



# Tenure Policy

## 1.0 Introduction

- 1.1 This Policy relates to our rented homes, with the exception of NHS key worker accommodation, student accommodation, and care homes. This Policy does not cover home ownership (including freehold, leasehold and shared ownership).
- 1.2 This Policy sets out our approach to:
- The types of occupation or tenancy agreement we use
  - Sustaining tenancies, supporting vulnerable tenants and preventing unnecessary eviction
  - Management of fixed term tenancies
  - Assignment, joint tenancies and tenancy fraud.
- 1.3 When we use 'you' or 'your' we mean tenant(s) or licensee(s). The terms 'we', 'our' and 'us' mean Southern Housing.

## 2.0 Types of agreement

- 2.1 We offer tenancies or terms of occupation that are compatible with the:
- Purpose of the accommodation
  - Needs of individual households
  - Sustainability of the community
  - Efficient use of our homes
  - Our strategic housing functions.
- 2.2 We use a range of occupancy agreements including but not limited to:
- Assured non-shorthold tenancies (often referred to as lifetime tenancies)
  - Assured shorthold tenancies
  - Licences.
- 2.3 All rights and responsibilities are set out in your occupancy agreement. The terms of the agreements vary according to the type of agreement and when the agreement was granted. You must keep to the terms and conditions of your occupancy agreement, otherwise you could lose your home.
- 2.4 We grant those who were social housing tenants on or before 1 April 2012, and have remained social housing tenants since that date, a tenancy with no less security where they choose to move to a Southern Housing social rented home.

This is the case whether they move from one of our homes or from a home owned by another association or local authority landlord. It does not apply where tenants choose to move to accommodation let on affordable rent terms.

- 2.5 We grant tenants who have been moved into alternative accommodation during any redevelopment or other works a tenancy with no less security of tenure on their return to settled accommodation.
- 2.6 We offer occupation agreements in line with specific lettings plans, agreements, or scheme requirements where these are in place.
- 2.7 If tenants or prospective tenants aren't happy with the length of tenancy or the type of tenancy offered, we'll follow our [Complaints Policy](#). We must make sure we let homes quickly and efficiently. Therefore, we will not hold an offer of accommodation during the complaint. We can offer advice and assistance in this circumstance.

### **3.0 Sustaining tenancies, supporting vulnerable tenants and preventing unnecessary eviction**

- 3.1 We want tenants to maintain their tenancies successfully and prevent unnecessary evictions. We offer appropriate advice and support to help tenants meet the conditions of their occupancy agreements and remain in their homes. We offer financial inclusion support and may provide tenancy sustainment services directly or through referral to another specialist agency.
- 3.2 In deciding on appropriate forms of tenure and offers of housing, we take into account the needs of households who are vulnerable. We refer and signpost vulnerable tenants in general needs housing to external support services to get the help they need. We offer specialist sheltered housing, as well as adapted homes and homes designed for people with disabilities.
- 3.3 We will work with partners to safeguard children and vulnerable people.
- 3.4 We evict tenants as a last resort, only when we have exhausted all options to tackle breaches of the tenancy unless the breach is so significant that other options are not viable. We'll work with our tenants to help them find solutions and avoid eviction.
- 3.5 We'll inform the local authority housing advice service in line with our procedures when we grant approval for eviction. A Head of Service will approve all evictions.
- 3.6 We alert Social Services and other agencies as early as possible in the eviction process, and in line with our [Data Protection Policy](#), where we identify a household member is vulnerable.
- 3.7 Before we carry out an eviction we'll:
  - Provide information and advice about housing options
  - Refer tenants for financial support where needed
  - Refer tenants to other agencies such as Citizens Advice, housing advice services, and the homeless persons unit at the local authority.

## **4.0 Social and affordable rented homes – general needs and sheltered**

4.1 Social and affordable rent homes are the most common type of homes we provide and are offered to people on lower incomes at a subsidised rent. Our [Rent Setting Policy](#) explains how the rent is calculated.

4.2 For the purposes of this Policy, when we refer to affordable rent, this includes both affordable rent and London affordable rent homes.

## **4.3 Assured tenancy (also known as lifetime tenancy)**

4.3.1 We offer a periodic assured non-shorthold tenancy:

- To new residents
- When an existing Southern Housing social or affordable rent tenant, with an assured tenancy, moves to another of our social or affordable rented homes
- When a social or affordable rent tenant of another private registered provider or local authority, with an assured or secure tenancy, moves to one of our social or affordable rented homes.

4.3.2 By 'periodic' we mean a weekly or monthly tenancy rather than a fixed term tenancy.

## **4.4 Starter tenancies**

4.4.1 Prior to 19 December 2022, we offered new tenants a starter tenancy (unless they already held an assured or secure tenancy with us or another social landlord). A starter tenancy is a weekly periodic assured shorthold tenancy for an initial period of 12 months.

4.4.2 The terms and conditions are set out in the tenancy agreement. If you manage your starter tenancy successfully, it will automatically become an assured (lifetime) tenancy at the end of the 12 month starter period.

4.4.3 We'll consider ending your starter tenancy if you breach it. If the breach is minor we may extend the starter tenancy for six months at any time. We'll outline the reasons for extending or ending the starter tenancy. If you wish to appeal our decision we must receive this within 10 working days of our decision to end or extend your tenancy.

## **4.5 Fixed term assured shorthold tenancies**

4.5.1 We no longer usually issue fixed term tenancies to new tenants, but some tenants will still have this tenancy type.

4.5.2 [Appendix 1](#) sets out:

- How we will assess these remaining fixed term tenancies at the end of their fixed term and

- When we may offer a new assured (lifetime) tenancy to a tenant within their fixed term, before they reach their assessment period.

#### **4.6 Secure tenancies (general needs)**

- 4.6.1 Prior to the introduction of assured tenancies, the standard public sector tenancy type used was the secure tenancy. For the majority of our tenants who still hold a secure tenancy, their tenancy will have begun before 15 January 1989.
- 4.6.2 Housing associations are restricted in their use of secure tenancies. We will only use secure tenancies in the following circumstances:
- When an existing secure tenant transfers to another property within Southern Housing or changes their tenancy from joint to sole
  - Where a tenancy has been inherited through succession rights (please refer to our [Succession Policy](#)).

#### **5.0 Market and intermediate market rent**

- 5.1 We'll offer an assured shorthold tenancy (periodic or fixed term) to new tenants of our market and intermediate market rent homes.

#### **6.0 London Living Rent**

- 6.1 As part of the London Living Rent scheme from the Mayor of London, we offer homes to middle income earners on assured shorthold tenancies of a minimum of three years. We'll support tenants to save and give them the option to buy their home on a shared ownership basis during their tenancy. They will also be given extra priority for other shared ownership homes across London.

#### **7.0 Key workers**

- 7.1 Some of our homes are allocated to key workers and there may be contractual arrangements in place setting out the occupancy agreement we can offer. The types of agreement used include licences and assured shorthold tenancies (periodic or fixed term).
- 7.2 For more details of the agreements used in our key worker accommodation for the NHS please refer to our [Student and Key Worker Allocation and Tenure Policy](#).

#### **8.0 Extra care housing**

- 8.1 The tenancy type offered in our extra care housing will depend on the agreement in place with the relevant local authority partner. We will either offer an assured periodic tenancy or an assured shorthold periodic tenancy.

#### **9.0 Supported and specialist housing**

- 9.1 In some accommodation we can only offer a licence. This tends to be for shared accommodation. The type of licence will depend on the purpose of the

accommodation. As with any other occupancy agreement, we outline all rights and responsibilities in the licence agreement.

- 9.2 Licences are a different form of occupation agreement and offer fewer rights to occupiers than tenancies. We use licences in a variety of settings for instance (but not limited to) in some hostels and refuges.
- 9.3 We use both non-excluded and excluded licences. Non-excluded licences are covered by the [Protection from Eviction Act 1977](#) and the occupant can only be evicted by court order. Excluded licences are excluded from the [Protection from Eviction Act 1977](#) and do not require a court order for the occupant to be evicted. We'll use excluded licences in hostel accommodation with shared cooking facilities, and where the law otherwise allows.
- 9.4 In some of our supported and specialist housing we may offer an assured shorthold tenancy (periodic or fixed term).

## **10.0 Properties used for temporarily decanting tenants**

- 10.1 If we are required to move a tenant on a temporary basis, we will use a temporary tenancy that does not provide any security of tenure. The tenant will retain their main tenancy and we'll charge rent at their principal address.

## **11.0 Minors (under 18s)**

- 11.1 Under 18s cannot legally hold interest in land. We may provide accommodation by granting a licence (personal permission to occupy premises) or an Agreement for Tenancy. A full tenancy can then be granted to the minor when they turn 18.

## **12.0 Non-residential units**

- 12.1 For non-residential units such as garages, parking spaces and sheds, we will use a licence agreement to allow occupation without any security of tenure.

## **13.0 Joint tenancies**

- 13.1 A joint tenancy is where two or more people (legally up to four) have signed the tenancy agreement.
- 13.2 With joint tenants:
- Each tenant has the right to occupy the property
  - A tenant cannot exclude the other tenant(s), unless they get an Occupation Order under the [Family Law Act 1996](#)
  - Each tenant is jointly and severally (individually) liable for the tenancy and the rent - this means all are responsible for the whole tenancy
  - One tenant can end the tenancy by serving a valid notice to quit (unless the tenancy is within a fixed term).

- 13.3 We will grant a joint tenancy to new tenants where the nomination, referral, or direct application is made by a couple, and they meet our eligibility criteria.
- 13.4 We will not grant joint tenancies to family members other than partners, civil partners, or spouses, unless exceptional circumstances apply.
- 13.5 Where a sole tenant asks to add a joint tenant to their tenancy we'll consider the request based on the individual circumstances. You do not have a right to a new joint tenancy. Examples of the factors we may take into account when making our decision may include, but will not be limited to:
- The type of tenancy agreement you have
  - Our eligibility criteria
  - Whether there has been a previous succession
  - Any tenancy breaches or tenancy management concerns.
- 13.6 Where a joint tenant requests to be removed from the tenancy, we will consider this based on your statutory rights and any rights set out in your tenancy agreement. Rights will vary depending on the type of tenancy agreement you have.
- 13.7 In cases of domestic abuse where one tenant ends the tenancy we may offer the tenancy to the remaining tenant provided they are eligible for our homes. They must require this size and type of accommodation.

## **14.0 Assignment**

- 14.1 Assignment is the legal transfer of a tenancy. You can assign your tenancy if:
- The law says you can - a statutory or legal right, or
  - Your tenancy agreement says you can - a contractual right (this may require our permission).
- 14.2 An assignor is the tenant who passes on their tenancy. The assignee is the person taking over the tenancy.
- 14.3 An assignee will take on the rights, responsibilities, and terms of the assignor's tenancy (unless there are legal reasons that prevent this).
- 14.4 Where our permission to assign is required, we will not normally give permission to assign if the assignee is not eligible under our lettings criteria, or does not need the size and type of home, or where there is an existing breach of tenancy.

## **15.0 Squatters and illegal occupiers**

- 15.1 A squatter is a trespasser - someone who has entered or remained on the property without the consent of the person entitled to possession, i.e. the tenant, or landlord.
- 15.2 An illegal occupier is a person who entered the property with the consent of the tenant and remains there following termination of the tenancy. This will include for example:

- Unlawful subletting
- A person remaining in the property following the death of tenant who has no entitlement to succeed
- A person who was an assured joint tenant but the other party gave us notice to quit to end the tenancy.

15.3 We will take action to evict illegal occupants from our property. Squatting is a criminal offence and those people risk being arrested if they do not leave the property.

## 16.0 Tenancy fraud

16.1 Tenancy fraud occurs when a property is occupied by someone not legally entitled to live there or where the tenancy has been obtained fraudulently. We must ensure our homes are occupied by people with genuine housing need. With the shortage of social housing it's important we manage the risk of tenancy fraud effectively.

16.2 We treat tenancy fraud seriously and have a zero tolerance approach. We're committed to ensuring our homes are occupied by the people they were lawfully let to and protected for use by people with genuine housing need.

16.3 We will request the assistance of the local authority and/or the police to bring criminal charges against those who commit tenancy fraud and any related frauds.

16.4 We consider tenancy fraud to include (but may not be limited to):

- Sub-letting the whole of a property (whether for profit or not)
- Not residing in the property as your only or principal home
- Misrepresentation by a resident (or a person on their behalf even if the resident doesn't know) which results in the offer/assignment and acceptance of a property
- Selling the keys to a property
- False applications to succeed to a tenancy following the death of the resident.
- False applications to acquire or buy the property or to become a shared owner
- Applications for a person to become a joint tenant that contain false information
- Making an application for Right to Acquire or Right to Buy with false and/or misleading information.

16.5 If we have evidence of tenancy fraud we'll take the most appropriate action considering the type and extent of fraud including:

- Conducting an investigation, including visiting unannounced
- Evicting you by seeking possession of your home through the courts, unless you have abandoned the property in which case we might just take back possession without going to court
- Recovering any profits you have made from sub-letting the home
- Supporting the relevant local authority to prosecute those who sub-let our homes or misrepresented facts to obtain a tenancy.



16.6 The [Prevention of Social Housing Fraud Act 2013](#) makes sub-letting a social housing property illegal. If you're sub-letting you may be prosecuted. If convicted you may be:

- Required to pay any profits made from the fraud
- Fined an unlimited amount
- Sentenced to up to two years in prison.

## 17.0 Diversity and inclusion

17.1 We've carried out an Equality Impact Assessment to consider the positive and negative impacts this Policy may have on people with protected characteristics under the [Equality Act 2010](#). We have also taken into account our obligations under the public sector equality duty in drafting this Policy.

## 18.0 Review

18.1 We'll review this Policy every three years unless there are changes in law, regulation, guidance or operational issues that require an earlier review.

### Policy controls

<b>Effective from</b>	16 December 2022
<b>Approved by</b>	Shadow Board
<b>Approval date</b>	30 November 2022
<b>Policy owner</b>	Director of Housing
<b>Policy author</b>	Stephanie Woods, Customer Services Policy Manager (SHG)

Version history		
Version no.	Summary of change	Author and approver
1.0	New policy	Stephanie Woods, Customer Services Policy Manager Shadow Board



## **Appendix 1 - management and conversion of fixed term tenancies - social and affordable rent homes (general needs and sheltered)**

Southern Housing no longer usually issues fixed term tenancies for new tenants but we still have some tenants on fixed term tenancies.

If you are managing your fixed term tenancy appropriately and complying with the terms of your tenancy agreement, we will convert your tenancy to an assured (lifetime) tenancy. This may take place during the assessment period towards the end of the fixed term tenancy or while you are still within the fixed term of your tenancy.

We may offer you a new tenancy of a different property if the home you are in is no longer appropriate for you.

In the following circumstances we will not convert your existing tenancy or offer you another tenancy:

- There has been a persistent or serious breach of tenancy
- There are arrears of more than eight weeks rent
- There is evidence of tenancy fraud or illegal subletting
- The property is not being occupied as the only principal home.

We'll make a decision at least six months before the end of the fixed term as to whether we'll renew the tenancy as an assured tenancy or we'll recover possession, unless enforcement action is taken sooner.

At least six months before a fixed term tenancy ends, we'll give you a 'minded to' notice stating that either we propose to grant another tenancy on expiry of the existing fixed term or that we propose to end the tenancy.

Where we are not offering a new tenancy at the end of the fixed term, we will provide reasons for our decision. We will provide advice and where appropriate work with other agencies to maximise opportunities for you to find accommodation elsewhere and provide details of how the decision can be appealed.

You will have the right to appeal against a decision not to grant another tenancy on the expiry of the fixed term. We will advise you of your right to appeal when we send you the 'minded to' notice. Tenants will have the right to appeal our decision within 21 days of the service of the 'minded to' notice.

Appeals will be considered by an internal appeals panel.

An appeal will consider any new information alongside the evidence considered at the original decision. If the appeal finds that the original decision was not made in accordance with our policy the decision will be overturned.

Where a decision is made not to renew the tenancy, we may use the range of powers available in line with the tenancy agreement and the law to bring the tenancy to an end.