

Tenancy Policy

1.0 SCOPE

Purpose

- 1.1. This Policy sets out our approach to issuing tenancies for rented whg properties for general needs Social Rent, Affordable Rent, older persons housing, assured, Rent to Buy and Market Rent tenancies.
- 1.2. The Policy has regard to the tenancy strategies published by Local Authority areas within which we operate, which includes the Black Country Tenancy Strategy.
- 1.3. The Policy will be delivered in accordance with associated procedures.

Applies to

- 1.4. the Group i.e. whg and all subsidiaries
 Walsall Housing Group Limited only whg Properties Limited a whg Joint Venture Company
- 1.5. This Policy applies to all customers who hold a tenancy agreement with whg. The Policy does not apply to leaseholders or freeholders.
- 1.6. Customers are eligible to access a tenancy agreement with evidence of:
 - UK or EU citizenship;
 - indefinite or limited leave to remain in the UK; or
 - application for an extension of their leave to remain if it has expired.
- 1.7. An assured tenancy will not be offered to an applicant who has been granted limited leave to remain in the UK, or who is unable to provide evidence that they have applied for an extension of their leave to remain in the UK if it has expired. We may instead offer a fixed term tenancy.

Legal and regulatory framework

- 1.8. The HCA Regulatory Guidance Tenancy Standard requires us to grant a tenancy no less secure to customers who were social housing customers on the day which section 154 of the Localism Act 2011 came into force (01 April 2012), and have remained social housing tenants since that date, whether they choose to move to another Social Rented home with the same or another landlord. (This

requirement does not apply where tenants choose to move to accommodation let on Affordable Rent terms).

- 1.9. The Tenancy Standard requires us to write to the customer to inform them that their tenancy will be extended to a maximum period of 18 months, or ended subject to the tenancy review before the end of one year or 16 months.
- 1.10. The Tenancy Standard requires us to offer reasonable advice and support to customers on a fixed term tenancy where the tenancy ends.
- 1.11. The Localism Act 2011 requires us to respond to review requests from customers about relevant decisions made relating to their tenancy noted in the Tenancy Review section.

2.0 POLICY PRINCIPLES

Tenancy types and the length of tenancy

- 2.1. Customers starting their first tenancy with whg will receive a one year starter fixed term tenancy as a probationary period with exception to:
 - Rent to Buy tenancies; and
 - those transferring from a another registered provider who have held a tenancy before 01/04/2012
- 2.2. During this period customers will have fewer rights than under the other tenancies described in this Policy noted in Appendix 1.
- 2.3. All one, five year fixed term tenancies and starter tenancies will be reviewed prior to an offer of a further tenancy, noted in the Tenancy Reviews section.
- 2.4. Starter tenancies will become assured once the first year has been successfully completed.
- 2.5. Existing customers who are offered an Affordable Rent property will move from their existing tenancy conditions to an assured shorthold tenancy. whg will ensure existing customers are aware of this change when they bid for a property with this tenancy type. Customers who have a protected tenancy will retain their Preserved Right to Buy if they sign an Affordable Rent fixed term tenancy.
- 2.6. Existing assured tenants who do not move home will remain on this tenancy type.

The circumstances in which whg would offer specific tenancies

- 2.7. whg will offer tenancies to people who:
- meet the requirements of whg's Allocations Policy
 - are not subject to restricted access to whg accommodation.

Assured periodic tenancies (Assured tenancies – lifetime tenancies)

- 2.8. This tenancy type will be offered to:
- transferring customers to a whg Social Rent property from other Registered Provider where they have been a social housing tenant since before 01/04/2012
 - existing customers who have been in social housing since before 01/04/2012 and who have been offered a whg Social Rent property in order to move home
 - customers moving to wellbeing schemes where a starter tenancy may be inappropriate.

Assured shorthold (fixed term one and five year) tenancies at Affordable Rent (affordable tenancies)

- 2.9. This tenancy type will be offered to:
- new tenants who have been offered a designated whg Affordable Rent property
 - transferring customers to whg from other Registered Providers into a designated Affordable Rent property. This includes customers who mutually exchange to such a property
 - existing customers who have been offered a designated whg Affordable Rent property in order to move home.

Customers who had a previous protected tenancy will be entitled to the right to buy. If the customer did not have a protected tenancy they will be entitled to the right to acquire after have a tenancy for at least 3 years. These principles exclude customers with a one year fixed term tenancy.

Assured shorthold (fixed term one and five year) tenancies at Social Rent

- 2.10. This tenancy type will be offered to:
- new customers who have been offered a property, excluding wellbeing schemes and properties for older people, who will be offered a Starter Tenancy.
 - transferring customers to whg from other Registered Providers, where they have not been in social housing since before 01/04/2012. This includes customers who mutually exchange to such a property
 - existing customers who have been offered a designated whg property in

order to move home if they have not been in social housing since before 01/04/2012

Assured shorthold tenancies due to mortgage rescue (mortgage rescue tenancies)

- 2.11. This tenancy type is no longer offered. Mortgage rescue tenancies were offered where:
- a homeowner successfully applies for mortgage rescue under a local or national scheme
 - a homeowner is nominated as suitable for mortgage rescue through a national scheme.
- 2.12. The inclusion in this Policy relates to remaining tenancies in management as a result of previous tenancies offered.

The mortgage rescue tenancy will remain for as long as the customer wishes to remain in the property. Reviews will take place in year 5 – refer to section 4.6 onwards.

Shorthold tenancies at Market Rent (six month market tenancies)

- 2.13. A Market Rent tenancy may be offered where:
- an Affordable Rent tenancy is due to end and the customer no longer meets the general conditions for a tenancy but still requires housing
 - where specific properties should be offered for let at a Market Rent
 - a new build or purchased property, identified as available for letting at a Market Rent, is acquired by whg
 - where broader market conditions dictate that individual tenancies should be offered at a Market Rent, as regulations and whg's Memorandum and Articles of Association allow
 - a local lettings Policy identifies that offering market tenancies is desirable
 - there is an intention at some future date to consider the sale of the property.

Rent-to-Buy tenancies

- 2.14. Rent to Buy homes will be let to working households and be governed by the Rent to Buy Policy.

Periodic assured shorthold (tenancies in supported accommodation)

- 2.15. This tenancy type may be offered to customers in shared or temporary accommodation schemes.

3.0 Tenancy Rights

- 3.1. Customers enjoy a range of tenancy rights dependant upon the type of tenancy issued. A summary of tenancy rights are set out in Appendix 1. For mutual exchanges, refer to the Mutual Exchange Policy.

Circumstances where a shorter tenancy period may be offered

- 3.2. Noted below are the circumstances in which we may offer a shorter tenancy term which would be no less than two years (not including the probationary period):
- there are two years or less limited leave to remain in the UK
 - there is a need for a shorter tenancy as the prospective tenant is a key worker
 - when there is a need for an individual to be offered a tenancy temporarily, for example, in the event of a family breakdown
 - transitional arrangements for care leavers
 - when an individual can reasonably expect not to have a renewed tenancy because they, or whg, are aware of a likely change in circumstances in a period of less than five years
 - where a property has been considered for future demolition or sale on the open market
 - where there is a breach of tenancy and a new tenancy granted is set at a period of review appropriate to the breach
 - where a decision not to grant a further tenancy has been made but it would be inappropriate to end the tenancy. e.g. where an alternative property has been identified but is not yet available.

4.0 ONE AND FIVE YEAR FIXED TERM TENANCY REVIEWS – REVIEW PROCESS

- 4.1. All one and five year fixed term tenancies will be reviewed to decide whether a new tenancy should be offered at the same or another property and what tenancy type it will be.
- 4.2. All customers will be expected to participate in reviews and all parties to the tenancy must be present. We will ensure reviews are sensitive to customer needs.

The Review Timescales - One Year Fixed Term Tenancies/Starter Tenancies

- 4.3. We will contact the customer no later than three months before the end of the fixed term to carry out the review.

- 4.4. Should there be any tenancy breaches at the nine month review, we will write to the customer to confirm their tenancy will be extended for a further six months to resolve the tenancy breach. Advice and support will be offered to the customer.
- 4.5. The decision to end or issue a further tenancy will be taken by month 16. We will write to the customer to confirm the reasons for the decision. Customers have a right to request a review at the nine month or 16 month stages of review.

The Review Process – Five Year Fixed Term Tenancies

- 4.6. We will contact the customer at month 48 of their tenancy (end of year 4). The review may result in a further fixed term tenancy at the same address unless the customer does not meet the criteria from the review. The review process will help customers understand why a further tenancy may not be offered.
- 4.7. We will write to the customer confirming the reasons for the decision.
- 4.8. Customers have the right to request a review.

Criteria where we may or may not grant another fixed term tenancy

- 4.9. In all reviews for one year and five year fixed term tenancies, we will consider the following criteria:
 - a breach of tenancy conditions that has resulted in legal proceedings being initiated;
 - any debt owed to the organisation;
 - under occupancy by two rooms or more in accordance with the bedroom standard set out in the Allocations Policy;
 - a customer exceeds the income level specified in whg's Charitable Status criteria as outlined in the Allocations Policy¹. This applies to five year reviews only;
 - a customer is not engaging in any support which has been identified as necessary;
 - adaptations made to the property are no longer relevant to the household; and
 - the property no longer meets customer needs.
- 4.10. For most customers the review will result in a five year tenancy after a one year review, or another tenancy after a five year review. Where this is not the case, we will consider what support and assistance can be offered to customers on a case by case basis, taking into account community and social connections.

¹ The Charitable test excludes customers who have a single income of £40,000 or a joint income of £50,000 with upper free equity for applicants below 55 years of £50,000, or for those over 55yrs £150,000.

Reviews – Relevant Decisions

- 4.11. The decisions for consideration in the review process apply to customers where:
- The length of a fixed term tenancy that is offered is not in line with this Policy
 - There is an order for possession to end a fixed term tenancy
 - We have served a section 21 notice which will end the tenancy – panel only
 - We have extended a 1 year fixed term tenancy/starter tenancy

How to request a review

- 4.12. A review request must be made in writing, email, by telephone or in person from the customer/individual within 21 days of being notified of the relevant decision. It should set out why the decision is not in line with this Policy.

Section 21 Notice Review

- 4.13. For the service of section 21 notices, a panel will be convened consisting of senior managers not involved in decision making relating to the tenancy, and a Board or Committee member. The customer is expected to attend with/without a representative.

Review response timescales

- 4.14. The review will be considered within 21 days unless further information is needed, which means the review could not reasonably be concluded within 21 days.
- 4.15. If a customer remains dissatisfied they may ask the Housing Ombudsman to investigate, providing the relevant review processes have been exhausted.

Advice and Assistance

- 4.1. Advice and assistance will be provided in a proportionate and timely way to customers if a further tenancy is not offered, to enable the customer to move on from their tenancy.
- 4.2. The advice and assistance may vary dependent upon customer needs. Services to support the customer to maintain their tenancy and prevent unnecessary evictions will be provided directly or through referrals.
- 4.3. We will take into account the needs of those households who are vulnerable by reason of age, disability or illness, and households with children including through the provision of tenancies that give a reasonable degree of stability.
- 4.4. In cases where the decision not to renew a tenancy relates to the conduct of a tenancy, a lower level of support may be given.

5.0 SUCCESSION RIGHTS AND FIXED TERM TENANCIES

- 5.1. Spouses, civil partners and couples living together as if they are a spouse or civil partner, have statutory succession rights, providing that they can submit evidence to confirm they are occupying the property as their sole and principal home at the time of the tenant's death – see Appendix 1.
- 5.2. Where a person succeeds a tenancy, they will succeed the remainder of the fixed term – the tenancy will then be reviewed as outlined in the section 4.1 above.
- 5.3. We may in some circumstances offer some transitional protection through a non-renewable two year fixed term tenancy to family members who do not qualify for a statutory succession, subject to providing evidence they have lived at the property as their sole and principal home for 12 months prior the tenant's death.

6.0 MONITOR AND REVIEW

- 6.1. We will monitor the Policy and accompanying procedures annually. The Policy will be reviewed formally every three years.
- 6.2. Local Authority nominations and lettings are monitored through the Allocations Policy.
- 6.3. We will monitor the delivery of the Policy in accordance with the Lodgers, Subletting and Tenancy Fraud Policy and successions through the Tenancy Changes Policy.

7.0 ASSOCIATED DOCUMENTS, POLICIES AND PROCEDURES

- 7.1. Documents, policies and procedures associated with this policy are:
 - Allocations Policy
 - Debt Recovery Policy
 - Mutual Exchange Policy
 - Tenancy Changes Policy
 - Lodgers, Subletting and Tenancy Fraud Policy
 - Anti Social Behaviour Policy
 - Localism Act 2011
 - Housing Act 1988 as amended by the Housing Act 1996

APPENDIX 1

Tenancy Rights and Security

Statutory Right	Starter	Assured	Affordable 1 year	Affordable 5 year	Mortgage rescue	Market Rent	Assured transfer	General 1 year fixed	General 5 year fixed
Successions	**yes	*yes	**yes	*yes	**yes	**yes	*yes	**yes	*yes
Mutual Exchanges	no	yes	no	yes	no	no	yes	no	yes
Right to Buy/Acquire	RTA At 5 years	RTA At 5 years	No RTA/RTB	Yes RTA after 3 years (non protected tenancy) Or RTB if previous protected tenant	RTA At 5 years	RTA At 5 years	RTB where protected and RTA	RTA At 5 years	RTA at 5 years RTB where protected
Voluntary Right to Buy	Yes~	Yes ~	Yes ~	Yes~ Where the tenancy is protected	no	no	Yes~	Yes~	Yes ~

**joint tenant, spouse of family member*

***joint tenant or spouse only*

*reference to spouse also includes civil partners and those living with the tenant as spouse or civil partner

~must have held a tenancy with a social housing provider for 10 years which does not have to be successive

Version control

Version	2
Document author	Jenny Calderbank, Tenancy Services Manager
Document owner	Gary Brookes, Director of Housing
Legal advice	Not required
Consultation	None
Approved by	Policy Group, April 2017
Review Date	April 2020
Corporate Plan aim	<ul style="list-style-type: none">• Deliver high quality homes and services for our customers• Grow and expand our services, our reach and our range
Equality analysis	Not undertaken
Key changes made	<p>The Tenancy Strategy and Tenancy Policy have been combined into one document, with separate procedures to deliver the revised policy.</p> <p>June 2017 – minor amendment to 2.9 and the table in Appendix 1 to reflect the latest legal advice.</p>