



# Tenancy Policy

## 1. Aim of policy

This policy sets out the types of tenancy we will offer in accordance with our regulatory responsibilities and those of a social housing provider. This covers our general needs, older persons, supported, intermediate and market rented homes and our garages.

## 2. Scope of policy

- To grant tenancies which are compatible with the purpose of the accommodation, the needs of the household and the sustainability of the community.
- To maximise use of housing stock and to ensure compliance with the requirements set out in the Regulatory Framework for Social Housing in England.

All staff within the customer service and support teams will be aware of this policy.

## 3. Policy statement

We'll support our local authority partners and other agencies in meeting local housing strategies and will be responsive to the needs and expectations of our customers.

We will make best use of our stock and encourage and support customers to consider right sizing options.

We offer a range of support at the start and throughout the life of the tenancy to ensure tenancies can be sustained.

Sometimes we may use our discretion and act outside of this policy. If we do, it will be within the spirit of the policy, decisions will be clearly documented and only with senior manager approval.

## 4. Policy

We have outlined in appendix 1 the types of tenancy and the circumstances when we will issue them. We treat all our new and existing customers fairly and protect our existing customers and the interests of the organisation by using the following principles:

### Social and affordable homes

- We'll issue assured tenancies to our existing and new customers.
- We'll ensure any customers with protected rights retain these rights.

### Market rent and intermediate market rented homes



- We'll issue assured shorthold tenancies. Where we manage market rented properties for other organisations, we will offer tenancies in line with their requirements.

#### **Hostels and temporary accommodation**

- We'll offer licences for our supported and temporary accommodation where there are shared facilities or where the homes are provided to meet the local authority's homelessness obligations. If the supported home or homeless hostel is self-contained, an assured shorthold tenancy will be offered.

#### **Decant arrangements**

Where customers need to be moved from their main home into another VIVID property, on a temporary basis following damage to the home or to undertake critical repairs, we will offer a decant licence for the period they are displaced.

#### **Use and Occupation (Mesne Profit)**

- Use and occupation refers to a legal concept where a person occupies or uses property without having a formal tenancy or ownership rights.
- This situation often arises when someone continues to live in a property after the end of a tenancy or without a formal agreement. The occupant may be required to pay for the use of the property, even though they do not have a formal agreement in place. This payment is typically referred to as "use and occupation charge"

#### **Garages**

- We'll offer licences for all our garages

### **5. Rents**

Rents will be set following the guidelines laid out in our Rent Strategy.

### **6. Mutual Exchange**

Assured, protected assured and secure tenants have the right to exchange their tenancy with any other tenant of a housing association or local authority, in accordance with their tenancy agreement unless special exceptions apply.

### **7. Exceptional circumstances**

We work with local authority partners when we let our homes and they may request that different types of tenancy are issued to reflect the needs of the individual. This will be agreed in conjunction



with the local authority and the Lettings Manager, Head of Operations, Head of Neighbourhoods or Customer Services Director

From time to time, we may support local authorities with Government initiatives to provide homes to certain groups of customers, for example refugees. We will issue tenancies in line with any specific requirements to fulfil those projects.

We will comply with any instructions from the county court following legal action. An example may include assigning joint tenancies.

Joint tenancies are usually only issued to different or same sex partners who are in a relationship. Occasionally we will be asked to consider issuing a joint tenancy to siblings or cross generations – e.g. mother and daughter. This will be considered on a case-by-case basis taking the individual circumstances into account and a full explanation of the decision will be provided.

We reserve the right to issue tenancies outside the principles and guidance of this policy where there are grounds to do so. This can only be approved by the Lettings Manager, Head of Operations, Head of Neighbourhoods or Customer Services Director and reasons will be clearly documented.

#### **8. The Right to Buy, Right to Acquire and Rent to Buy**

Existing customers who previously held a tenancy with Basingstoke and Deane Borough Council, Eastleigh Borough Council, Hart District Council and Rushmoor Borough Council may have retained the right to buy their homes. Customers who have this retained right can apply to buy their home subject to meeting the necessary criteria.

Some existing customers may have the right to purchase their home under the right to acquire scheme subject to the criteria detailed in appendix 2.

Some homes are let under the Rent to Buy scheme which allows the tenant to rent the property by offering a fixed term tenancy at an intermediate market rent for 5 years, enabling them to save the 20% for a deposit which they can use to purchase that property via the shared ownership route.

#### **9. Statutory requirements**

This policy has taken into account the following legislation and regulation which is applicable to the types of tenancy we grant:

- Housing Acts 1980, 1985, 1988, 1996 & 2004
- Human Rights Act 1998
- Localism Act 2011
- Anti-social Behaviour Act 2003
- Equality Act 2010 & 2012



- Landlord & Tenant Act 1985
- Local Government Act 1972, 1988, 2000, 2003
- Local Government & Housing Act 1989
- Regulatory Framework for Social Housing in England April 2012
- Social Housing Regulation Act 2023
- Immigration Act 2014
- Housing and Planning Act 2016

#### **10. Related policies and procedures**

This policy must be read in conjunction with:

- Rent Strategy
- Lettings Policy
- Decant procedure
- Lettings Procedure
- Mutual Exchange Policy
- Income Recovery Policy
- Housing Management Policy
- Equalities & Diversity Policy
- Complaints Policy
- Anti-social Behaviour Policy
- Data Protection policy
- Right to Buy Policy
- Rent to Buy policy
- Service Charge policy
- Appeal procedure

#### **11. Monitor and review process**

We audit a proportion of completed lettings to ensure the correct tenancy has been offered. CORE forms are completed and submitted for appropriate lettings. This policy will be reviewed every two years or if a change in legislation or regulation needs to be applied..

#### **12. Appeals process**

A customer can appeal in line with our appeals procedure, against the type of tenancy they are offered. The appeal will be heard by the Head of Neighbourhoods, Operations, Customer Experience or Customer Services Director.

#### **13. References/appendices**

Appendix 1 – Types of tenancy and period



Appendix 2 - Right to Acquire

Author	Owner	Date approved	Review date
Alex Nagle	Alex Nagle	31/7/20	July 2021
Alex Nagle	Alex Nagle	30/7/21	July 2022
Alex Nagle	Alex Nagle	29/7/22	July 2023
Alex Nagle	Alex Nagle	15/8/23	September 23
Alex Nagle	Alex Nagle	19/9/23	September 2024 Extended to Feb 2025
Alex Nagle	Alex Nagle	20/3/25	Feb 2026



## Appendix 1

All tenancies and licences state what obligations and responsibilities the customer and the landlord have and confirms what actions can be taken should a breach of tenancy occur.

Tenancy agreements will be reviewed periodically to ensure clauses are still relevant.

<b>Types of tenancy &amp; period</b>	
<b>Type</b>	<b>Assured shorthold tenancy</b>
Description	A weekly or monthly periodic assured shorthold tenancy – a range of lengths of tenancy offered from 6 months to 5 years
Circumstances	Granted where the occupancy is temporary Brought to an end using mandatory grounds. Less secure than an Assured
<b>Type</b>	<b>Assured tenancy</b>
Description	Can last indefinitely unless the tenant gives notice to end the tenancy, dies or the terms of the tenancy are broken. If the terms are breached we can seek a court order to bring the tenancy to an end.
Circumstances	Issued to all existing and new customers
<b>Type</b>	<b>Secure tenancy</b>
Description	Has a significant level of security particularly in relation to rights such as the right to buy. Can last indefinitely unless the tenant gives notice to end the tenancy, dies or the terms of the tenancy are broken. If the terms of the tenancy are breached we can seek a court order to bring the tenancy to an end.
Circumstances	These tenancies will not be re-issued.
<b>Type</b>	<b>Licence</b>
<b>Description</b>	Permission to occupy a room in shared accommodation or a supported hostel
<b>Circumstances</b>	Granted to residents with support needs usually as temporary accommodation to provide them with support with a view to being moved to general needs accommodation or other licensed accommodation within a pathway.  The licence provides for immediate eviction in cases of serious anti social behaviour but generally 7 or 28 days notice. Notice given for breaches of licence including but not limited to anti social behaviour, rent arrears, breach of house rules, not engaging in support, no longer requiring support.



<b>Type</b>	<b>Garage Licence</b>
<b>Description</b>	Permission to use a garage for the purposes of storing a vehicle or other items.
<b>Circumstances</b>	Granted to existing customers and non-customers. A weekly licence is granted which can be terminated by either party giving one week's notice.
<b>Use and Occupation account</b>	<p>A use and Occupation account will be created when a property is occupied by a person with no legal tenancy</p> <p>The reasons where this might happen:</p> <ul style="list-style-type: none"><li>• When someone succeeds to a tenancy but needs to move to a more suitable home</li><li>• Occupation Following a Death where there are no rights of succession and we are supporting to move to alternative accommodation</li><li>• Occupation following end of tenancy when an occupant has not vacated or persons unknown are at the property and legal action is being taken for illegal trespass</li></ul>



## Appendix 2

Type	Right to Acquire
Description	The ability to acquire a home at a discount through the Right to Acquire scheme.
Circumstances	<p>Customers have the right to acquire their home if:</p> <ul style="list-style-type: none"><li>• They've been a tenant of a housing association, arms length management organisation or council for at least five years and;</li><li>• Their home was built or bought by a housing association with public funds from 1 April 1997 onwards or transferred from a local council to a housing association after 1 April 1997.</li></ul> <p>Exclusions:</p> <p>Property designated for people over 60 years of age;</p> <p>Property designated for people who have special needs or who are physically disabled.</p>