



# Tenancy Policy

Reference: HSP18

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<b>Policy Title:</b>	<b>Tenancy Policy</b>
Applies to:	<b>Housing Services Teams</b>
Lead Officer:	<b>Head of Business Improvement &amp; Allocations</b>
Policy drafted by:	<b>Andrea O'Callaghan</b>
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## 1. Introduction

- 1.1 The Localism Act 2011 introduced new flexibilities for registered providers (RPs) to offer social housing tenancies for a fixed-term. The new flexibilities of the Act are designed to ensure the best use of social housing stock.
  - 1.2 From April 2012 the regulatory framework has required RPs to publish clear and accessible policies which outline their approach to tenancy management and have due regard to the tenancy strategies published by the local authorities in which they operate.
  - 1.3 This policy sets out the circumstances on when different tenancy types will be offered and how fixed-term tenancies will be reviewed. It identifies the circumstances under which they will not be renewed and the advice and assistance offered when this occurs. The aim of this policy is to ensure residents have the right home for as long as they need it.
  - 1.4 Starter tenancies will be issued to all incoming tenants who are new to social housing. Starter tenancies are used as part of Swan's overall initiative to tackle anti-social behaviour. Two types of starter tenancy are in use and are issued depending on the circumstances of the incoming tenant.
  - 1.5 Assured Shorthold tenancies will be issued to all applicants aged under 35 years without children.
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## 2. References

- 2.1 The Social Housing Regulator's framework includes the national standards which RPs must meet. This policy relates to the Tenancy Standard which requires housing providers to grant tenancies which are compatible with the purpose of the accommodation, the needs of the individual household, the sustainability of the community and the efficient use of the stock.
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## 3. The key Swan Tenancies

- 3.1 **A starter tenancy** – will be offered to new tenants who do not hold an assured or secure tenancy prior to their nomination to Swan and are within 5 years of the state retirement age, or have been nominated to a property that is adapted for their needs. This is a probationary tenancy for a one year period and on successful completion will automatically convert to:-
- 3.2 **A lifetime assured tenancy** - will be issued to existing social housing tenants who have held an assured or secure tenancy since April 2012 or existing Swan assured tenants moved under the terms of the Allocations Policy or by agreement with the local authority.
- 3.3 **A fixed-term starter tenancy** – will be issued to new tenants who do not hold an assured or secure tenancy prior to their nomination to Swan. This is a probationary tenancy for a one year period and on successful completion the tenant(s) will be issued with:-
- 3.4 **A 5 year fixed-term tenancy** – this is a tenancy for a fixed-term of 5 years for those tenants who have successfully completed the starter tenancy period. This is a new tenancy type introduced through the Localism Act and has similar terms and conditions to an assured tenancy.
- 3.5 **An assured shorthold tenancy:-** this is a periodic assured shorthold tenancy and will be offered to any applicant aged under 35 years of age without children. This is due to housing benefit restrictions to this age group that will cap payment to the shared accommodation local housing allowance. AST tenancies will also continue to be offered to those in accommodation which is intended to be temporary.

## 4. Circumstances for issue

- 4.1 The key considerations when a property is being let will be whether it is to be let on a lifetime or fixed tenancy and whether it is let at a social or affordable rent. From April

2012 the link between tenure and rent no longer applies and either type of tenancy can be offered at either rent.

- 4.2 Starter tenancies will be issued to new tenants who did not hold a social housing tenancy prior to being nominated to Swan and:
- are within 5 years of the state retirement age and are not moving into a family sized home
  - are disabled and the property has been deemed suitable for their disability
  - would be disadvantaged by the issue of a fixed-term tenancy due to their individual circumstances
- 4.3 A starter tenancy will automatically convert to an assured tenancy after 12 months but can be extended by a maximum of 6 months if there has been a breach not serious enough to end the tenancy.
- 4.4 Assured tenancies will be offered to new tenants who already hold an assured or secure tenancy immediately prior to being nominated to Swan and who held such a tenancy on the 1<sup>st</sup> April 2012. Assured tenancies will also be issued to assured tenants moving by internal transfer.
- 4.5 Fixed-term tenancies will be offered to all new tenants who did not hold a social housing tenancy prior to being offered a Swan home and are not covered by the circumstances set out in 4.2. A 1 year fixed-term starter tenancy will be issued and followed by a 5 year fixed-term if the tenancy conditions have been adhered to.
- 4.6 Exemptions to the above circumstances will be for those aged under 35 years without children. These new tenants will only be offered an assured shorthold tenancy. Should their circumstances change or they reach the age of 35 a 5 year fixed term tenancy will be offered.

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## **5. Starter Tenancies**

- 5.1 The starter tenancy period covers the first 12 months of all new tenancies. During the starter tenancy period the tenants has:-
- No security of tenure afforded by a secure or assured tenancy
  - No right to assign or exchange
  - No right to transfer
  - No right to take in lodgers or sub-let any part of their home
  - No right to make improvements
  - No right to acquire
- 5.2 All starter tenancies will be reviewed regularly throughout the first year to ensure tenancy conditions are being adhered to. At the time of signing the tenancy emphasis will be placed on the risk of the tenancy ending due to acts of anti-social behaviour.
- 5.3 The decision to terminate a starter tenancy will be made by Head of Service. Full reasons on why the tenancy is being terminated should be included with the section 21 notice along with information on how to appeal the decision. All appeals will be heard by a Director and/or Assistant Director and a Manager.

## **6. Fixed-term Tenancies**

- 6.1 Swan aim to offer a degree of stability to enable residents to invest in their home and their community. The use of fixed-term tenancies enables social housing homes to be occupied by those who need them the most while encouraging mobility.

- 6.2 The offer of a Swan home will clearly set out the type of tenancy, the rent being offered and the conditions of the offer. If a fixed-term tenancy is offered a full explanation on how and when the tenancy will be reviewed pending the end of the fixed term will be given. A 1 year fixed-term starter tenancy will be issued followed by a 5 year fixed-term tenancy.
- 6.3 When a property has been let on a fixed-term tenancy, at least 8 months before the end of the 5 year fixed-term the household circumstances will be considered in relation to their continued suitability for that property and one of the following actions will be taken:
- Re-issue a new 5 year fixed-term tenancy.
  - Tenant to remain in the property but under new terms.
  - Tenant to be given assistance to find another more suitable property.
  - No offer of tenancy.
- 6.4 If the household circumstances have not changed another 5 year tenancy will be issued. To identify how best to meet the needs of a household when circumstances have changed a full review will be undertaken if one of the following applies:
- Property is now under-occupied by more than one bedroom.
  - Property is now overcrowded by more than one bedroom.
  - Property is adapted and no-one living in the property needs the adaptation.
  - The household's financial circumstances have changed so that they could now afford to buy or rent privately.
- 6.5 The reviewing officer will make a recommendation to a Regional Manager or the Head of Business Improvement and Allocations to agree a 5 year fixed-term tenancy in one of the following:
- The same property.
  - In a smaller property.
  - In a larger property.
  - In a property with no adaptation.
- 6.6 If one of the following circumstances apply another tenancy will not be offered:
- A serious breach of tenancy has occurred during the fixed-term.
  - Tenancy fraud has been identified during the fixed-term.
  - Tenant has not engaged in the review process.
  - Tenant does not wish to accept the terms of the new fixed-term tenancy.
  - Tenant has come into legal ownership of another residential property.
- 6.7 If the decision is made not to offer another 5 year fixed-term, the tenant will be issued with notice to leave the property. This notice will be served at least 6 months before the end of the tenancy to enable the tenant sufficient time to secure alternative accommodation. It will be agreed with the tenant how they can explore the available housing options and establish the best housing solutions for them.
- 6.8 If notice has been served the household will receive appropriate advice and support to enable them to secure more suitable accommodation. If at the end of the fixed-term the tenant has not vacated the property a weekly rolling tenancy may be allowed. This is not a new tenancy and the tenant will be required to continue to pay rent and comply with all the terms of the fixed-term tenancy until they move.
- 6.9 Exceptions under which another fixed-term tenancy maybe offered include:
- The tenant has made reasonable attempts to secure alternative accommodation and it is agreed that there are no reasonable alternatives available.

- The care and support needs of the household can only be met if they remain in the property.
  - It would be detrimental to the sustainability of the neighbourhood if the household left the area. This would include ensuring the quotas of a local lettings plan are being met.
  - The tenant or a member of the household would be disadvantaged in relation to their employment opportunities.
- 6.10 All tenants not being offered another fixed-term tenancy will have the right for this decision to be reviewed. The review process will be the same as the appeal process for starter tenancies as set out in 5.3.
- 6.11 At the end of a 5 year fixed-term the rent charged to the property may also be reviewed. It may be appropriate for a household who could afford to rent privately to be offered a new tenancy at an affordable or market rent. Those properties already let at an affordable rent should be re-assessed against the current market levels.

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## **7. Ending a Fixed-term Tenancy**

- 7.1 In addition to ending a fixed-term tenancy in the circumstances set out in 6.6 it may be necessary to end the tenancy within the fixed-term if it is not being conducted in an appropriate manner. This will be done by serving notice of seeking possession under the relevant ground for possession (as set out in Schedule 2 of the Housing Act 1988) and in line with Swan's Anti-social Behaviour and Rent Policies.
- 7.2 If the tenant chooses to end the tenancy before the end of the fixed-term they may do so by surrendering the tenancy by giving at least four weeks. If the tenant has abandoned the property during the fixed-term a Forfeiture Notice will be served on the property. This will give the tenant 4 weeks' notice that Swan will be taking back possession of the property.

## **8. Equality and Diversity**

- 8.1 Swan strives to meet the needs of all customers and is committed to reducing inequality, eliminating discrimination and promoting good relations between people of different groups. We will be sensitive to the specific needs of all new applicants and customers and will actively seek to identify those needs and ensure that those needs are met.
- 8.2 We will ensure that no-one is disadvantaged on the basis of race, colour, ethnic or national origin, nationality, gender, disability, religious, sexual orientation, marital status, age or any unjustifiable criteria.
- 8.3 In some circumstances it may be appropriate to offer a tenancy type outside of the terms of this policy. This may be when a household member has a disability and could be disadvantaged by not being offered a more secure type of tenancy.

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## **9. Related Policies**

- 9.1 Related policies:
- Allocations Policy
  - Vulnerable Applicant and Tenant Policy

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## **10. Monitoring**

- 10.1 This policy will be reviewed in line with changes in legislation and the issue of local authority strategic tenancy policies.
- 10.2 The Key monitoring indicators are:

- % of tenancies issued by tenancy type
- % of tenancies issued at affordable rent levels
- % of tenancies reviewed at the end of the fixed term by outcome

## 11. Tenancy definitions:

TENANCY	OPTIONS	KEY POINTS
<b>Starter Tenancy options – for those new to social housing.</b>		
Starter Tenancy	One year starter	New social housing tenants qualifying under 4.2. This tenancy will automatically convert to an assured tenancy after 12 months unless a section 21 notice has been served or the tenancy has been extended by 6 months.
Fixed-term Starter Tenancy	One year starter	Issued to new social housing tenants who do not hold an assured or secure tenancy for the first year.
Assured Shorthold Tenancy	Contractual periodic tenancy	Issued to tenants without children and aged under 35 years.
<b>Lifetime Tenancy options – for those with an existing social housing tenancy.</b>		
Assured Tenancy	Assured	Qualifying nominations or transfers with an existing secure or assured tenancy.
	Protected Assured	Stock transfer tenants or Blackwall Reach tenants moving into a new build in same area.
<b>Fixed Term Tenancy options – for those new to social housing.</b>		
Fixed-term Tenancy	Five year fixed term tenancy	This is technically an assured shorthold tenancy though has similar rights to the assured tenancy.
<b>Non Secure Tenancy options – use for non-general needs social housing.</b>		
Assured Shorthold	Contractual periodic tenancy	Initial 6 or 12 month tenancy after which can run indefinitely until served with a 2 month notice.
Licence	Licence Agreement	A licence grants permission to reside in the property and is for those who do not have exclusive occupation of the property.