



Draft Tenancy Management Policy

SCRUTINY 11 MARCH 2020

TENANCY MANAGEMENT

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1. MANAGEMENT INFORMATION

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TENANCY MANAGEMENT

1.0 Policy Statement

The Council is committed to providing an effective and efficient tenancy management service that reflects best practice, complies with legislation and protects the rights of tenants as well as minimising risk to the Council for not complying with appropriate legislation.

The housing teams will ensure that information can be provided in appropriate formats explaining to tenants their roles and responsibilities under the tenancy agreement they have signed. We will provide advice in both written and verbal form to our tenants to ensure they have all the information they need to ensure they are able to keep to the terms of the agreement and sustain their tenancies.

The key legal requirements related to tenancy management are set out in the Housing Act 1985, Renting Homes (Wales) Act 2016 and associated legislation.

The Renting Homes (Wales) Act 2016 has received Royal Assent but is still not in force with commencement dates still pending. Upon commencement the Act will change the tenancy regime in Wales creating only two types of 'occupation contract'. This policy will be updated to reflect the changes upon commencement of the Act.

2.0 Pre-tenancy Assessments

The Council recognises the importance of ensuring tenants are able to sustain their tenancies. Before any tenancy commences, a pre-tenancy assessment is carried out with all prospective tenants in order to establish what barriers a potential tenant may have in sustaining a tenancy. This will not necessarily affect an offer of a property but will identify any support needs, for example, around money management or social or health vulnerabilities and enable us to signpost for support.

Tenants who have been assessed as requiring further support will be provided with sustainment visits throughout the introductory period to ensure that they are equipped with the appropriate skills, knowledge and resources to successfully manage the tenancy.

We aim to visit all new tenants within four weeks of moving into their property to check that everything is going well. We will check whether they are paying their rent regularly, whether they are receiving their benefits, and that they are keeping to the terms of their tenancy conditions.

2.1 Types of Tenancy

This Policy document will concentrate on the Housing Management function of the service and will cover how introductory and existing tenancy agreements will be managed. There are two types of tenancy entered into with the Council, namely: introductory and secure.

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Introductory Tenancy

Introductory tenancies will normally be issued to all new council tenants. The probationary period lasts for 12 months and in most cases it will convert to a secure tenancy following receipt of a letter from the Neighbourhood team (sent out after 12 months). Introductory tenancies are automatically converted to secure tenancies if there are no concerns or breaches of tenancy in the first twelve months. A visit will be carried out at 3, 6 and 9 months prior to the tenancy converting.

In cases where there are concerns, it may be deemed appropriate to extend the probationary period or initiate action to bring the tenancy to an end. An Introductory tenancy can only be extended by up to a maximum of 6 months. If it is deemed appropriate to extend the introductory tenancy a notice will be served on the tenant at least 8 weeks before the expiry of the introductory tenancy. The tenant will have the right to request a review of the Council's decision to extend the tenancy. This action should only be taken if there have been serious breaches of the tenancy conditions.

If a tenant has spent time as an introductory tenant in another Flintshire County Council property or any other Local Authority property, the time they spent there will count towards the 12 months. The same applies if the tenant had a starter tenancy with a housing association. If the tenant was a former secure tenant or assured tenant with a housing association they should be given a secure tenancy straight away.

Introductory tenants have fewer rights than a secure tenant. For example they do not have the right to mutually exchange, the right to improve, or the right to an alternative landlord.

Secure Tenancy

Secure tenancies as we know them today were brought into force by the Housing Act 1985.

Under this legislation secure tenants have the following rights, some of which may be subject to approval by the Council.

The right to:

- live in the property - no tenant can be made to leave their home unless ordered to do so by a court.
- pass on the tenancy upon death, provided certain conditions are satisfied and that the deceased tenant had not themselves succeeded to the tenancy.
- take in lodgers and/or sub-let part of the home with the councils consent
- carry out improvements (subject to the written consent of the council);
- be compensated for certain improvements as long as written consent of the council has been given and the improvements carried out to an agreed standard
- exchange one property for another one (mutual exchange), with written permission from the council – the council can only refuse on specified grounds

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2.3 Terminating a Tenancy

A tenant, or either one of the tenants in a joint tenancy, may end a tenancy by giving not less than four weeks written notice (to end on a Sunday). There may be exceptional circumstances when we may agree to the tenancy being terminated by giving less than the four weeks' notice.

The Council can only end an introductory or secure tenancy by service of the correct Notice and obtaining a court order for possession.

If a tenant appears to be no longer residing at the premises we will carry out investigations. If after the investigations we consider the tenant is not using the property as their only or main home we may end the tenancy by service of a notice to quit.

2.4 Successions

Section 87 of the Housing Act 1985 provides that when a sole tenant dies the tenancy may be passed on to a 'qualified' successor, provided there has been no previous succession to the tenancy. Where there has been a previous succession there can be no further succession. Any successor will hold the same tenancy as the deceased held.

A joint tenant will always obtain a sole tenancy following the death of the other joint tenant by survivorship, regardless of the relationship between the joint tenants. Although this is not actually succession, it does count as a succession - so that there can be no further succession to the tenancy.

If there is more than one person qualified to succeed on the death of the tenant, a spouse or civil partner will take precedence. If there is no spouse or civil partner, but there is more than one family member who meet the conditions for succession, they should choose between them who will succeed to the tenancy. There can only be succession to a sole tenancy, they would not jointly succeed to a joint tenancy. If they are unable to agree between them, the landlord is entitled to make a choice. This cannot happen if there has been a previous succession.

2.5 Mutual Exchange

It is recognised that promoting mutual exchanges encourages tenant mobility, gives tenants more choice about where they want to live and creates sustainability through best use of housing stock as well as assisting those customers who may be experiencing difficulty with affordability, due to the under occupation charge.

The Council will manage the process within the defined legislation (Housing Act 1985) ensuring that customers understand their obligations under this legislation and

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providing a response within the prescribed 42 day period from the date of receiving the applications from all parties.

2.6 Joint Tenancy to Sole Tenancy

A joint tenant may request to change their tenancy to a sole tenancy. Usually this is because of a breakdown in a relationship, it may be that the other joint tenant has left the property.

In the event of notice being received from one joint tenant, attempts at contact will be made with the other tenant to identify their intentions. If they do not intend to remain they will be notified of the tenancy end date and advised they should surrender vacant possession of the property on or before this date.

If the other joint tenant wishes to remain, this request will be given reasonable consideration. In many instances it will be possible to allow this person to remain - provided they have continued to occupy the property, the rent payments are up to date, the terms of the tenancy agreement are being adhered to and the changes do not result in under occupation. Where this is the case a new tenancy will be issued, and this will replicate the existing tenancy held, for example, secure if secure is held.

The courts can order a transfer of tenancy. So that the person is fully informed of their options and the implications of any decision to terminate their tenancy they will always be advised to take independent legal advice.

2.7 Sole Tenancy to Joint Tenancy

If a new joint tenancy is requested then we will ensure that the current tenant and proposed tenant are made aware of the implications of holding a joint tenancy.

The request for a joint tenancy will only be considered if the current tenancy has been conducted in a satisfactory manner, there have been no reports of ASB and the rent account is clear.

If the request is approved then the tenant will be asked to terminate the existing tenancy and sign a new tenancy agreement along with the applicant.

2.8 Name Changes

Documentary evidence is required before changing any names on the tenancy agreement. For example, copy of marriage certificate, decree absolute. The updated details will be appended to the original tenancy agreement and the Housing Management system will be updated. A new tenancy agreement should not be issued.

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2.9 Ending a Tenancy upon death

The death of a tenant does not end a tenancy. When a tenant dies, due to the tenant no longer occupying the tenancy pursuant to section 81 of the Housing Act 1985, the security of tenure is lost and it becomes a contractual tenancy which can be ended by service of a notice to quit.

If the deceased tenant has a will the notice to quit will be addressed to the Personal Representatives of the deceased and served on the address. The tenancy ends on expiry of the notice. The Personal Representative can surrender the tenancy by handing the keys back to the Council.

Where a tenant dies intestate, in the first instance the property devolves to the Public Trustees and then passes to the Personal Representatives on Grant of Letters of Administration. Where the tenancy remains vested in the Public Trustee (as no-one has applied to administer the estate) the notice to quit has to be served upon the Office of the Public Trustee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994 Part II. In such cases, the tenancy will end at the expiry of the notice and the Public Trustee will send confirmation that the notice has been registered against the estate of the deceased.

Where a tenant dies and there is another member of that household who may or may not have the right to succeed, they will be dealt with in accordance with succession to a tenancy as outlined in section 2.4.

The Council will ensure the tenancy is brought to an end, meeting all legal requirements and involving relevant partner agencies and relatives as and when required. If there are any rent arrears outstanding or any other charges and recharges to be recovered the Council will seek to recoup this through the estate.

2.10 Tenants going into to hospital or residential care

We aim to minimise the amount of disruption and stress faced by families of tenants in long-term hospital or residential care. Where we are aware that a tenant is in hospital or residential care we will aim to resolve any tenancy-related issues as soon as possible.

- *Hospital*

We understand that tenants are frequently admitted to hospital without prior warning. If tenants are in hospital for a long time or their prognosis means there may well be a long-term stay then this can affect their income, benefits and tenancy. Welfare benefits.

When a Claimant is in hospital, under the temporary absence rules housing benefit can pay up to a maximum of 52 weeks rent as long as there is an intention to return to the property. Should the decision be made that the claimant cannot return home then the housing benefit will stop at that point. Housing Management Officers will liaise with The

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Income Team to ensure that appropriate advice is provided and the tenancy is not put at risk.

We will also ensure that tenants, (and with written confirmation to do so from the tenant - their families, advocates and other professionals involved), are contacted so that any issues that may arise whilst the tenant is in hospital can be resolved without delay and additional stress for the tenant, their family and carers avoided

- *Residential Care*

We will always encourage and assist our tenants to retain independence in their own homes for as long as possible. We will try to assist them to achieve this by providing support, adaptations and equipment and by signposting tenants, their families and carers to organisations that can provide the level of care and support they need.

However, in some circumstances, for example, where a care package is failing, where the property is no longer suitable, upon the advice of hospital and/or social work staff or as a choice made by the person themselves, our tenants may move into residential care either on a temporary or permanent basis.

Some tenants may enter residential care on a trial basis, this in itself will be supported until a formal decision is made to make the move permanent. However, it should be noted that the tenant remains liable for the rent which will be charged until the date the keys are returned to us.

When a tenant goes into a care home, Housing Benefit can pay up to 52 weeks under temporary absence rules as the intention is to return home.

- *Capacity*

There may be situations in which the tenant does not have the understanding (mental capacity) in order to terminate the tenancy themselves and there is not an advocate/appointed person to act in their best interest who can terminate the tenancy on their behalf.

It should be noted that we would follow the Mental Capacity Act 2005 and subsequently liaise with Social Services. However, during this period the tenant will still be liable for payment of rent.

2.11 Lodgers and subletting

Tenants can take in lodgers as long as they do not grant a sub-tenancy or exceed the number of people allowed to live in their home.

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As long as the tenant first gets the written consent of the Council, they may sub-let part of their home. We may give consent subject to reasonable conditions. Consent will not unreasonably be withheld for example, provided it does not result in overcrowding.

Tenants will be advised that taking a lodger and subletting may affect entitlement to benefit and the Council will be obliged to share information with Housing Benefit team.

Lodgers tend to occupy one room and share other rooms for example, kitchen, bathroom and living room with the tenant. Sub tenants usually have exclusive use of part of the property. The tenant will remain responsible for the behaviour of the lodger or sub tenant and for fulfilling all the conditions of the tenancy, including paying all of the rent.

Subletting the whole of the property is not permitted. Neither a sub tenant nor a lodger will be noted on the tenancy agreement nor will they be entitled to any rights to succession or assignment.

2.12 Requests for Improvements

Secure tenants have a statutory right to make improvements to their homes, with the prior written consent from the Council. In some instances tenants can be compensated for any improvements carried out, however permission will need to have been given in advance and compensation is only payable after the tenancy is ended.

The level of compensation is dependent on the value of the improvements (receipts for work should be provided) and the length of time since the improvements were made. The longer the period of time since the works were completed the less compensation is payable.

Tenants also need permission, in writing, for any changes for example, kitchen or bathroom installations. Any unauthorised changes may need to be rectified by the tenant and failure to do so may result in further action.

In some instances changes made to properties can undermine the structure of the building and cause a health and safety concern. When this arises, the Council may carry out remedial work (to convert the property back to its previous condition), and the tenant recharged accordingly.

2.13 Decants

Temporary decant

Where repair or improvement work is so extensive that it is not appropriate for a tenant to remain in occupation, they can be decanted into temporary accommodation to allow the work to be completed.

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All efforts will be made to enable the tenant to remain in occupation (and to avoid decants) so as to minimise the disruption and upheaval to the tenant. For example, tenants would not normally be decanted when they are having a new kitchen or bathroom fitted. In these circumstances reasonable effort will be made to ensure that basic cooking and washing facilities are reinstated at the end of each day.

Where the tenant has significant health needs, these will be taken into account and it may be deemed appropriate to decant them out of their home to allow the works to be completed.

Prior to considering a decant, alternative options such as staying with friends and family will be explored with the tenant. When decants are essential the remedial works will be completed as quickly as possible to allow the tenant to return home.

Permanent decant

In some circumstances it may be necessary to consider a permanent decant, for example, if the home is due to be demolished as part of an estate regeneration programme. In these circumstances, the affected tenants will be consulted.

The decanted tenant will need to complete a re-housing application and will be prioritised in accordance with the Single Access Route to Housing (SARTH) policy. They will be considered for future vacancies in accordance with the policy. In cases where a move is more urgent, a management report will need to be submitted to the Housing Manager outlining the reasons for the urgency, and if a specific property is required.

The tenant being decanted may be entitled to a statutory payment for the loss of their home (Home loss) if it is being demolished, and the Council will assist with all reasonable costs associated with moving. This will include: removals, mail redirection, removal costs and utility reconnections on behalf of the tenant.

3.0 Management of Communal Areas

In order to comply with current fire safety regulations and also to keep the communal areas of our schemes, whether it be sheltered or general needs, safe and free from hazards the Council has adopted a sterile communal area approach to all internal communal areas. This means that all communal areas are not to be utilised for the storage of items which could pose a risk in the event of a fire – either due to combustibility or hindering egress of a building in the event of an evacuation.

We recognise that some tenants may want to enjoy the external communal areas and gardens so in some circumstances, following written consent from ourselves certain improvements maybe allowed such as installation of planters or hanging baskets as examples.

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4.0 Neighbourhood Management

Neighbourhood Officers will be expected to adopt mobile/agile working practice to deliver a service, which is visible and accessible to tenants. This will include regular estate walkabouts, customer focus visits along with other initiatives to develop a more detailed knowledge of the portfolio of homes including stock profile, tenant's needs and wider community issues. Neighbourhood Officers will then use this customer insight and data to tailor services and develop effective neighbourhood plans to target resources and drive forward improvements.

5.0 Equality and diversity

The Council recognises the needs of a diverse population and always acts within the scope of its own policies, the Human Rights Act 1998, and the Equalities Act 2010.

We aim to provide services that meet the diverse needs of tenants regardless of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

We will make sure all staff, customers, contractors and community groups are aware of our equality and diversity policy through effective communication. In addition all our key policies will have an up to date equality impact assessment

6.0 Performance Management

We will monitor customer satisfaction with our tenancy management services, the results will subsequently feed into our monitoring and review processes. We will establish a series of monthly and annual key performance indicators for our tenancy management services and report progress against these at monthly managers meetings. We will also make these available to tenants through our various methods of communication and involvement.

We will monitor the cost of our tenancy management services and compare these through formal and informal benchmarking methods.

7.0 Policy review

This policy will be reviewed every three years, or where there has been significant changes to regulation or legislation to warrant a further policy review. The policy may also be reviewed sooner where there is a need to address operational issues or where best practice has evolved and there is a need to incorporate this.

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8.0 Responsibility

The Service Manager for Housing and Asset Management services has overall responsibility for the successful delivery of the policy. The Housing Manager will ensure that all staff within the Neighbourhood and Customer services team are fully trained on their operational responsibilities in respect of tenancy management.

A full set of operational procedures will be available to support the delivery of this policy and these will be version controlled and easily available to staff for reference.

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