

Tenancy policy

Department: Housing & Environment (housing management)

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1. Scope

This policy outlines Ealing Council's approach to managing its secure social housing tenancies.

The policy explains our roles and responsibilities, how we work with tenants and our approach to different elements of tenancy management.

A tenancy strategy has been developed to guide all Registered Providers of Social Housing within Ealing in setting policies for their own stock.

This policy does not cover succession or mutual exchange as they are both covered by separate policies.

2. Aims and objectives

This policy aims to comply with the Regulator of Social Housing's (RSH) Tenancy Standard and cover our approach to:

- types of tenancies we grant
- assignment
- mutual exchanges
- joint tenancies
- tackling under and over occupation
- ending tenancies
- death of a tenant
- abandoned tenancies
- tenancy fraud
- tenancy sustainment

3. Policy statement

We understand the importance of a stable and secure home. It offers the platform that people need to be able to get on with their lives, improve their circumstances and achieve their aspirations.

We have duties under the Equality Act 2010 to help those that are most vulnerable, including older people, disabled people and children. Our approach helps us to fulfil our duties by enabling more vulnerable people to access and sustain a suitable home. As people get older, they may need more support so they can retain their independence and health and enjoy their lives. This is offered within our sheltered housing schemes for older people, and we hope that customers who need the support we provide can stay in these homes for the rest of their lives.

Some of our homes have significant adaptations to enable disabled people to live independently and with a good quality of life. Adaptations are expensive and demand for them is growing so we want to ensure that every adapted home is occupied by someone who needs the special features.

Our family homes are particularly in demand so we would prefer that they are always occupied by families who need the space they provide. However, stability and the right home are particularly important to children so that they can grow up healthily and achieve well. We want to help children to have an uninterrupted education and upbringing in a decent home.

4. Legislative and regulatory context

The RSH has produced a regulatory framework which sets out what registered providers should provide for in their tenancy policies.

The RSH's Tenancy Standard states that "Registered providers shall publish clear and accessible policies which outline their approach to tenancy management, including interventions to sustain tenancies and prevent unnecessary evictions, and tackling tenancy fraud, and set out the types of tenancies they will grant..."

This policy takes into account the following legislation and guidance:

- Landlord and Tenant Act 1985 and 1987

- Housing Act 1985, 1988, 1966, 1988 and 2004
- Equality Act 2010
- Localism Act 2011
- Anti-social Behaviour, Crime and Policy Act 2014

5. Types of tenancy

We will continue to offer secure lifetime tenancies to all general needs and sheltered housing tenants. We will not issue fixed term, flexible or introductory tenancies. Tenants with a secure (lifetime) tenancy can stay in their property unless they decide to move, or if the council seeks possession because of a breach of the tenancy agreement.

6. Assignment of a tenancy

Secure tenants of Ealing Council have the right to assign their tenancy to another member of their household who would be qualified to succeed the tenancy if the tenant died, as long as there has not been a previous succession or assignment of that tenancy. Where an assignment takes place all the rights and responsibilities of the tenancy are passed from the original tenant (the 'assignor') to the new tenant (the 'assignee'). The original tenant no longer has any rights or responsibilities whatsoever in relation to the property.

The assignment must be to a sole tenancy only (except for mutual exchange). A joint tenancy cannot be assigned to a sole tenancy.

Ealing Council do not offer discretionary assignment, and a tenant can only assign their tenancy in the following circumstances:

- by way of a court order with written permission of Ealing Council when exercising the right to exchange
- to a potential statutory successor (a person who would be qualified to succeed them under the provisions of the rights of succession if the tenant had died immediately before the assignment)

7. Creating a joint tenancy

A tenancy can be placed in the names of two individuals (rather than one), which is referred to as a joint tenancy. The tenancy agreement is the same for joint tenants as it is for sole tenants and each tenant must sign the tenancy agreement. We do not allow cross generational joint tenancies for instance, a parent and child.

Joint tenants have equal rights to live in the home and can only be prevented from living there, or evicted from the property, by a court order. Each joint tenant is 'jointly and severally liable' meaning both tenants are equally responsible for meeting all the responsibilities of the tenancy including paying the rent. On the death of one joint tenant, the tenancy automatically continues for the surviving joint tenant under succession.

Where a joint application for rehousing was submitted to the council, a joint lifetime secure tenancy is likely to be issued to the joint applicants. If the application for rehousing was made in one person's name, it is likely that a sole tenancy will be issued.

There is no legal right for one tenant to add another tenant onto a tenancy. Adding and removing tenants is a way to easily transfer tenancies, this is not fair to those on the housing register and because of this, Ealing Council will not add joint tenants.

8. Tackling under and over occupation

We recognise that there is a limited supply of larger homes and that these homes can become under-occupied as children grow up and move on. We want to support tenants to move when their homes no longer meet their needs, to free-up these larger homes for families living in overcrowded or temporary accommodation.

We aim to use our housing stock in the most effective way to meet housing need. In achieving this aim, we will support under/over-occupying households who wish to transfer to a more suitably sized home. The support provided will be advice on registering on

the council's housing register and offering advice regarding alternative housing options including meeting their needs through mutual exchange.

Tenants whose needs are not met in their current accommodation are encouraged to apply to the councils' housing register. Provided they are eligible, they will be awarded a priority for downsizing in accordance with our allocations policy.

The council provides an incentive scheme to encourage tenants to downsize to more appropriate accommodation. Details of which are available on our website and in other formats on request.

9. Ending tenancies

We recognise that a tenancy can only be brought to an end in certain legal ways and have clear steps in place that must be followed to terminate tenancies.

Tenants may end their tenancy by providing the council with at least 28 days' notice in writing.

The tenant must return the keys by 12pm on the day the notice expires.

For joint tenants, where one of the joint tenants provides 28 days written notice of ending the tenancy, this will end the joint secure tenancy for both tenants, meaning neither joint tenant will have the legal right to continue to occupy the property. Tenants who are part of a joint tenancy should seek legal advice from the council or an independent agency before taking action to end the tenancy.

If the council receives written notice from one of the joint tenants ending the joint tenancy, it will consider whether it is appropriate to grant a new sole secure tenancy for the home to one of the joint tenants in line with the allocations policy.

10. Death of a tenant

In the event of the death of a tenant and where there are no eligible successors to the tenancy, we will serve a notice to quit, on the executors of the will/estate. In the case where there is no notification from a family member, or close friend, or the tenant died without a will, we will serve the notice on the personal representative of the deceased and the public trustee, to bring the tenancy to an end.

11. Abandoned tenancies

It is a requirement of a tenancy that the tenant occupies their property as their only or principal home. If a tenant is not occupying their property as their only or principal home and has no intention to return, the tenancy falls away and we will seek to regain possession within 28 days by serving a notice to quit.

Temporary absence from the property is permissible providing that the tenant intends to return. A tenant may have genuine reasons for being away from their home for a period, including periods of ill health, the need to care for another person or a period spent in custody. Thorough investigations will be undertaken prior to taking legal action for abandonment.

12. Tenancy fraud

Ealing Council will not tolerate social housing tenancy fraud. Tenancy fraud includes obtaining a council home by deception or continuing to claim to live in a home having already moved out.

We take a proactive approach to tackling unlawful sub-letting and other instances of tenancy fraud by checking the identity of tenants at the point of sign up, including taking photos and undertaking regular tenancy audits.

Immediate action will be taken to evict those that have obtained Ealing Council properties by the making of false or misleading statements.

Tenancy fraud is a criminal offence and in addition to the risk of eviction, tenants committing tenancy fraud risk prosecution under the Prevention of Social Housing Fraud Act 2013 which could result in imprisonment and/or a fine.

We encourage and enable residents to confidentially report any concerns of tenancy fraud to us.

13. Tenancy sustainment

We are committed to providing clear and accessible information to tenants about their obligations and rights as a tenant at sign up and throughout their tenancy.

New tenants are visited within two months of the start of their tenancy to ensure that they have settled in and to provide more detailed information on available services.

We use alerts within the housing management system to record protected characteristics and to flag household vulnerabilities. This ensures reasonable adjustments are in place when residents provide consent to record this information.

We provide a support directory to council residents setting out a wide range of support that is available both from the council and from national and local support providers.

If there are any issues or concerns about the tenancy being breached, we will contact tenants at an early stage to understand how we can work with them to resolve any breaches of the tenancy.

We offer appropriate advice, financial inclusion and tenancy sustainment support either directly or by referring to adult and children's social care and external specialist agencies.

The majority of tenancy issues are resolved without the need for tenancy enforcement however, we may seek to obtain a possession

order from the county court for serious or persistent breaches of the tenancy.

Ealing Council will provide services that support its tenants, particularly those who are vulnerable. Eviction will only be used as a last resort where other interventions and support to address tenancy breaches have proved unsuccessful.

14. Managing risk

Failure to have a policy on our approach to tenancy management and adequately delivering services in line with this policy impacts on our regulatory risk and could impact the sustainability of our neighbourhoods.

The housing management service work in partnership with audit and investigations to investigate cases of tenancy fraud and to take relevant legal action.

15. Governance

Ealing Council's cabinet has overall responsibility for ensuring that this policy is implemented to ensure compliance with the law.

In practical terms, the chief executive reports to cabinet to demonstrate accountability for regulatory compliance across the council. This ensures that we are fully compliant with our landlord function with robust controls in place to keep our residents safe and to make sure our tenancies are well managed.

16. Complaints and appeals

All tenants have the right to make a complaint through the council's complaint process regarding any action taken under this policy.

17. Monitoring, compliance and review

This policy will be reviewed and updated every 3 years, unless new laws or best practices require an earlier review.

18. Diversity and inclusion

Ealing Council opposes all forms of discrimination, which cause a person to be treated unjustly including:

- on the grounds of race
- ethnic origin
- nationality
- disability
- gender
- sexuality
- age
- income
- appearance
- faith or religious belief or non-belief
- responsibility for dependents.

We are constantly looking at ways to make access to our services easier for everyone. This can include:

- providing information and responses in different ways when this will be helpful such as large print and translated into another language
- language interpreters including British Sign Language
- arranging appointments around times of the week or periods to suit the needs of residents
- providing additional support and reasonable adjustments for residents who are vulnerable
- undertaking home visits to residents who are unable to access our offices

19. Associated policies

This policy will be implemented in conjunction with the policies that relate to the management and allocation of tenancies, including:

- allocations
- mutual exchange
- repairs
- complaints