

# Tenancy Policy

**Date written:** January 2013

**Date(s) reviewed:** February 2016  
December 2019

**Purpose:** This policy sets out the type of tenancies Bernicia offers, the circumstances in which they are used and outlines Bernicia's approach to managing and sustaining tenancies.

**Scope:** All rented accommodation including general needs (social and affordable rent), retirement, long and short term supported, extra care and rent to buy.

This policy does not apply to market rent or shared ownership.

**Definition:** A tenancy is a right or interest of a tenant who occupies a property from another (Bernicia) for an agreed period, in exchange for rent and under a tenancy agreement.

**Associated documents:**

Tenancy Agreements  
Starter Tenancy Policy  
Housing Management Decant Policy  
Rent Setting Policy  
Succession Policy  
Mutual Exchange Policy  
Localism Act 2011  
Regulator of Social Housing's Tenancy Standard

**Date for review:** December 2021

**Responsibility:**

Director, Housing Services  
Assistant Director Care and Support  
Head of Housing (North and South)  
Retirement Housing Manager

## Policy

### 1. Introduction

- 1.1 This Tenancy Policy aims to meet the requirements of the Regulator of Social Housing (ROSH) in that registered providers must publish clear and accessible policies, which outline the organisation's approach to tenancy management, including interventions to sustain tenancies and prevent unnecessary evictions and tackle tenancy fraud.

It also aims to:

- Provide clarity on the circumstances in which we will grant each type of tenancy.
- Ensure we offer tenancies which make the most efficient use of our housing stock and which are compatible with the purpose of the accommodation.
- Pay due regard to the Tenancy Strategies of local authorities who we work with.
- Fulfil the requirements of the Localism Act 2011.

### 2. Policy statements

- 2.1 We recognise the importance of tenure security in both creating and maintaining stable and settled communities.
- 2.2 We will engage with tenants throughout the life of a tenancy to ensure that appropriate advice and support is offered to help sustain tenancies and prevent tenancy failure.
- 2.3 This policy should be used to ensure that the correct type of tenancy is allocated to each tenant.
- 2.4 To do this the following tenancy and occupation agreements are used:

**Starter Tenancy** – this is a tenancy granted to general needs and retirement housing tenants. Starter tenancies will initially be granted for 12 months but can be extended to 18 months in certain circumstances. Provided that the Starter Tenancy has not been extended or legal action to end the tenancy has not commenced, the tenancy will be converted to a full Assured Tenancy after 12 months.

**Assured Shorthold Tenancy** – this type of tenancy will be used for the Rent to Buy scheme whereby properties are let on an intermediate market rent or where properties have been purchased under the Mortgage Rescue Scheme. Residents of certain specialist supported accommodation ie shared accommodation without overnight support, single occupancy with overnight support or learning disability core and cluster independent supported living with low level support needs, will be offered an Assured Shorthold Tenancy.

**Assured Tenancy** – this is a tenancy granted to tenants when they have successfully completed the probationary period of a Starter Tenancy. This type of tenancy will also be offered to tenants who already hold an Assured or Secure tenancy and are transferring to a Bernicia property or within Bernicia stock. This type of tenancy will be granted to residents of extra care accommodation and supported accommodation with single occupancy and no overnight support.

**Assured Protected Tenancy** – this is a tenancy held by previous secure tenants of a local authority at the time a stock transfer took place.

**Secure Tenancy** – this is a tenancy granted to former Cheviot Housing Association and Three Rivers Housing Association tenants whose tenancy commenced prior to 15 January 1989. Existing secure tenants will retain a secure tenancy if they transfer within Bernicia's stock to another property that is eligible for a secure tenancy.

**Affordable Rent Tenancy** – this is a tenancy where the rent is charged at 80% of the market rent. The Localism Act 2011 gives social housing providers the discretion to charge affordable rents. Starter tenancies will apply to affordable rent tenancies. Most new builds will be developed as Affordable Rent and any existing Affordable Rent properties will be retained as such upon relet unless deemed to be unaffordable. All Affordable Rent properties will be marketed as such.

**Flexible Tenancy (Fixed Term Tenancy)** – this is a tenancy which allows social housing providers to offer a tenancy for a fixed period, usually for a minimum period of 5 years and in exceptional circumstances 2 years. We do not currently offer fixed term tenancies. This position may be reviewed if legislation or the operational or strategic environment changes. However, we do recognise that we need to adopt a flexible approach to maximising mobility and making best use of stock.

**Equitable Agreements** – a person under the age of 18 years is unable to hold a legal interest in land. In these circumstances we will seek to grant the tenancy to an adult, such as a member of the minor's family or, if this is not possible, to another adult (for example a social worker) who will hold the legal tenancy on trust for the minor's benefit until they reach the age of 18. Alternatively we may issue an Equitable Agreement, which is an agreement to grant a tenancy when the minor reaches the age of 18.

**Licence** – a licence is usually used as a temporary measure for a time limited period, for example, when a tenant needs to be decanted for a temporary period. Licences are also used in short term supported housing and independent supported, long term, schemes where residents cannot be granted exclusive occupation.

**Demoted Tenancy** – this is granted by a court following breach of an assured tenancy condition resulting from anti-social behaviour. A demoted tenancy gives the same rights as an assured shorthold tenancy. This type of tenancy conveys fewer rights and less protection from eviction. Demoted tenancies usually last for one year and will convert to an Assured Tenancy if there are no further issues.

**Garage Tenancy** – this is granted to those renting a garage that does not form part of a residential tenancy.

#### Joint tenancies

- 2.5 Applicants for a Bernicia property may apply as joint tenants, in most cases Bernicia will grant a joint tenancy. Tenancies granted as a sole tenancy cannot become a joint tenancy. In such cases, if agreed by Bernicia, a new tenancy in joint names will be issued.

#### Assignment

- 2.6 Assignment of an assured tenancy is not allowed unless the tenant obtains Bernicia's explicit consent. Assignment by mutual exchange is included as a contractual right in Bernicia's tenancy agreements and will be considered in line with Bernicia's Mutual Exchange Policy.
- 2.7 In certain circumstances such as relationship breakdown assignment may be considered under a property adjustment order in connection with family/matrimonial proceedings or where a person would be qualified to succeed if the tenant had died immediately before the assignment.

#### Tenancy agreement

- 2.8 Tenants have a right to occupy their home and their tenancy can only be brought to an end by a court order due to one or more conditions of the tenancy agreement being broken or where the tenant ceases to occupy the property as their only and principal home.

### Ending a tenancy

- 2.9 Tenants are required to serve 4 weeks' notice to bring their tenancy to an end. There may be certain circumstances when shorter notice is accepted, for example admissions to residential care, internal transfers or where there is a reciprocal agreement with other housing providers. In the case of joint tenancies, the tenancy can be brought to an end by one tenant.
- 2.10 Upon the death of a tenant, where there is no right to succession, the tenancy can be brought to an end by an executor or administrator of the tenant's estate by serving 4 weeks' notice on Bernicia. If neither exists notice will be served on the Public Trustee, ending the tenancy 4 weeks after service.

### Succession

- 2.11 The right to succeed applies to one succession. If the tenant who died was a successor, the tenancy cannot pass on a second time. Where a succession has already taken place, discretion may be exercised in certain circumstances to grant a new tenancy at the property.
- 2.12 Tenancy agreements issued by former landlords ie Cheviot Housing Association, Three Rivers Housing Association, Berwick Borough Council and Wansbeck Homes may have additional rights of succession. The criteria for Succession is detailed in the Succession Policy.

### Allocations and lettings

- 2.13 Bernicia engages with local authority Choice Based Lettings Schemes and nomination agreements. Properties are let and relet in line with the criteria set out in Common Allocation Policies and Bernicia's own Allocation Policy. All legal and regulatory requirements are fulfilled in letting properties.

### Advice and Support

- 2.14 We will ensure that all new tenants are provided with clear information about the terms of their tenancy or licence agreement and the consequences of failing to keep to those terms.
- 2.15 We will intervene at an early stage when we become aware of emerging or potential breaches of tenancy.
- 2.16 We will seek to ensure that tenants receive appropriate support to keep them in their homes, this may be provided by ourselves or by signposting, referral or in partnership with other appropriate agencies. Our own Intensive Housing Management Team works exclusively with tenants who are having difficulties managing their tenancies.
- 2.17 Where tenants have rent arrears, we will seek possession only when all attempts to advise and support have failed or been exhausted.

## Tenancy Fraud

- 2.18 We will investigate any report or suspicion of tenancy fraud (such as subletting) using all of the enforcement tools available to us. We will seek possession of the property where tenancy fraud is proven.

### **3. Responsibility for implementation**

- 3.1 It is the responsibility of the Director, Housing Services, Assistant Director Care and Support, Head of Housing (North and South) and Retirement Housing Manager to ensure that this policy is carried out effectively.

### **4. Actioning the policy**

- 4.1 This policy will be actioned in all instances of the creation of new and assigned tenancies or licences.

### **5. Monitoring the policy**

- 5.1 Regular reviews of the Policy will be undertaken to ensure:
- It continues to pay 'due regard' to local authority tenancy strategies.
  - It contributes to the aims and objectives of Bernicia.
  - It assists and contributes to the creation of stable communities and sustained tenancies.
  - Staff are able to assess and award the appropriate type of tenancy as dictated by the policy.

### **6. Resources**

- 6.1 There are no current implications as a consequence of this policy as all actions will be delivered by existing resources.

## 7. Equality and Diversity

7.1 An equality and diversity impact assessment has been undertaken on this policy. In carrying out our services, we are committed to:

- Treating all customers and employees positively regardless of any personal characteristics including gender, age, ethnicity, disability, sexuality, gender reassignment or religion.
- Taking seriously all complaints and investigating and responding accordingly.
- Using plain language and providing information in other languages, large print, audio and Braille on request.

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