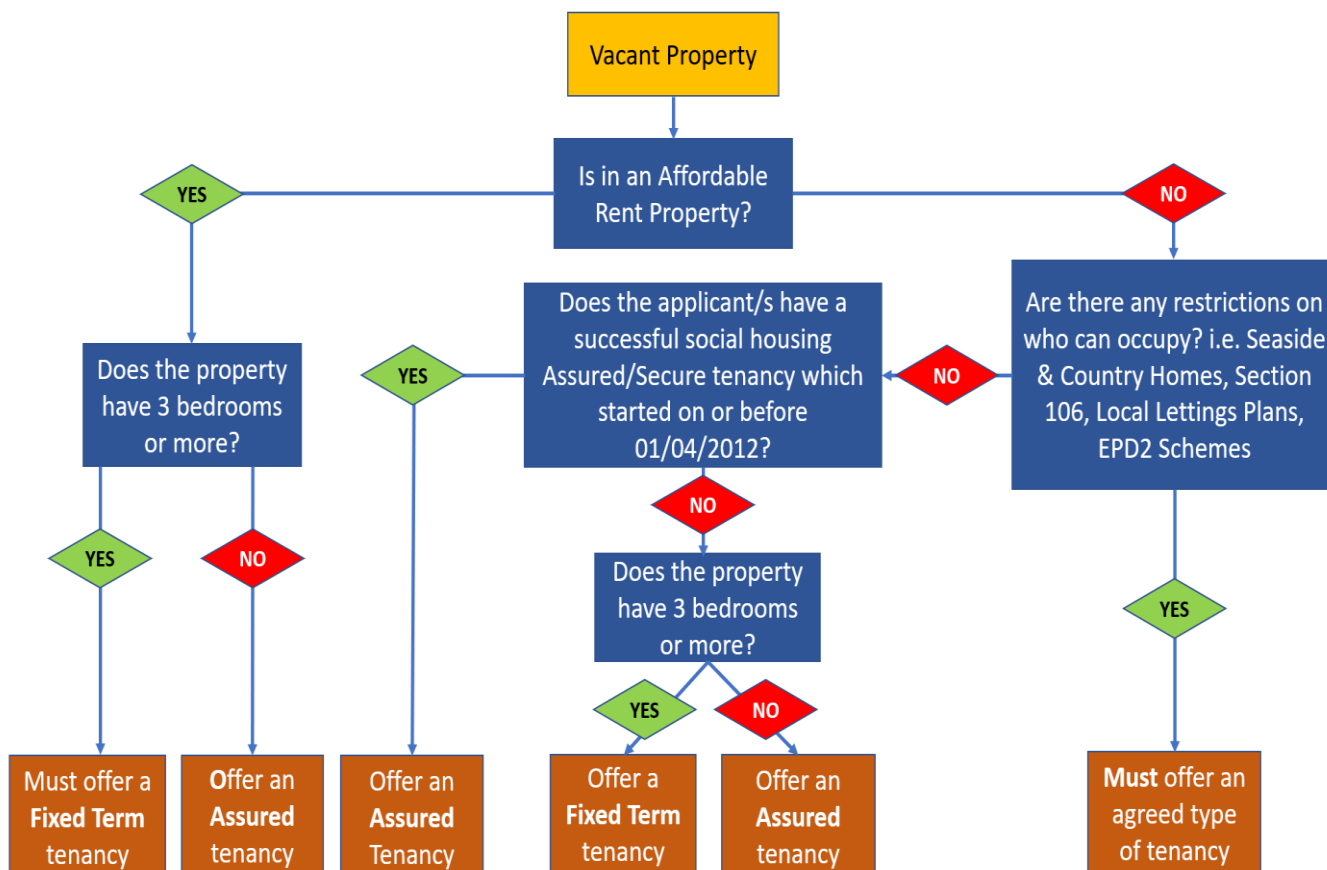
<p><b>Future tenancy for minors with no Trustee in place</b></p> <p><b>Assured Shorthold tenancy (periodic)</b></p>	<ul style="list-style-type: none"> <li>• Applicants for some types of supported housing (part of the support will be to assist with move-on accommodation) who are not yet 18 years old and no Trustee available.</li> <li>• The agreement has similar terms and conditions as a licence agreement.</li> </ul>
<p><b>Assured shorthold tenancy – fixed term 6 months at a time</b></p>	<ul style="list-style-type: none"> <li>• Applicants for Intermediate or Market Rent accommodation.</li> </ul>
<p><b>Starter tenancy</b></p> <p>(Assured Shorthold periodic tenancy) – for at least 12 months, maximum 18 months</p> <p>This will automatically convert to an assured tenancy if the starter tenancy is conducted satisfactorily.</p>	<ul style="list-style-type: none"> <li>• New applicants for 1 &amp; 2 bedroom homes who did not hold an existing Social Housing tenancy that was in place on or before 1<sup>st</sup> April 2012. <b>See Appendix 2</b></li> </ul>
<p><b>Lifetime Assured Tenancy (non shorthold)</b></p>	<ul style="list-style-type: none"> <li>• Existing LiveWest Assured tenants who are moving to another LiveWest home (assuming no tenancy breaches on their existing tenancy/home).</li> <li>• Other social housing tenants who hold an existing social housing tenancy that was in place on 1<sup>st</sup> April 2012 &amp; they remain social housing tenants since that date. <b>See Appendix 2</b></li> <li>• Those moving into some types of supported housing where we provide longer term accommodation such as schemes for people with learning difficulties/Sheltered.</li> </ul>
<p><b>Fixed term (7 years) tenancy with probationary period</b></p> <p>An assured shorthold fixed term tenancy with an initial probationary period for 12 months, maximum 18 months.</p> <p>This will automatically convert to the remainder of the fixed term if the probationary tenancy is conducted satisfactorily.</p>	<ul style="list-style-type: none"> <li>• New applicants for homes with 3 or more bedrooms. <b>See Appendix 2</b></li> </ul>

<p><b>Fixed term (7 years) tenancy with no probationary period</b></p>	<ul style="list-style-type: none"> <li>• Existing LiveWest tenants who choose a home of 3 bedrooms or more (assuming no tenancy breaches on their existing tenancy/home). <b>See Appendix 2</b></li> <li>• Existing social housing applicants with any tenure type who have chosen a home on an affordable rent. <b>See Appendix 2</b></li> <li>• Existing LiveWest tenants whose fixed term tenancy has ended and we've agreed to grant another fixed term.</li> </ul>
<p><b>Fair Rent/Secure tenancy</b></p>	<ul style="list-style-type: none"> <li>• Existing LiveWest Fair Rent/Secure tenants who transfer to another LiveWest owned property. <b>See Appendix 2</b></li> </ul>

## Appendix 2

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### General Rented Tenure Process:



For customers above, who have not previously held a successful tenancy, there will be a probationary period:

- A Starter Tenancy for 1 & 2 Bedroom Homes.
- A Fixed Term Tenancy with probationary period for homes with 3 or more bedrooms.