



## **TENANCY POLICY**

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<b>Title</b>	<b>Tenancy Policy</b>	
<b>Lead Officer/Authors</b>	<b>Sarah Mees</b>	
<b>Position</b>	<b>Neighbourhood Manager</b>	
<b>Department/Section</b>	Neighbourhoods	
<b>Contact details</b>	<a href="mailto:Sarah.mees@homesinsomerset.org">Sarah.mees@homesinsomerset.org</a>	
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## **Homes in Somerset Tenancy Policy**

### **1. Tenancy Policy Statement**

- 1.1** This policy is written to meet the requirements of the Localism Act 2011 and fulfils the obligation for registered housing providers to publish clear and accessible policies, which outline their approach to tenancy management.

### **2. Purpose of this Policy**

- 2.1** The purpose of this Tenancy Policy is to set out how Homes in Somerset (HIS) will manage tenancies on behalf of Somerset Council (SC).
- 2.2** This policy will outline:
- The type and length of tenancy
  - Making changes to a tenancy
  - How rents are set
  - Tenancy sustainment
  - How a tenancy can be ended
  - Tenancy fraud

### **3. Scope of the Policy**

- 3.1** This policy applies to all tenants of Somerset Council living in homes managed by Homes in Somerset.

### **4. Principles**

- 4.1** This Policy outlines
- the framework to support and sustain tenancies
  - clear information to customers on how we will grant and manage tenancies
  - clear information to customers on their statutory rights of succession, assignment and other tenancy changes
  - clear information on how a tenant can appeal or complain if they are unhappy with a decision taken by HIS
- 4.2** We will:
- Ensure compliance with the consumer standard set out in the Regulator of Social Housing Tenancy Standard and local standards agreed with customers and leaseholders

- Ensure compliance with statutory and contractual duties to customers set out in relevant legislation
- Make best use of the council's housing stock to meet customers' needs
- Identify solutions to manage nuisance behaviour jointly with customers and other agencies and actively implement them
- Effectively let and manage dwellings and garages to minimise rent loss and maximise occupation
- Ensure the SC tenancy agreement reflects current legislation and practices
- Support tenants to sustain tenancies as far as possible
- Adopt best practice

## **5. Types of Tenancies**

We will offer to new tenants, or to existing tenants transferring within Somerset Council housing stock, the following types of tenancy:

### **5.1 Introductory Tenancy**

An Introductory Tenancy is a fixed term tenancy for 12 months and can be extended at the Homes in Somerset's discretion to 18 months (no further extension is permitted).

The Terms & Conditions of an Introductory Tenancy are broadly the same as for a Secure Tenancy with some key exceptions. They are:

- The Right to Buy
- The right to a Mutual Exchange
- The right to carry out improvements
- The right to take in a lodger

All prospective tenants are informed before sign-up if they are to be offered an Introductory Tenancy and the terms and conditions explained.

Introductory Tenants are required to take part in a minimum of two reviews during the year, normally at 4 weeks and 6 months from the tenancy start date. The purpose of these visits is to ensure that the tenant can manage their tenancy and maintain their home, and that all other terms of the tenancy are being met.

Where needs are identified, Homes in Somerset will attempt to provide or facilitate appropriate support to help tenants maintain their Introductory Tenancy.

At the end of the 12-month period, an Introductory Tenancy will automatically convert to a Secure Tenancy. The only exceptions to this are where a decision has been made to extend the tenancy, or to seek possession of the property.

Following review, Homes in Somerset may extend the Introductory Tenancy by a further 6 months if there is any breach of the tenancy conditions. Tenants have the right to request a review of this decision.

Following review, HIS may decide not to allow an Introductory Tenancy to convert, and the tenant will be required to move out. Tenants do have a right to have this decision reviewed.

Introductory Tenancies can be brought to an end more easily than Secure Tenancies, and provided the correct processes have been followed, a Court must grant possession to the Council.

## 5.2 **Secure Tenancy**

A Secure Tenancy is the traditional Council 'lifetime' Tenancy. It includes the following rights:

- To remain in occupation indefinitely, provided the Terms & Conditions of the tenancy are met
- Right to Buy
- Succession rights on death of the tenant, provided there has been no previous succession
- Mutual Exchange
- Take in lodgers or sub-let part of the property
- Be consulted on matters that affect their tenancy
- Carry out improvements (subject to consent) and be compensated for certain qualifying improvements
- A Secure tenancy will be granted to a person who was a tenant of a dwelling-house under a secure tenancy, and the person or a member of the person's household is or has been a victim of domestic abuse carried out by another person, and the new tenancy is granted for reasons connected with that abuse.

- New applicants being offered sheltered housing with Independent Living service (ILS) accommodation will be offered a 12-month Introductory Tenancy, followed by a Secure Tenancy.
- Applicants from another Council or Social landlord moving into SC home who have a Secure or Assured Tenancy that was granted before or after 1st April 2012, will be offered a Secure (lifetime) Tenancy.

## **6. Changes to a Tenancy**

Following the granting of a tenancy, a tenant of a secure tenancy can apply to change that tenancy. This includes:

### **6.1 Succession**

Succession is where a tenancy passes from the tenant to someone else, on the death of the tenant, providing certain eligibility criteria are met. This is outlined in the tenancy agreement.

### **6.2 Assignment of a Tenancy**

Assignment is the legal process in which a tenancy can be passed from the tenant to someone else. Somerset Council does not permit the assignment of tenancies, other than as required by law in the following circumstances:

- By way of Mutual Exchange (not Introductory Tenancies).
- Following a Court order obtained under matrimonial proceedings or civil partnership proceedings.
- To a person qualified to succeed to the tenancy if the tenant died immediately before the assignment.
- Following a Court order obtained under the Children Act 1989

### **6.3 Joint Tenancy or Sole Tenancy**

When two adults make a joint application for housing, they will usually be offered a joint tenancy. Existing sole tenants with a Secure Tenancy can request that the tenancy be converted to a joint tenancy with a spouse, civil partner or co-habiting partner provided:

- The partner has been residing at the property for at least 12 months
- The sole tenancy was not itself created by succession or survivorship
- All conditions of the sole tenancy are being met

- Other requests for joint tenancies such as adult siblings may be considered.
- HIS will not normally create a joint tenancy between a parent and adult child.

#### 6.4 **Mutual Exchange**

A Mutual Exchange is where one tenant can 'swap' or assign their tenancy with another tenant.

All SC Secure tenants have the right to do a mutual exchange with another SC tenant or the tenant of another social landlord, provided certain criteria are met as outlined below.

The tenant must make an application in writing and wait for permission to be granted before moving.

A Mutual Exchange request must be granted, unless the application meets any of the grounds for refusal as set out in Schedule 3 of the Housing Act 1985 (pre April 2012 secure tenants), or Schedule 14 of the Localism Act 2011 (post 2012 secure tenants).

### 7. **Rent Setting**

7.1 Somerset Council are responsible for setting the rent at either a social rent or affordable rent level on all its tenancies. For newly built or acquired homes could be let at rents up to 80% of the local market rent.

Rent levels are set in accordance with the HRA Rent Setting Policy, which is reviewed and updated annually in April.

Service charges are shown as a separate weekly charge for the homes which benefit from these services.

Affordable rents are made up of a rent and service charge element.

Homes in Somerset operate a variable service charge in relation to their Independent Living Service.

### 8. **Homes in Somerset's approach to tenancy sustainment**

8.1 Homes in Somerset's aim is to support tenants to maintain their tenancies as far as possible.

Tenants' rights and obligations will be explained to them as part of the new tenant 'sign-up' process.

The Income Team will make referrals to provide support, advice and assistance on financial matters.

The Neighbourhood Team will work closely with other departments within the Council, and other agencies, where support needs have been identified.

Repossession action of a tenants' home is always a last resort and where a tenancy is at risk of failure, the support needs of the tenant will always be taken into consideration.

## **9. How to End a Tenancy**

- 9.1 The details of how a tenant can surrender their tenancy are set out in the Tenancy Agreement.

Generally, 4 weeks' written notice from the tenant is required, although the HIS may waive or reduce this requirement at its discretion, provided all other conditions relating to the termination have been met.

Joint tenancies can be ended by either tenant. Where one tenant wishes to end a joint tenancy, Homes in Somerset will check the circumstances and ensure as far as possible that the other tenant is aware of and in agreement with the ending of the tenancy.

- 9.2 Homes in Somerset may seek to end a tenancy where a tenant consistently breaches the terms and conditions set out in the tenancy agreement.

In doing so HIS will follow the legal processes available to them to do this.

## **10. Tenancy fraud**

- 10.1 Tenancy Fraud can take various forms including:

- Attempting to obtain a tenancy by deception.
- Unlawfully sub-letting a property
- Housing Benefit fraud
- Right to Buy fraud



Homes in Somerset is committed to tackling tenancy fraud, and there is a Tenancy Fraud Policy in place. We will work closely with other departments and agencies including Somerset Council and their Housing Benefit team, Department of Work and Pensions (DWP) and the Police.

Where appropriate, we will make use of the Prevention of Social Housing Fraud Act 2013 and work as part of the National Fraud Initiative to identify and reduce potential for tenancy fraud.

The Neighbourhood Team will undertake a continuous programme of tenancy audits to verify that its homes are occupied by bone fide tenants.

## **11. Processes and Procedures related to this policy**

- 11.1
  - Introductory Tenancy Process and Procedure.
  - Introductory tenancy breach
  - Decant Standard Operating Procedure (SOP)
  - New tenancy visit
  - Six-month visit
  - Mutual Exchange
  - Succession
  - Abandonment
  - Permission request
  - Tenancy audit
  - Assignment
  - Relationship breakdown
  - Pest control
  - No successor or next of kin
  - Rent arrears procedure
  - Managing Tenancy Fraud Process and Procedure

## **12. Monitoring and Review**

- 12.1 HIS Strategic Management Team will review the implementation of this Policy as an annual report brought to SMT April meeting each year.

- 12.2 Performance information will be published on our website and in our Annual Report to tenants.
- 12.3 This policy will be reviewed every three years unless there are changes to legislation, regulation, best practice or business need.

### **13. Homes in Somerset –Tenancy Policy**

- 13.1 This policy is drawn up considering the following legislation:
- Localism Act 2011
  - Housing Act 1985
  - HA 1985 s99a-99b (secure tenants compensation for improvements regulations 1994).
  - Equalities Act 2010
  - The Prevention of Social Housing Fraud Act 2013
  - Housing and Regeneration Act 2008
  - Homelessness Act 1996 and 2002
  - Regeneration of Services Act 1995
  - Secure Tenancies (Victims of Domestic Abuse) Act 2018
- 13.2 The following sources and guidance have been taken into consideration:
- HCA Regulatory Standards (Tenancy)
  - Homefinder Somerset Choice Based Allocation scheme
  - Somerset Strategic Housing Partnership – Countywide Tenancy Strategy
  - CIH “How to Develop Your Tenancy Policy”