

Tenancy Policy

1.0 Purpose

- 1.1. This policy sets out our commitment to offer and issue tenancies which are compatible with the purpose of the accommodation type, the needs of individual households, the sustainability of the community and the efficient use of our housing.

2.0 Legal Obligations

- 2.1. Acts that currently govern tenancies are:

- Rent Act 1977 - refers to private sector tenancies before 15 January 1989
- Housing Act 1985 - refers to housing association tenancies before 15 January 1989 and public sector tenancies
- Housing Act 1988 (private sector tenancies and housing association tenancies on or after 15 January 1989)
- Protection from Eviction Act 1977 (giving protection against eviction without court proceedings to most tenants and licensees)
- Housing Act 1996 (introductory tenancies)
- Anti-social Behaviour Act 2003 (possession grounds - amended Housing Acts 1985, 1988, 1996)
- Localism Act 2011 (flexible tenures).
- Anti-Social Behaviour, Crime and Policing Act 2014 (further amended Housing Acts 1985, 1988, added absolute grounds for possession for ASB)

- 2.2. This policy complies with the Homes England Tenancy Standard and the Affordable Rent Framework.

3.0 Policy Statement

3.1. Security of tenure

- 3.1.1 As a general principle will seek to grant the most secure tenure available.
- 3.1.2 Orwell tenants enjoy security of tenure and the right to live peacefully in their home without our interruption or interference. There will be occasions when we will need to gain access to our properties, which are stated in our tenancy agreements.
- 3.1.3 Individual occupancy agreements will detail the rights and responsibilities in relation to providing access to the property, however where access is denied we take action for breach of the agreement.

3.2. Types of tenancies granted by Orwell

3.2.1. The following tenancies are currently issued for new build lettings and relets across all service types.

- **Assured tenancies periodic: General Needs, Sheltered** these tenancies are used where there is a clear intention to offer a home for life. This is also known as an assured non-short hold tenancy, or an assured tenancy. These tenancies are sometimes referred to as “lifetime” tenancies, as providing the tenant does not breach the tenancy conditions, they will usually be able to stay in their home for the rest of their life.
- **Assured short hold tenancies periodic: General Needs, Empty Homes, Leased Property** are used where there is not a clear intention to offer a home for life. They have less statutory rights than assured tenancies and can be ended more easily.
- **Licences:** are used in supported housing and temporary housing schemes, where there is a genuine management need to access the properties at any time – this may be due to the support and care needs of the customers, or in case of hostel accommodation, if there is a requirement to move customers to a different room or end the licence quickly.
- **Secure tenancies:** these are regulated by the Housing Act 1985 and are sometimes referred to as ‘lifetime’ tenancies. We do not issue secure tenancies for new tenants; however, anyone who has a tenancy that was granted before 1 April 1989 is likely to be a secure tenant. The tenancy will not usually be terminated unless there are serious tenancy breaches.
- **Contractual AST:** these tenancies will be granted in circumstances where no statutory right to reside applies and includes decant properties where major works are to be carried out on a tenant’s permanent home, to which they will then return and tenancies allowed for under homelessness legislation when the local authority making the nomination has not made its formal homelessness decision when the tenancy is granted.
- **Long lease**
These are granted either to shared owners, where Orwell retains a share of the equity, or to a person who purchases a flat in a block where Orwell retains certain responsibilities, e.g. maintenance of the structure and exterior of the block. In such cases Orwell retains the ‘freehold’ interest. In addition Orwell is itself a long leaseholder of certain properties used for temporary purposes, e.g. market renting.

4.0 Appeals or complaints

4.1. A tenant has a right to complain if they are dissatisfied with the way their application, selection, offer or allocation has been handled and will be advised to follow our Complaints Procedure. Tenants have recourse to the Housing

Ombudsman if a matter is not suitably resolved. Tenants may also seek independent advice and assistance from a local Citizen's Advice Bureau, law centre or solicitor.

- 4.2. Tenants offered an assured short hold fixed term tenancy have the right to appeal the length and type of tenancy granted to them on the grounds that it is not compliant with our policy or if they believe our actions have been unlawful.

5.0 Ending a tenancy

- 5.1. We recognise that a tenancy can only be brought to an end in specific ways and have clear procedures for terminating a tenancy. We see eviction as the last resort and only seek possession where it is proportionate to the case, and when we have exhausted non-enforcement measures as set out in the relevant policies and procedures. We rely on the grounds for possession available through legislation:
- 5.2. At the same time a tenant will be informed about obtaining housing advice and assistance

6.0 Accelerated possession

- 6.1. Where we decide to end a periodic assured short hold tenancies we use the accelerated possession process and serve a Notice Requiring Possession complying with s.21 of Housing Act 1988. Our procedures concerning tenancy management provide details about when we will serve a s.21 notice to end an assured short hold tenancy. Where we decide to end an assured short hold fixed term tenancy we will use the accelerated possession process and serve a Notice Requiring Possession complying with s.21 of Housing Act 1988
- 6.2. At the same time a tenant will be informed about obtaining housing advice and assistance

7.0 Contractual tenancies

- 7.1. In this case, where we have formally taken responsibility to provide 'interim' accommodation on behalf of a local authority investigating a claim of homelessness, normal requirements regarding security of tenure do not apply which may be ended with four weeks' notice as soon as the authority has determined that the interim duty to provide has ceased.
- 7.2. At the same time a tenant will be informed about obtaining housing advice and assistance

8.0 Succession

- 8.1. Orwell will, at our discretion, consider granting a new tenancy to a person who has been living at the property with the deceased, though not entitled to succeed.

9.0 Vulnerability

9.1 We consider as vulnerable anyone who experiences difficulties with everyday living to the extent that they need some additional support to make sure they are not at any disadvantage and /or to sustain the occupancy of their home

For the purpose of this policy vulnerability will include the following but is not to be considered as an exhaustive list and each case would be considered on its own merits

- Families with children under 18 and pregnant women;
- Households experiencing domestic violence and abuse;
- People with mental health problems;
- Older people;
- People with a physical disability;
- People with a learning difficulty;
- People with alcohol or substance misuse problems;
- Asylum seekers or refugees;
- Former rough sleepers;
- Ex-offenders;
- People with multiple problems e.g. mental health and alcohol problems.

9.2 In ensuring sustainable tenancies we will refer a tenant to available in-house or external agencies for support if they are identified as being vulnerable. The nature of the assistance provided will depend on the level of vulnerability and the individual's, or the household's circumstances.

10.0 Tackling under and over occupation

10.1 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 with choice-based lettings schemes and meeting their needs through mutual exchanges.

10.2 Advice will ensure understanding around Choice Based Lettings schemes eligibility criteria and banding processes.

10.3 We will consider a direct let of an empty property on a case by case basis subject to Director approval and standing orders.