# Tenancy Policy

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| **Department:** | Housing |
| **Author:** | Head of Homes & Communities |
| **Approved by:** | Board of Management |
| **Date of Approval:** | |
| **To be reviewed:** | August 2024 |
| **Version:** | 1.0 |

## COVERAGE

This Tenancy Policy sets out for customer, staff and local authorities Trident Groups approach to granting a tenancy agreement for General Needs and Care & Support Customers. This Policy does not apply to market rent, shared ownership or for outright sales.

## LINKS TO OTHER POLICIES & PROCEDURES

Allocation & Lettings Policy
Starter Tenancy Policy
Mutual Exchange Policy
Voids Policy
Tenancy Changes Policy
Tenancy Fraud Policy
Probity Policy

## CUSTOMER LEAFLETS

Resident's handbook
Lettable standard
How to Manage your Tenancy

## FORMS & OTHER LINKS

Housing Applications Form
Support Referral form
LA Nomination Agreements
LA CBL Agreements

## 1. Policy Statement

1.1 This Policy gives due consideration to the Housing Strategies for each of its Local Authority partners and at present Trident Group's position is not to use fixed term tenancies. The position will be under review and Trident Group may choose to introduce fixed term tenancies in future in line with any regulation, good practice and local authority strategic polices.

1.2 Trident Group intends to let the majority of its general needs properties on a Starter Tenancy for 12 months before converting into an Assured non-shorthold Tenancy.

1.3 For supported accommodation where it is intended for use for a limited period of time while the tenant has support needs, we will use a periodic assured short hold tenancy or a licence where it is intended as short term, specialist supported accommodation.

1.4 Trident Group will comply with regulatory requirement and we will issue assured tenancies to: tenants who were social housing tenants on 1 April 2012, and have remained so since (excluding secure Trident tenants); those moving internally who have an existing assured tenancy; or where restrictive covenants, planning consents or any other restrictions prevent us from issuing an assured shorthold tenancy.

1.5 We will issue secure tenancies to existing secure Trident Group tenants transferring to another general needs or sheltered social housing property – we will not issue such tenants with assured shorthold or assured tenancies

1.6 A description of each tenancy type that Trident Group may offer is set out in ***Appendix 1*** to this policy.

## 2. Policy Scope

The aim of this policy is to provide:-

- ✓ A framework of the types of tenancy that Trident Group will provide and the circumstances in which each will be offered
- ✓ Ensure tenancies are granted consistently in a transparent and fair way
- ✓ Make the best use of stock
- ✓ Contribute to local authorities strategic housing function
- ✓ Comply with the social housing regulators Tenancy Standard

## 3. Legal Framework

3.1 The Localism Act introduced provision for a new flexible secure tenancy for registered providers of social housing referred to as a Fixed Term Tenancy (FTT). As the term suggests, these tenancies can be issued for fixed terms and, based on a set of fixed circumstances, can either be renewed or terminated at the close of the term.

3.2 It is a regulatory requirement that all Registered Providers (RP) should have a Tenancy Policy in place from April 2012 even if fixed term tenancies are not to be offered from that date.

3.3 The Tenancy Standard, which is part of the Regulatory guidance, requires RP's to publish a Tenancy Policy, which outlines our approach to tenancy management. The Standard sets out that RP's should issue tenancies that are compatible with the;

- ✓ Purpose of the accommodation;
- ✓ Needs of the individual households;
- ✓ Sustainability of the community; and
- ✓ Efficient use of their housing stock.

3.4 Housing Act 1985 includes the rights for secure tenants including the grounds for possession

3.5 Housing Act 1988 includes the rights for assured and assured shorthold tenants the grounds to prove to gain possession of the property

3.6 Housing Act 1996 (Section 170) – sets out the duty of Housing Associations to such an extent as is reasonable in offering accommodation to those in priority need under the Local Authority's Allocation scheme

## 4 Tenancy Type

### 4.1 General Needs (Social Rent)

4.2 For new customers in general needs housing with a social rent we will offer Starter Tenancies, which will run for 12 months and providing there has been no serious breaches of the agreement, Trident Group will convert it to an Assured non-shorthold Tenancy. The initial 12 months starter tenancy can be extended to a maximum of 18 months.

4.3 Existing customers of Trident Group with an Assured (non shorthold) agreement, wishing to transfer will continue with an Assured non-shorthold Tenancy.

4.4 Existing Housing Association and Local Authority tenants who transfer to Trident Group and held a tenancy which began before 1 April 2012 will not be required to have another Starter Tenancy and will be offered an Assured (non shorthold Tenancy)

## 5 Older People's Accommodation

5.1 For older people's accommodation, Trident Group will offer a Starter Tenancy, which will convert to an Assured (non-shorthold-Tenancy) after 12 months if there are no tenancy breaches.

## 6. Supported Housing

6.1 Trident Group will offer Assured Shorthold tenancies for supported housing, where the type of accommodation is temporary due to fixed term of the contract and short term specialist support.

6.2 Trident Group will offer Licence to occupy where the intention is only to allow occupation on a temporary basis where there is some very specialist short term accommodation including some supported housing, homeless hostels and refuge accommodation and where supported housing is not self-contained.

## 7. Extra Care Housing

7.1 Where Trident Group provides extra care housing, either directly or in partnership with specialist care agencies, providing care, normally an Assured Tenancy will be offered. Where there are concerns about future requirements for the service, Trident Group will use discretion and offer Assured Shorthold Tenancy. This will continue indefinitely providing that the tenant(s) require the level of care provided, the funding for the service is available and the tenancy conditions are maintained

## 8. Properties Used for Temporary Decants

8.1 Where we are required to decant a Trident Group customer on a temporary basis to fulfil landlord obligation we will use a Temporary Tenancy that does not provide any security to tenure. The customer will retain their main tenancy and rent will be charged at their principal address.

## 9. Minors (16 & 17 years Olds)

9.1 Trident Group will house minors of 16 or 17 years of age where they have a guarantor who can ensure that rent can be fully paid and who is to sign a Assured Shorthold Tenancy on behalf of the minor until they turn 18 years of age. At that point the tenancy will be reviewed and a new tenancy may be offered in line with this policy

## 10. Secure Tenancies

10.1 These are tenancies created before the application of the Housing Act 1988 which introduced assured tenancies for the majority of new housing association tenants. Secure tenancies are similar to assured tenancies but grant additional/different rights and protection in a number of areas, (most significantly on rent setting). Secure tenancies are no longer issued by housing associations and the only Trident Group tenancies which are secure will be those where the original tenancy commenced before 15 January 1989. The right to remain a secure tenant remains as long as the Customer remains with Trident Group

10.2 Under a Secure tenancy re-possession of the property can only be obtained with a court order on of the grounds listed in Schedule 2 of the 1985 Housing Action or under the absolute ground for possession (under Section 84 Housing Act 1985).

## 11. Appeals

11.1 If a customer believes that they have not been offered or granted the correct type of tenancy as outlined in the Policy, they can make an appeal for the decision to be reviewed. The appeal must be in writing. Where the tenancy has started, any request to review should be made within 3 months of the tenancy start and will be decided within 14 days by Head of Service.

## 12. Monitoring

12.1 The Lettings Team Leader is responsible for monitoring this policy ensuring it is correctly applied. All staff responsible for issuing new tenancy agreements will receive training on this policy and all related procedures.

12.2 The Lettings Team leader will be responsible for collating and reporting on the following KPI's:-

- ✓ Number of Starter Tenancies issued
- ✓ Number of tenancies extended before the 12 month probationary period
- ✓ Number of tenancies terminated within the 12 month probationary period.
- ✓ Reasons for failed tenancies

## 13. Review

13.1 There will be an automatic review of this policy whenever there is a change of policy from the government, the HCA or change to legislation. In the absence of any other trigger, the policy will be reviewed after 3 years.

13.2 This policy will also be reviewed in line with the subsequent reviews of the tenancy strategies of partner local authorities

***Appendix 1***

**Tenancy Types**

| Tenancy Type | When It is Used | Review Termination |
|---|---|---|
| **Starter Tenancy** | | |
| A periodic assured shorthold tenancy, will be for an initial 12 months and can be extended for a further 18 months where there have been breaches of tenancy | For all new lets with general needs housing, with the exceptions as per policy | Can be ended by serving a valid Notice Requiring Possession (S.21 HA 1988) with 2 months' notice of intention to terminate. This is mandatory possession and not at the discretion of the court |
| **Assured (non-shorthold) Tenancy** | | |
| Assured tenancies with no fixed term often referred to as lifetime tenancies. | For all current Trident Housing customers wishing to transfer and already hold an assured tenancy.<br><br>For all new tenants whose assured tenancy started before 1 April 2012. | Can be ended only on grounds specified in Schedule 2 of the Housing Act 1988 after serving a valid Notice Seeking Possession and securing a valid outright possession order from a court. |
| **Secure Tenancy** | | |
| Older lifetime tenancies issued lettings before 15th January 1989 | Only to be issued to existing Trident Group Secure customers transferring to a new home | Can be ended only on grounds specified in Sch 2 of the Housing act 1985 after serving a valid Notice Seeking Possession. |
| **Assured Shorthold Tenancy** | | |
| Generally known as AST's that do not have a fixed term and will run until bought to an end | For customers in specialist supported housing to better manage the changing care & support needs and contracts<br><br>An assured shorthold tenancy will normally be granted where the accommodation offered is a self-contained property (i.e. with its own kitchen, bathroom, bedroom), the tenant has exclusive possession and where the organisation do not need to move the customer between properties<br><br>Can also be used for short terms lets for example asylum seekers who do not have indefinite leave to remain in the UK | Can be ended only after the initial 6 months by serving a valid Notice Requiring Possession (S. 21 HA 1988)) with 2 months' notice of intention to terminated or at any point from the start of the tenancy if there are breaches of tenancy, by serving a Notice Seeking Possession Housing Act 1988. |

| Tenancy Type | When It is Used | Review Termination |
|---|---|---|
| **Licence** | | |
| licence agreement is a **legal contract which is used for temporary accommodation or shared housing**, such as renting a bedroom with a shared kitchen, bathroom and in some cases a living room. It gives the licensee (the person occupying the accommodation) the right to stay in the room or property under certain circumstances. | These properties will generally be units where it is not intended that the occupier will have exclusive possession and the organisation reserves the right to move the occupier to a different room/property. Be aware that simply calling something a licence does not mean that it is - there must be an intention that occupiers may be moved, for example in a women's refuge centre. | The licence agreement also gives the landlord the right to ask the licensee to leave if their behavior has been unacceptable. The licence can be ended by the landlord serving a '**Notice to Quit**' which usually gives the licensee four weeks' notice to move. If the licensee does not move, the landlord can apply to court to evict them. |
| **Excluded Licences** | | |
| As above | As a general rule, an excluded licence will only be granted where the accommodation is similar to that of a hostel, ie occupiers share rooms/dormitories and there are facilities for the preparation of food or food is provided. It is not appropriate to grant an excluded licence where the property is self-contained | The term "excluded" refers to being **excluded from protection from eviction** under the Protection from Eviction Act 1977. This means that under an excluded license, the landlord (or licensor) does not have to give notice to the licensee and there is no requirement to obtain a possession order from a court to lawfully evict an excluded licensee. |