



BOURNEMOUTH CHURCHES HOUSING ASSOCIATION

TENURE POLICY FOR RENTED ACCOMMODATION

LAST REVIEWED OCT 2020

1.0 Introduction

1.1 This Policy relates to our rented homes, with the exception of Registered Care Homes. This Policy does not cover home ownership (including leasehold, and shared ownership) which are bound by the terms of their own leases.

1.2 The Policy explains:

- The types of occupation or tenancy agreement we use
- How we sustain tenancies, support vulnerable tenants and prevent unnecessary eviction
- Assignment, succession, joint tenancies and mutual exchanges
- How we tackle Tenancy fraud.

1.3 When we use 'you' or 'your' we mean the person(s) who have entered into an occupancy agreement with us. The terms 'we', 'our' and 'us' mean BCHA.

2.0 Types of Agreement

2.1 We offer tenancies or terms of occupation which are compatible with the:

- Purpose of the accommodation
- Needs of individual households
- Sustainability of the community
- Efficient use of our homes
- Strategic housing functions of our partner local authorities.

2.2 We use a range of occupancy agreements including, but not limited to:

- Starter tenancies
- Assured tenancies (lifetime tenancies)
- Assured shorthold tenancies
- Excluded licences.

2.3 All rights and responsibilities are set out in these occupancy agreements. The terms of the agreements vary according to when the agreement was granted. You must abide by the terms and conditions of your occupancy agreement otherwise you face losing your home.

2.4 We grant those who were social housing tenants on or before 1 April 2012, and have remained social housing tenants since that date, a tenancy with no less security where they choose to move to a BCHA social rented home. This is the case whether they move from one of our homes or from a home owned by another association or local authority landlord. It does not apply where tenants choose to move to accommodation let on Affordable Rent terms.

2.5 We grant tenants who have been moved into alternative accommodation during any redevelopment or other works a tenancy with no less security of tenure on their return to settled accommodation.

2.6 We offer occupation agreements in line with specific lettings plans, agreements, or scheme requirements where these are in place.

2.7 If a tenant or prospective tenant isn't happy with the length of tenancy or the type of tenancy offered, we'll follow our Complaints Policy. We must make sure we let homes quickly and

efficiently. Therefore, we will not hold an offer of accommodation open pending resolution of the complaint. We can offer advice and assistance in this circumstance.

3.0 Sustaining tenancies, supporting vulnerable tenants and preventing unnecessary eviction

3.1 We want tenants to maintain their tenancies successfully and avoid unnecessary eviction. We offer appropriate advice and support to help tenants meet the conditions of their occupancy agreements and remain in their homes, including support with managing household finances.

3.2 In deciding on appropriate forms of tenure and offers of housing, we take into account the needs of households who are vulnerable. We refer and signpost vulnerable tenants in general needs housing to BCHA or external support services to get the help they need. We also offer a range of supported housing designed to assist people who find themselves homeless or in crisis.

3.3 We will work with partners to safeguard children and vulnerable people.

3.4 We evict tenants as a last resort, only when we have exhausted all options to tackle breaches of the tenancy unless the breach is so significant that other options are not appropriate. We'll work with our tenants to help them find solutions and avoid eviction.

3.5 **General Needs Housing:** the Director of Customer, Homes & Tenancy will approve all evictions.

3.6 **Supported housing:** evictions will be approved by a Business Manager or above. In 24/7 services where there is an immediate need to evict a customer on an excluded licence agreement outside of normal business hours (for example, due to violent behaviour), the customer will be temporarily excluded from the premises pending review within 48 hours by a Business Manager who will decide whether to confirm the eviction.

3.7 We'll inform the local authority housing advice service when we grant approval for eviction. We will also alert Social Services and other agencies as early as possible, and in line with our Data Protection Policy, in the eviction process where we identify a household member is vulnerable.

3.8 Before we carry out an eviction we'll:

- Provide information and advice about housing options
- Refer tenants to the Financial Inclusion Officer, where needed
- Refer tenants to other agencies such as Citizens Advice, housing advice services and the homeless persons unit at the local authority.

4.0 Starter Tenancy

4.1 We'll offer new households (not existing tenants) moving into our general needs and sheltered homes a Starter Tenancy. A Starter Tenancy is a weekly periodic Assured Shorthold Tenancy for an initial period of 12 months. During the period of the Starter Tenancy there is no right to assign the tenancy or transfer.

4.2 The rights and responsibilities are set out in the tenancy agreement. If you manage your starter tenancy successfully, it will automatically become an assured (lifetime) tenancy at the end of the 12 month starter period.

4.3 We'll consider ending your Starter Tenancy if you breach it. If the breach is minor we may extend the Starter Tenancy for six months at any time. We'll outline the reasons for extending or ending the Starter Tenancy. If you wish to appeal our decision we must receive this within 10 working days of our decision to end or extend your tenancy.

5.0 Assured Tenancy (also known as a lifetime tenancy)

5.1 We offer a periodic assured non-shorthold tenancy (Assured Tenancy):

- To new residents, after the successful completion of their Starter Tenancy
- Where an existing BCHA assured (lifetime) tenant moves to another of our social rented homes
- An assured or secure tenant of another registered provider or local authority moves to one of our social rented homes (where their tenancy started on or before 1 April 2012)
- For sheltered (housing for older people) unless there is a specific scheme exemption

5.2 Rent levels for Assured Tenancies will depend on the funding arrangement for the property.

6.0 Fixed Term Tenancies

6.1 BCHA does not issue Fixed Term Tenancies. All our tenancy agreements are "periodic" that is they have no specified end date.

7.0 Assured Shorthold Tenancies - no fixed term

7.1 We'll offer assured shorthold tenancies for some housing, as long as there is no legal or regulatory requirement to offer a more secure tenancy. Such housing may include, but is not limited to:

- Supported / specialist housing where you will be expected to move on once your support needs have been met
- Temporary housing
- Housing where BCHA does not own the property
- Market rent housing

8.0 Excluded licences

8.1 In some accommodation we can only offer a licence. This tends to be for shared housing or for temporary housing for the homeless used to accommodate referrals from the local authority. The type of licence will depend on the purpose of the accommodation. We outline all rights and responsibilities in the licence agreement.

8.2 Licences are a different form of occupation agreement and offer fewer rights to occupiers. We use licences in a variety of settings for instance in (but not limited to) hostels and refuges.

8.3 We use excluded licences. Excluded licences are excluded from the Protection from Eviction Act 1977 and do not require a court order for the occupant to be evicted. We'll use excluded licences in accommodation with shared cooking or bathroom facilities, and where the law allows.

9.0 Assignment

9.1 Assignment is the legal transfer of a tenancy. You can assign your tenancy if:

- The law says you can - a legal right

- Your tenancy agreement says you can - a contractual right.

9.2 An assignor is the tenant who passes on their tenancy. The assignee is the person taking over the tenancy. Permission from BCHA must be sought before any assignment takes place.

9.3 The assignee must be eligible under our Lettings Policy and will take on the rights, responsibilities and terms (including tenancy length) of the assignor unless there are legal reasons.

9.4 We will not normally give permission to assign if the assignee does not need the size and type of home, or where there is an existing breach of tenancy.

10.0 Succession

10.1 Succession is when you pass away and your husband, wife, civil partner or a person living with you as though you were married (including same sex couples) takes over your tenancy if they were living with you at the date of your death. If you succeeded to the tenancy yourself (which includes if it was assigned to you), then a further succession is not possible.

10.2 Successors will take over the rights, responsibilities and terms (including tenancy length) of the tenancy. These rights vary according to the type of tenancy/occupancy agreement.

10.3 If a person entitled to succeed is older than 16 but under 18, then the tenancy will be held on trust until they reach 18.

10.4 Statutory successors and successors of tenancies granted between 1 April 2012 and 22 May 2017 will take over the existing tenancy.

10.5 We'll grant a new tenancy agreement for contractual successors of tenancy agreements granted before 1 April 2012. We'll grant a starter tenancy for the first year. The type of tenancy we offer after the first year will be in line with this policy, and not necessarily the same as the previous tenancy.

10.6 We'll consider using our discretion to offer a new tenancy if the person wanting to keep the tenancy:

- Qualifies as a successor, but succession rights have already been used. and
- Is in housing need, eligible for a home with us in line with our Lettings Policy, and would be entitled to homelessness assistance from the relevant local authority if we didn't offer a home. A discretionary offer must be approved by the **Business Operations Manager – Customer & Tenancy**.

10.7 Accommodation let on a licence agreement will normally be to a single person. There is no legal right to succeed a licence agreement should the licence holder die. However, in the rare circumstance of a co-habiting couple, we will consider any succession request on its merits.

11.0 Joint tenancies

11.1 A joint tenancy is where two or more people (legally up to four) have signed the tenancy agreement. With joint tenants:

- Each tenant has the right to occupy the property
- Neither tenant can exclude the other tenant, unless they get an Occupation Order under the Family Law Act 1996

- Each tenant is jointly and severally (individually) liable for the tenancy and the rent - this means both are responsible for the whole tenancy
- Either tenant can end the tenancy (except if the tenancy is for a fixed term, or an assured shorthold tenancy).

11.2 In cases of domestic abuse where one tenant ends the tenancy we may offer the tenancy to the remaining tenant provided they are eligible for our homes. They must require this size and type of accommodation. We will only do this where the household would be considered statutorily homeless and is in priority need (as defined in the Housing Act 1996 and under the Homelessness Act 2002) if presenting to the local authority.

12.0 Mutual exchange

12.1 Mutual exchange is when two or more tenants 'swap' homes. They do not have to be tenants of the same landlord.

12.2 When tenants exchange, they take on the responsibilities of the tenant they exchange with. This includes any damage caused by the tenant.

12.3 Joint tenants must have the agreement of the other tenant to exchange.

12.4 Fixed term tenants exchanging with fixed term tenants will assign their tenancies to each other for the rest of the existing fixed term.

12.5 Fixed term tenants exchanging with assured tenants must give up their tenancies. We'll issue a new tenancy. We call this surrender and re-grant. We'll offer both tenants a new Assured Tenancy.

12.6 You must leave your property in good order and clean and clear of belongings if you move. We may charge costs to you for any repairs needed or for removing any contents you leave.

12.7 We normally refuse an exchange for one or more of the following reasons (grounds) as set out in Schedule 3 of the Housing Act 1985. The list below is a summary only:

- Ground 1 – if you or the other person applying to exchange, are obliged to give up possession of the home under a court order
- Ground 2 – if you or the other person applying to exchange has outstanding possession proceedings against them, or there is a Notice of Seeking Possession (NOSP) in place for either tenant (whether they are assured, secure or fixed term tenants)
- Ground 2a – if anyone exchanging has an injunction or other order against them associated with anti-social behaviour or legal action is being taken for such an injunction/order
- Ground 3 - if the home is too big for the tenant you are exchanging with. We will not allow our homes to become under-occupied
- Ground 4 – if the home is too small for the tenant you are exchanging with. We will not allow our home to become statutorily overcrowded
- Ground 5 – if the home was let to you because of your employment
- Ground 6 – if the exchange would conflict with our status as a charity
- Grounds 7, 8, and 9 – if the home is unsuitable for the person you want to exchange with because it is adapted for a support need the other person does not have
- Ground 10 – if the tenant you are exchanging with refuses to become a member of a tenants association, which manages the property.

12.8 Occupants of accommodation held under a licence agreement will not be able to mutually exchange in this way. However, they may seek to transfer accommodation provide that they are not in breach of the terms of their occupancy agreement.

13.0 Squatters and Illegal Occupiers

13.1 A squatter is a trespasser, someone who has entered or remained on the property without the consent of the person entitled to possession, the Tenant or Landlord. An illegal Occupier is a person who entered the property with the consent of the tenant and remains there following termination of the tenancy. This will include for example:

- Unlawful subletting
- A person remaining in the property following the death of tenant who has no entitlement to succeed
- A person who was an Assured joint tenant but the other party gave us Notice to Quit to end the tenancy. We will always act to evict illegal occupants from our property. Squatting is a criminal offence and those people risk being arrested if they do not leave the property.

13.2 BCHA will take legal action to recover any property where there is a squatter or illegal occupant.

14.0 High Income Social Tenants (“Pay to Stay”)

14.1 The law allows BCHA to charge tenants on a high income a higher rent for the property they live in. However, BCHA does not currently operate a “Pay to Stay” policy because it would be extremely rare for its tenants to be on such high incomes and we do not currently operate any surveying of tenants to assess their annual income.

15.0 Tackling tenancy fraud

15.1 We must ensure our homes are occupied by people with genuine housing need. With the shortage of social housing it’s important we manage the risk of tenancy fraud effectively. We treat tenancy fraud seriously and have a zero tolerance approach. We’re committed to ensuring our homes are occupied by the people they were lawfully let to and protected for use by people with genuine housing need.

15.2 We will request the assistance of the local authority and/or the Police to bring criminal charges against those who commit tenancy fraud and any related frauds. We consider tenancy fraud to include (but may not be limited to):

- Subletting the whole of a property (whether for profit or not)
- Not residing in the property as your only or principal home
- Misrepresentation by a resident (or a person on their behalf even if the resident doesn’t know) which results in the offer/ assignment and acceptance of a property
- Selling the keys to a property
- False applications to succeed to a tenancy following the death of the resident.
- False applications to acquire or buy the property or to become a shared owner
- Applications for a person to become a joint tenant which contain false information
- Making an application for Right to Acquire or Right to Buy with false and or misleading information.

15.3 If we have evidence of tenancy fraud we'll take the most appropriate action considering the type and extent of fraud including:

- Conducting an investigation, including visiting unannounced
- Evicting you by obtaining a possession order, unless you have abandoned the property in which case we might just take back possession without going to court
- Recovering any profits you have made from sub-letting the home
- Supporting the relevant local authority to prosecute those who sub-let our homes or misrepresented facts.

15.4 The Prevention of Social Housing Fraud Act 2013 makes sub-letting a social housing property illegal. If you're sub-letting you may be prosecuted. If convicted you may be:

- Required to pay any profits made from the fraud
- Fined up to £50,000
- Sentenced to up to two years in prison.

16.0 Advice

16.1 This Policy sets out our approach to tenure. You should consult your tenancy agreement for further information on your rights and responsibilities, ask our advice, or seek independent help.

17.0 Review

17.1 We will review this Policy from time to time to address legislative, regulatory, best practice or operational issues.