



## **Tenancy Management Policy**

# Contents

# Page

1	Policy	1
2	Purpose	1
3	Principles	1
4	Review	1
5	Application	1
6	Policy Statement - Summary of Tenancies	2
	6.1 Tenancy Types	2
	6.2 Assignments	4
	6.3 Right of Appeal	7
7	Equality Impact Assessment	9

## 1. Policy

This policy sets out the range of tenancies North Devon Homes (NDH) will offer and how they will be managed.

## 2. Purpose

This policy covers:

The range of tenancies offered by NDH and the circumstances under which they will be offered

Assignments and accompanied discretion that NDH is able to apply, along with the appeal system

Processes to ensure a clear and transparent approach is taken by the company when offering tenancies to customers.

## 3. Principles

The following principles will apply to this policy:

- It will be open, fair and transparent
- It will promote consistency in the approach for all customers.

## 4. Review

This policy, procedures and staff training needs will be reviewed at least once every three years to ensure that they continue to operate within best practice, achieve measurable results, and achieve continuous service improvement.

Alternatively, the policy and all associated procedures will be reviewed immediately following any relevant change to government policy, regulation or legislation.

The Head of Housing will be responsible for ensuring that policy reviews are undertaken, that appropriate consultation takes place and that revisions are reported to the Board for its approval.

## 5. Application

The Executive Team has delegated authority to approve this policy. Responsibility for ensuring that this policy is communicated to staff and appropriately implemented is with the Neighbourhood Services Manager.

Training will be provided for staff to ensure that they fully understand the wider issues surrounding this policy and the relevant procedures.

## 6. Policy Statement

<b>Summary of Tenancies</b>	
6.1.1	Assured Tenancies Pre-transfer (pre February 2000)
6.1.2	Assured Tenancies Post -transfer
6.1.3	Starter Tenancies
6.1.4	Assured Shorthold Tenancies
6.1.5	Contractual Tenancies
6.2	Assignments and Discretion
6.3	Right of Appeal

### 6.1 Range of current tenancies offered by NDH:

Scope:

The company grants a range of tenancy types depending upon the particular circumstances that relate to the property type, applicant type and any other legal restrictions or considerations.

#### 6.1.1 *Assured Tenancies (pre transfer)*

These tenancies were granted specifically to tenants transferring from North Devon District Council to North Devon Homes in February 2000.

These were Assured Tenancies with additional contractual rights granted to the individual tenants. For example, the Preserved Right to Buy and additional succession rights.

These tenancy types were a specific “one-off”, applicable only to tenants at the time of stock transfer, and over time their numbers will continue to decline.

#### *6.1.2 Assured Tenancies (post transfer)*

All new tenants, from the stock transfer in February 2000 to the introduction of Starter Tenancies in April 2007 were granted Assured Tenancies.

#### *6.1.3 Starter Tenancies*

New residents to North Devon Homes (excluding anyone moving via an exchange) will be granted a Starter Tenancy for the first calendar year. During this initial “probationary” period the tenancy is an Assured Shorthold Tenancy (AST).

Assuming the tenancy is conducted satisfactorily, these tenancies automatically convert into Assured Tenancies. These ASTs can be extended for a maximum of a further 12 months, if there are concerns about the conduct of the tenancy.

If a NDH tenant, with an existing Assured tenancy transfers to another NDH property, they will retain their Assured Tenancy status i.e. they will not have to complete a further probationary period.

#### *6.1.4 Assured Shorthold Tenancies (AST)*

ASTs are offered only in the following specific circumstances:

Where a property has been purchased without the benefit of government funding it may be let out at a market rent.

Where the property is within an area planned for major redevelopment or a refurbishment programme and is likely to be demolished or lose part of its ground to the new development.

Where such circumstances occur, the granting of an AST should be reviewed after one year to ensure that the planned development is still a realistic option. If it is not an option, the tenant, having already

satisfactorily completed a year's occupation, would be granted an Assured Tenancy.

The granting of an AST, in such circumstances, will be approved by the Neighbourhood Services Manager.

#### 6.1.5 *Contractual tenancies*

Contractual Tenancies are only granted to tenants who have to temporarily decant from their permanent home whilst major or emergency repairs are carried out. In such circumstances the existing tenancy will continue to run whilst the tenant is temporarily housed elsewhere. Once the repairs are complete the tenant will return to their permanent home and the contractual tenancy with the decant property will be ended.

## 6.2 Assignments

Assignments include the following areas:

- Successions – where the current tenancy can be passed on following the death of the tenant
- Mutual Exchanges – where qualifying tenants' exchange homes with one another
- Requests from the current tenant to pass on their tenancy to another person

In the majority of the above cases NDH has discretion. This extends to either approve or reject the requested changes to the tenancy. Such discretion will be applied in a consistent manner as set out in 6.3.1 to 6.3.4.

### 6.2.1 *Successions*

- Where there has not been a succession
- All Assured tenants have the legal right to succeed to the tenancy of their spouse or common law partner (including same sex partners) on their death. This can only happen if there has been no previous succession.
- In these circumstances this is a statutory right and there is no discretion for NDH to exercise.

If there is no partner eligible to succeed the tenancy NDH has the discretion to approve the assignment of the tenancy to:

- a family member
- someone who has lived with the tenant for the year before the tenant's death; or
- someone who has looked after the tenant or accepted responsibility for the tenant's dependents.

Such applicants must have:

- i) occupied the property immediately before the tenant's death
- ii) lived with the tenant continuously for a period of 12 months before their death.

When considering a request to use this discretion we will apply the criteria set out in 6.2.4.

Where there has already been a succession

There may be occasions where a tenancy has been already passed on (succeeded to) and a request is received to grant a new tenancy; to say a family member or carer.

When considering a request to use this discretion we will apply the criteria set out in 6.3.4.

### 6.2.2 *Mutual Exchanges*

The level of discretion available to North Devon Homes (NDH) with regards mutual exchanges is dependent on the wording of the tenancy condition.

Where the tenancy terms make specific reference to the Housing Act 1985 (Schedule 3) this legislation is prescriptive about the grounds for refusal and provides no grounds for the use of discretion.

Where tenancy terms do not refer to the Housing Act 1985 NDH is able to exercise some discretion regarding the approval or rejection of exchange applications.

### 6.2.3 *Assignments involving the existing tenant*

There are occasions when a current tenant requests that their tenancy is “assigned” (passed on) to another family member or individual.

In these circumstances there is no automatic right to approve such an assignment and they require the consent of NDH.

When considering a request to use this discretion we will apply the criteria set out in 6.2.4.

### 6.2.4 *Application of discretion*

#### i) Successions and assignments (6.2.1 & 6.2.3)

Where NDH is asked to apply its discretion for the above circumstances it will take into account the following considerations when reaching a decision on whether to exercise or reject the use of its discretion:

The conduct of the current or previous tenancy – in particular the history of rent payment; whether there were any issues relating to anti-social behavior within the neighbourhood; condition of the property and compliance with the expectations as set out in the reasonable behavior policy.

Whether the property is suitable for the applicant – this will include whether the existing property is too large or too small for the applicant’s needs, as well as whether the existing property has adaptations suitable for a disabled person.

The individual circumstances of the applicant, including whether they have dependent children. As part of this assessment we will consider whether the applicant is vulnerable (eg suffers from a medical condition that would make it difficult for them to secure alternative accommodation).

The demand for the property and the availability of similar property in the area.



After considering the above criteria, the Company may wish to apply its discretion and decide that an alternative property would be more suitable. Where this occurs NDH will make one reasonable offer of accommodation. The decision around reasonability will be taken by the Neighbourhood Services Manager.

ii) Mutual exchanges (6.2.2)

Where NDH is asked to apply its discretion for proposed exchanges it will consider the same criteria as listed for successions and assignments plus the following considerations:

Whether there are planning restrictions (such as s106 agreements) that restrict who can occupy the property

- Whether any of the incoming occupants have been convicted of any offence relating to property or an individual, within their neighbourhood, over the last 3 years
- Whether any of the incoming occupants are unsuitable for housing due to an unspent criminal conviction.

The Neighbourhood Services Manager will consider all requests for NDH to use its discretion; any such requests must in writing. In the case of an existing tenant dying an application for the granting of an assignment or new tenancy must be received within three weeks of the date of the tenant's death.

All decisions will be confirmed in writing, and will include the reasons for reaching such a decision.

### 6.3 Right of Appeal

Where an application is refused or an offer of alternative accommodation is refused the applicant can appeal in writing to the Head of Housing. Appeals must be submitted within 2 weeks of the date of the original decision. The Head of Housing will confirm the decision in writing, with the reasons behind their decision. This decision will be final and there will no further rights of appeal.

## 7. Equality Impact Assessment

7.1 Identify potential impact on each of the diversity “groups”

Strand	No impact	Negative impact	Positive impact	Comments / evidence
Race	<input type="checkbox"/>			
Disability		<input type="checkbox"/>		
Gender	<input type="checkbox"/>			
Gender Reassignment	<input type="checkbox"/>			
Sexual orientation	<input type="checkbox"/>			
Religion or belief	<input type="checkbox"/>			
Age		<input type="checkbox"/>		
Rural issues		<input type="checkbox"/>		
Social Inclusion issues			<input type="checkbox"/>	Affordable housing aids a persons ability to maximize their spending on items other than housing
Pregnancy and maternity	<input type="checkbox"/>			
Marriage and civil partnership	<input type="checkbox"/>			

7.2 Does the Policy promote equality of opportunity?

The policy promotes equality of opportunity due to the impact of an improved financial status resulting from low rents within the social housing sector.

7.3 If “adverse impact” identified in table above is it?

Whilst the impact may be adverse on specifically disadvantaged groups it does not constitute discrimination.

7.4 A full EIA is not required for this policy.

<b>Next review date</b>	
December 2021	
<b>Author</b>	<b>Related Documents</b>
Name: Miles Sellick Head of Housing Services Email: <a href="mailto:miles.sellick@ndh-ltd.co.uk">miles.sellick@ndh-ltd.co.uk</a>  Tel: 01271 312507	