

Tenancy and Lettings Policy

Purpose

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 stock.

Legal Obligations

Relevant legislation includes:

- Rent Act 1977 (private sector tenancies before 15 January 1989)
- Housing Act 1985 (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 (as amended) (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)
- Equalities Act 2010
- Homelessness Reduction Act 2017
- Mental Capacity Act 2005
- The Housing Health and Safety Rating System 2005
- Renters Right Act 2025

Orwell's Commitment

Security of tenure

Orwell will seek to grant the most secure tenure appropriate to the circumstances.

Our customers will 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 set out in our tenancy agreements. Individual occupancy agreements will detail the rights and responsibilities in relation to providing access to the property.

Agreements granted by Orwell

The following types of agreement are currently used for new build lettings and re-lets across the portfolio:

Secure tenancies

These tenancies are regulated by the Housing Act 1985 and 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. Orwell does not issue secure tenancies for new tenants, however anyone who has a tenancy that was granted on or before 1 April 1989 is likely to be a secure tenant. The tenancy will not usually be terminated unless there are serious tenancy breaches.

Assured tenancies

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 periodic 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 Shorthold Tenancies (ASTs)

These tenancies are used where there is not a clear intention to offer a home for life. Tenants have fewer statutory rights than assured tenants and tenancies can be ended more easily with an ability to end a tenancy through no-fault possession under section 21 of the Housing Act 1988. The Government published a White Paper on Renting Reform in June 2022 which set out plans to repeal section 21 of the Housing Act 1988. The effect of repealing this section of the Act would be that the AST would cease to exist as a separate tenancy type. **The Renters Rights Act became law in October 2025, with the first phase of implementation seeing ASTs moving to a new periodic system from May 2026. At this time ASTs will no longer be issued.**

Licences

These agreements 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 care and support needs of the customers, or if there is a requirement to move customers to a different room or scheme, and so to end the licence quickly.

Long leases

These agreements are granted either to shared owners, where Orwell retains a share of the equity in the home, or to customers who purchase flats in blocks where Orwell retains certain responsibilities e.g. maintenance of the structure and exterior of the block. In such cases, Orwell retains the 'freehold' interest and the customer is a 'leaseholder.'

Appeals or complaints

A tenant has a right to complain if they are dissatisfied with the way their application for housing, offer or allocation of accommodation 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.

Ending a tenancy

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.

At the same time as pursuing an eviction, tenants will be signposted to housing advice and assistance.

Accelerated possession

Where we decide to end an assured shorthold tenancy, we may use the accelerated possession process and serve a Notice Requiring Possession complying with s.21 of the Housing Act 1988. Our procedures concerning tenancy management provide details about when we will serve a s.21 notice to end an assured shorthold tenancy. The Government published a White Paper on Renting Reform in June 2022 which set out plans to repeal Section 21 of the Housing Act 1988. The effect of repealing this section of the Act would be that the AST would cease to exist as a separate tenancy type. As such the accelerated possession procedure would no longer be available and we would need to follow a similar possession procedure to that in place for an assured tenancy, proving grounds.

Interim accommodation in homelessness cases

Orwell has arrangements with some local housing authorities to provide 'interim' accommodation for a household which is homeless or threatened with homelessness. This accommodation is provided under the Housing Act 1996 (as amended) and the Homelessness Reduction Act 2017 whilst the authority is making enquiries to establish whether an ongoing homelessness duty is owed to the household or not. In such instances, the Housing Act 1996 already excludes the tenancy from statutory security, enabling Orwell to bring such arrangements to an end with a notice to quit. It should be noted, however, that if a household did not vacate the accommodation after such a notice had been served, a possession order from the court would be required.

Succession

Succession is a right set out in secure and assured tenancies and comes into effect when a tenant dies so that a surviving household member can take on the tenancy. In addition to any statutory or contractual succession rights, Orwell may exercise its discretion and consider granting succession to any person who has been living with a tenant before their death if they are not entitled to succeed the tenancy.

Vulnerability

We consider "vulnerable" as 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 includes the following but this 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 disability;
- 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.

In order to ensure that best chance of tenancy sustainment, we may refer a tenant to Orwell's tenancy sustainment team or external agencies for support if they are considered to be vulnerable and the tenancy may be at risk of breaking down. The nature of any assistance provided will depend on the level of vulnerability and the individual's, or the household's circumstances.

Tackling under- and over-occupation

We aim to use our housing stock in the most effective way to meet housing need. As such, we will support under/over-occupying households who wish to transfer to a more suitably sized home to do so. The support provided will include advice on registering with choice-based lettings schemes, mutual exchanges and any other appropriate options according to the household's circumstances.

Letting empty properties

Orwell will participate in the choice-based lettings schemes (CBLs) that operate in the areas where it has general needs and sheltered housing accommodation. We will take an active role in defining priorities, assessment mechanisms and processes in those CBLs that cover our operational area. Where we have fewer properties and low turnover, we shall generally agree and abide by the priorities set by the CBL scheme in operation.

Nevertheless there are opportunities for Orwell to consider the suitability of nominations for Orwell homes and to reject that nomination if appropriate to do so, for example if the household's size or medical or support needs are not well-matched to the property available, or if the applicant has a history of significant rent arrears or anti-social behaviour.

If an allocation cannot be made through a CBL scheme, Orwell will allocate the property directly. We consider direct lets of empty properties on a case-by-case basis and they are subject to Operations Managers' approval and standing orders.

Different criteria are set for the allocation of market rent properties which may in some cases be advertised through the CBL schemes, but which are also allocated directly by Orwell on occasion.

Extra care and supported housing allocations are not covered by CBL schemes. Specialist allocation arrangements are in place for these schemes.

Orwell will support opportunities for tenants wishing to move to alternative accommodation through mutual exchange schemes.

An offer of temporary accommodation (decant) will be made to tenants if disturbance resulting from essential major repairs would cause unacceptable disruption and inconvenience over a period in excess of one week. A permanent decant will be made available if a tenant is unable to return to their home due to significant and extensive improvement, conversion or redevelopment works such that the tenant would be unable to return to their former home, or if the tenant is otherwise not given that option for any reason.

Related Procedures and Guidance

This policy should be read in conjunction with the following:

- Orwell Housing Association's Tenancy Conditions;
- Rent Arrears Policy and Procedure;
- ASB Policy and Procedure;
- Domestic Abuse Policy and Procedure;
- Market Rented Policy and Procedure - in progress.