Tenancy Policy

Cornwall Housing

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CORNWALL HOUSING

Policy control sheet

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Notes

This document has been complied to meet the regulatory requirements of the Localism Act 2011.

Legal influences on this policy

Housing Act 1985

Housing Act 1988

Housing Act 1996

Localism Act 2011

Non-legal influences on this policy

Cornwall Housing's Visions and Values:

- Aims and Aspirations
- Objectives
- Core Purposes

Cornwall Council's Strategic Tenancy Policy

Cornwall Council's Homechoice Scheme

Cornwall Housing's Antisocial Behaviour and Nuisance Policy

Other documents linked to this policy

None

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Introduction

Cornwall Housing and all social landlords are required to publish a Tenancy Policy which describes the types of tenancies they will offer and the way in which these tenancies will be managed.

The Localism Act 2011 introduced some radical changes affecting the types of tenancies that could be offered both by Local Authorities and other social landlords

This enables landlords such as Cornwall Council and Cornwall Housing to introduce flexible and fixed term tenancies to facilitate best use of stock, to reduce under occupancy and to ensure that households are appropriately housed to meet their needs at any given time.

Cornwall Housing recognises the potential future value of adopting such tenancies, however after consultation with both the Executive Committee of Tenants and the District Forum of Tenants, the decision to adopt these tenancy types will be deferred until April 2014.

This is to enable Cornwall Housing in partnership with elected Members and the Tenant's forums, to set up a working party to fully research and evaluate the potential benefits or negative impacts of adopting flexible and fixed term tenancies, for both current and future tenants. Recommendations will then be made to Cornwall Council and Cornwall Housing about the future adoption of these tenancy types.

Therefore this Tenancy Policy is viewed as phase one of a rolling programme of reviews that will be built in on a yearly basis. These reviews will ensure that the tenancy types used by both Cornwall Council and Cornwall Housing are fit for purpose and help to deliver the objective of best use of housing stock.

Scope of the Tenancy Policy:

The Tenancy Policy covers all general needs and older person accommodation managed and owned by Cornwall Housing. It aims to:

- Explain the different types of tenancy currently used by Cornwall Council and Cornwall Housing at this time.
- Sets out when the different tenancy types will be used,
- Refers to the planned review of the possible future use of flexible and fixed term tenancies.
- Refers to the Mortgage Rescue Scheme and the tenancy type that will be used to administer this scheme.

- Refers to how Cornwall Housing may wish to use affordable rents in the future and why.

This policy also covers succession; including additional succession rights granted, joint tenancies, under age tenancies, assignment, mutual exchanges, ending a tenancy, and tenancy fraud.

In formulating this policy, Cornwall Housing has had regard to Cornwall Council's Strategic Tenancy Policy and the Cornwall Homechoice Scheme.

All tenancy types detailed within this policy continue to support Cornwall Council's and Cornwall Housings core purpose of making best use of housing stock across all tenures.

The policy will take effect from 1st April 2013.

Managing Tenancies

The services that Cornwall Housing provide have a direct impact on the quality of life of our customers, and range from supporting sustainable tenancies and communities, to building new homes and the prevention of homelessness. We also manage the Cornwall Home Choice Scheme, which currently has over 27,000 registered applicants, all of whom are seeking suitable accommodation.

As a landlord and managing agent, some of our most important activities are concentrated on the delivery of good affordable homes, and one of our core purposes is to make the best use of the housing stock, whilst aiming to ensure all properties under our management meet the adopted Cornish Homes standard.

Demand for Cornwall Council, and Cornwall Housing's homes is extremely high, and very few properties are difficult to let, but we are always endeavouring to ensure that homes are let to applicants with a housing need and to appropriately meet that need.

We recognise that despite a progressive 4 year building programme, under which we intend to provide 180 new homes, this will still not be sufficient to resolve the shortages of good quality affordable homes.

Welfare Reform changes will also have a real impact on households and communities from April 2013 onwards, with the introduction of the 'Bedroom Tax' for working age tenants who claim housing benefit. It is highly likely when these changes occur that many affected tenants will wish to move to smaller properties.

This change questions the long held view that social tenancies are for life, and raises the increased expectation that tenants will move more often as their circumstance change. Something that hasn't always happened in the

past, and which has often left homes under utilised whilst other households struggle with over occupation and unsuitable accommodation.

It is therefore proposed that within the first year of the tenancy policy's life, Cornwall Housing, in partnership with the Executive Committee of tenants the District Forum of Tenants and elected members, will fully research the future adoption and use of flexible and fixed term tenancies as a tool to deal with future under occupancy and future housing need. This work programme will be completed before April 2014 to coincide with this policy's first full review.

Tenancy types:

Cornwall Council and Cornwall Housing provide a range of tenancies.

The following table lays out the types of tenancies Cornwall Council and Cornwall Housing currently offer:

Tenancy Type
Introductory Tenancy (leading to a secure tenancy)
Secure Tenancy
Demoted (Secure) Tenancy
Assured Shorthold Starter Tenancy (leading to an Assured Tenancy).
Assured Tenancy
Demoted (Assured) Tenancy

Introductory and Assured Shorthold Starter Tenancies.

(Introductory Tenancies are used for Cornwall Council properties, Assured Shorthold Starter Tenancies are used for Cornwall Housing properties.)

Generally all new tenants moving into either a Cornwall Council or Cornwall Housing property will initially be given an introductory or assured shorthold starter tenancy.

These tenancies allow a probationary period in which to measure a tenant's ability to manage and sustain a tenancy, and to deal with issues such as antisocial behaviour and serious rent arrears. An introductory or assured shorthold starter tenancy has much less security and reduced rights in comparison to a secure or assured tenancy.

After a period of 12 months the introductory/starter tenancy automatically becomes either a secure or assured tenancy, unless Cornwall Housing has either extended the tenancy or started proceedings to end the tenancy due to a serious breach of the conditions of tenancy.

Tenants transferring from one social landlord to another will be offered a secure or assured tenancy to replicate the level of security they had in their previous tenancy.

Secure and Assured Tenancies.

(Secure Tenancies are used for Cornwall Council properties, Assured Tenancies are used for Cornwall Housing properties.)

Secure or assured tenancies will automatically be granted to tenants who have successfully completed their introductory/starter tenancy.

If a customer has a right to succeed to a secure or assured tenancy, but would under occupy their current home, and due to housing law or their conditions of tenancy may be required to move to a smaller home, any new tenancy will remain either a secure or an assured tenancy.

Where a property has been acquired under the Mortgage Rescue Scheme, a secure tenancy will be offered.

Demoted Secure and Assured Tenancies

Demoted tenancies are secure or assured tenancies which have been demoted by a Court Order due to the tenant breaching the terms of their conditions of tenancy due to anti social behaviour.

Demotion means a reduced security of tenure and loss of certain tenancy rights, a demoted tenancy is similar to an introductory or starter tenancy, and exists for a fixed term, normally 12 months and will then revert back to the original tenancy type as long as further breaches, (which does not have to be linked to anti social behaviour), have not resulted in possession proceedings.

Demotion is an incentive to tenants to change their behaviour, linking responsibility to behave and abide by their tenancy conditions. We would ask the Court to demote a tenancy if we feel that eviction is not the right course of action at this stage, but where there is antisocial behaviour has not been resolved by the tenant. We would only ask the Court for a demotion if we felt the tenant has the ability to resolve the antisocial behaviour within the period of demotion.

Succession Rights

Tenants of Cornwall Council prior to April 2012 have succession rights Under the Housing Act 1985 that allows a tenancy to pass to either a spouse or civil partner, and if there is no spouse or partner, that this tenancy can also pass to a close family member as long as they have been resident at the property continuously for 12 months before the death of the tenant. In cases where a family member succeeds to a tenancy and they are under occupying their home, they may be required to move to a smaller property.

Cornwall Council also gave the discretionary increased rights through the conditions of tenancy for partners, including same sex partners to share the same succession rights as spouses and civil partners.

Tenants of Cornwall Housing do not have the same rights in law as secure tenants, as succession rights under the Housing Act 1988 only apply to either the spouse or civil partners. However when Cornwall Housing started developing new properties it made the decision, on the basis of equality, to ensure that the right for a tenancy to pass to a close family member was afforded by including this right in the assured and assured shorthold starter tenancy conditions.

Cornwall Housing also gave the discretionary increased rights through the conditions of tenancy for partners, including same sex partners to share the same succession rights as spouses and civil partners.

The Localism Act 2011 bought in amendments to housing law for secure tenants, with effect from April 2012, which limits succession rights to purely the spouse or partner, bringing these rights in line with assured and assured shorthold starter tenancies.

Some Local Authorities have taken the decision to implement this, however Cornwall Council has not, and both Cornwall Council, and Cornwall Housing tenancies continue to give the right for succession to cascade down to family members, along with the rights of partners and same sex partners. This has been possible as The Localism Act 2011 continues to give the ability for landlords to grant further succession rights within their conditions of tenancy.

Both Cornwall Council and Cornwall Housing recognise the stability longstanding residents give communities, which often underpin the sustainability of those communities. Additionally both recognise the disruption and distress that homelessness and insecurity cause families and households. Taking these factors into consideration Cornwall Council and Cornwall Housing will continue to offer the following discretionary secondary succession rights which will be considered when the original succession right has already been used:

Allocations to the Same Property for Householders with no Succession Rights

Where householders remain in a dwelling and they are not the first succession under either law or the deceased tenant's conditions of tenancy

a) Where a household gave up their Local Authority or Housing Association property of a similar size to care for the tenant and this care was medically required and lasted for more than 6 months. The property size must suit the size of the household or suitable alternative accommodation will be offered to ensure a situation of under occupation does not exist.

b) Partners and family members as defined in the Conditions of Tenancy, e.g. spouse, partner, family member (parent, child, grandchild, brother, sister, nephew, niece, uncle, aunt etc.) who have lived in the property for more than 20 years and constantly for the last 10 years. The property size must reasonably fit the size of the household or suitable alternative accommodation will be offered to ensure a situation of under occupation does not exist.

c) Properties that do not offer family accommodation and where the proposed tenant is vulnerable and who would be eligible for assistance under the Homeless Legislation.
d) Households where the tenant dies leaving dependent children and their carer in occupation. The property size must reasonably fit the size of the household or suitable alternative accommodation will be offered to ensure a situation of under occupation does not exist.

Allocations to Suitable Alternative Accommodation Where the Householder is Not the First Successor and Therefore no Statutory Rights of Succession Exist

Occasionally circumstances will occur where householders will be left in occupation of a property where Cornwall Council and Cornwall Housing wish to see them remain in accommodation but not in the property they currently occupy.

Cornwall council and Cornwall Housing will offer suitable alternative accommodation to householders with no succession rights where the property is a 3 bedroomed flat or a 2/3 bedroomed house and either:

a) the proposed tenant would be vulnerable and likely to be accepted as homeless and has lived in the property for more than 12 months

b) the proposed tenant is unlikely to be classed as vulnerable under the homeless legislation but has lived in the property for more than 20 years and constantly for the last 10 years

Joint Tenancies

Cornwall Council and Cornwall Housing tenants have the right to apply for a joint tenancy with their partner (husband or wife or partner including partner of the same sex) or close family member, as long as they have lived there for more than 12 months, and this does not clash with the best use of council housing stock. We will give permission for joint tenancies wherever possible.

Consideration will be given to joint tenancies with a resident of the property who is neither a partner nor family member, but who has been resident for at least 12 months prior to the application. Consideration for such cases applications will be on a case by case basis.

Where a joint tenancy exists and one tenant passes away this automatically uses the succession right.

Under Age Tenancies

Cornwall Council and Cornwall Housing recognise there will be circumstances where an individual aged 16 or 17 may require independent housing. In such cases prospective tenants will be required to have their tenancy held in trust through a trustee until they reach the age of 18. They will not be required to provide a guarantor.

Assignment

Cornwall Council and Cornwall Housing tenants have the right to ask to pass their tenancy to a member of their family. Unless they are a spouse or partner, they must have been living with you continuously for 12 months before the date of you apply. This is called assignment. We will give consent for this when possible.

Mutual exchanges

Cornwall Council and Cornwall Housing support the use of mutual exchanges to facilitate mobility within social housing, it enables tenants to take a proactive role in resolving their housing issues such as under occupancy, overcrowding, moving to give or receive support etc.

Cornwall Housing subscribes to Home Swapper, which enables tenants of Cornwall Council and Cornwall Housing to access the internet based mutual exchange service at no direct cost to them.

Mutual exchanges usually take place via a deed of assignment where each tenant takes over the other tenant's tenancy, its type and its terms. New tenancy agreements are not signed.

However under the Localism Act 2012 if at least one of the tenants has a secure or assured tenancy which began before April 2012, and at least one of the tenants is on a flexible/fixed term tenancy then such an exchange must be done by surrender and the granting of new tenancies.

In such circumstances Cornwall Council or Cornwall Housing, dependant on who their landlord is, will grant the tenant whose secure/assured tenancy predated April 2012 with a further secure/assured tenancy at their new property. The flexible/fixed term tenant will receive an appropriate replacement tenancy, e.g. either a further flexible/fixed term tenancy dependant on the landlord.

As landlords a mutual exchange can still be refused on the grounds stated in the Housing Act 1985 and also the conditions of tenancy.

For all future mutual exchanges any proposed under occupation will be viewed as unreasonable and mutual exchanges will be refused on that ground. Cornwall Housing has 42 days in which to give a decision as to whether the proposed mutual exchange can go ahead.

Ending a Tenancy

When a tenant gives Notice, Cornwall Housing will carry out a pre termination visit. Where possible this will also take place when a tenant passes away or goes into residential care, but this may not always be possible in these circumstances.

The purpose of a pre termination visit will be to:

- check the condition of the property and garden,
- check that the rent account is up to date
- Ensure the outgoing tenant is aware that they must remove all personal belongings and rubbish, unless there is an agreement to do otherwise and that they leave the property clean
- Ensure that Cornwall Housing has full forwarding details, and ensure that the correct notice period has been given. Also advice of the requirement to give vacant possession.
- Advice the tenant or family of any possible recharge items.

Advice should also be given regarding any housing benefit or housing allowance payments and how to return the keys on vacation.

Tenancy Fraud

Cornwall Housing is committed to ensuring that the households living in Cornwall Council's and Cornwall Housing's homes are those that need them most.

We will take various steps to ensure that is the case, from ensuring that the property is allocated to the most appropriate person to following up allegations of misuse.

We will ensure that we check the applicant's identity at verification, and that their housing situation is the same as their situation when they were nominated for a home.

These details will be further verified at sign up, and new tenants will be required to provide proof of identity.

Any changes will be monitored through out the life of the tenancy. All introductory/assured shorthold starter tenancies will be checked at the 9 month visit stage.

We will follow up any reports of unoccupied properties or sub letting of properties and will take action if cases of abuse are discovered.

We will issue articles in our tenant newsletters and have information on our website.

We are developing a policy on tackling tenancy fraud, and we encourage all staff and tenants to report any suspected incidents of tenancy fraud. We will ensure any reports are treated confidentially.

Mortgage Rescue Scheme

Cornwall Housing administers the Mortgage Rescue Scheme on behalf of Cornwall Council. This is a scheme designed to 'rescue' home owners who are experiencing difficulty in maintaining their mortgage payments and who face the prospect of losing their home due to this. This scheme is supported through the Housing Revenue Account.

There are a number of eligibility clauses that need to be met for a home owner to apply for inclusion in the scheme and Cornwall Housing will also consider the long term maintenance liabilities of the property and whether it is fit for purpose.

The scheme allows a minimum tenancy requirement of a 3 year fixed term Assured Shorthold Tenancy in order to facilitate the administering landlord the opportunity to dispose of the property, if required, after a 3 year period. However as the property will become part of Cornwall Council's stock, there is no ability to offer an assured tenancy of any type. Additionally until such

time that Cornwall Council adopts flexible tenancies it is not possible to limit the potential life of that tenancy.

Cornwall Council will therefore currently offer a secure tenancy to any home owner accepted under the scheme.

Affordable Rents

Cornwall Housing's current development programme over the next four years for 180 new properties will all be let at social rents

However affordable rents are viewed by Cornwall Housing as a possible future means to develop additional housing by utilising alternative funding streams

Whilst there are currently no strategic plans to develop properties under affordable rents, Cornwall Housing will review this position on a yearly basis, (or as developmental or acquisition opportunities arise), in order to fully capitalise on future developmental prospects for the benefit of our future customers.

There are currently no plans to introduce affordable rents on general re-lets of either Cornwall Council's or Cornwall Housing's existing stock.

Equality and Diversity Principles

We will ensure that no individual is discriminated against on grounds of sex or gender, marital status or civil partnership, race, disability, age, sexual orientation, language, social origin, pregnancy and maternity or other personal attributes including beliefs or opinions (e.g. religious beliefs or political opinions). We will promote equality of opportunity by publishing information in different languages or formats such as large print, audio or Braille, on request.

Policy review

This policy will be reviewed yearly, as and when any legislative changes occur or when any developmental opportunities arise. The purpose of the year one review will be to consider the adoption of the future use of flexible and fixed term tenancies.

Alternative formats

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If you would like this information on audio CD, audio tape, Braille, large print, any other format or interpreted in a language other than English, please contact:-

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