

Policy Title: Tenure Policy	
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1. Purpose of the policy

1.1. The purpose of this Policy is to ensure that:

- all our residents receive the correct form of occupancy agreement;
- we meet all applicable legal and regulatory requirements in relation to the form and use of and the management of our occupancy agreements.

2. Policy objectives and scope

2.1. This Policy sets out the type of tenure offered by Soho Housing to residents and its occupancy management obligations. This policy does not include any market rented homes.

2.2. As a registered provider of social housing we are required to comply with the Regulatory Framework set by the Regulator of Social Housing (the “Regulator”), including the Tenancy Standard which states that we must:

- offer occupancy agreements which are compatible with the purpose of the accommodation, the needs of individual households, the sustainability of the community and the efficient use of our housing stock;
- ensure our occupancy agreement terms meet all applicable statutory and legal requirements;
- publish clear and accessible policies which outline our approach to tenancy management, including intervention to sustain tenancies and prevent unnecessary evictions and tackling tenancy fraud and which set out the following factors:
 - (i) the types of tenancies we will grant;
 - (ii) the circumstances when we will grant tenancy agreements of a particular type;
 - (iii) our policy on taking into account the needs of those households who are vulnerable by reason of age, disability or illness and households with children, including through the provision of tenancies which provide a reasonable degree of stability;
 - (iv) our policy on granting discretionary succession rights, taking into

account the needs of vulnerable household members.

2.3. We are also required under the Tenancy Standard to:

- grant general needs tenants a periodic secure or assured (non shorthold) tenancy in addition to any probationary tenancy period;
- grant probationary tenancies for a maximum of 12 months or a maximum of 18 months where reasons for extending the probationary period have been given to the tenant and where the tenant has been given the opportunity to request a review of the decision to extend the probationary period;
- grant tenants who have been moved into alternative accommodation during any redevelopment or other works a tenancy with no less security of tenure on their return to settled accommodation;
- support residents to maintain their occupancy agreements and prevent unnecessary evictions;
- offer advice and assistance to all residents whose occupancy agreements are ended, including providing timely advice about housing options before the occupancy agreement ends.

2.4. This policy sets out how we comply with the requirements of the Tenancy Standard and in particular sets out:

- the type of occupancy agreements we grant;
- the circumstances under which we grant each type of occupancy agreement;
- the reasons for granting the types of occupancy agreements, taking into account the needs of vulnerable people and ensuring a reasonable degree of stability in tenure
- how we will help residents to sustain their occupancy agreements including how we make residents aware of their rights and responsibilities, how we take interventions to sustain tenancies and prevent unnecessary evictions and how we deal with tenancy changes;
- how we tackle tenancy fraud.

2.5. This tenure policy also sets out how we:

- manage our occupancy agreements in specific scenarios; and
- how we will seek to end residents' occupancy agreements.

3. Legal and Regulatory Framework

3.1. The relevant legislation is primarily:

- Housing Act 1985, 1988 and 1996
- Protection from Eviction Act 1977
- Localism Act 2011
- Equality Act 2010
- Human Rights Act 1998
- Housing and Planning Act 2016

- Prevention of Social Housing Fraud Act 2013
- The Regulator's Regulatory Framework and in particular the Tenancy Standard.

4. Responsibility

- 4.1. It will be the responsibility of the Housing Operations Manager to ensure that this policy is applied effectively, and that appropriate staff are trained in the associated procedures.
- 4.2. We aim to give residents as much security of tenure as appropriate, taking account of the purpose of the accommodation the needs of individual households, the sustainability of the community and the efficient use of our stock.

5. Occupancy agreement types

- 5.1. We have the following types of occupancy agreement:

Tenancy type	When to use
Secure Tenancies	Secure tenancies mainly exist for tenancies granted before 15 January 1989. Should a current tenant holding a secure tenancy be moved to another property via a management transfer, they will maintain their secure tenancy.
Starter Tenancies (12 month probationary)	To be issued to residents new to Soho Housing for all Social and Affordable rent tenancies. On the successful completion of a 12 month starter tenancy an assured tenancy (either 5 years or lifetime) will be issued.
Assured Tenancies	To be issued on the expiry of fixed term tenancies where Soho Housing is the freeholder.
Assured Shorthold 5-year Fixed Term	Social Rents and Affordable Rents since 2015. To be issued where Soho Housing is the leaseholder.
Assured Shorthold 2-Year Fixed Term	For Rough Sleepers Initiative on Social Rents.
Assured Shorthold 1-5 Year Fixed Term tenancy	Intermediate Market Rent or Discounted Rent.
Licence to Occupy	To be used for temporary decants.

Secure tenancy

- 5.2. A Secure Tenancy is a tenancy granted for life and can only be ended by Soho Housing via a Court Order for possession on one or more of the grounds listed in Schedule 2 to the Housing Act 1985.

Starter tenancy

- 5.3. A Starter Tenancy is typically granted to new general needs tenants as an introductory tenancy for a fixed period, usually 12 months. It is designed to assess the tenant's ability to manage a tenancy responsibly and comply with the terms of the occupancy agreement.
- 5.4. Unlike standard assured shorthold tenancies, a Starter Tenancy does not automatically convert into a periodic assured shorthold tenancy. Instead, subject to satisfactory conduct during the starter period, the tenancy may be formally converted into a more secure form of tenure, such as an Assured Tenancy (where Soho Housing is the freeholder of the property) or an Assured Shorthold Tenancy (where Soho Housing is the leaseholder or the property).
- 5.5. Where concerns arise during the starter period, the landlord may extend the term by up to six months or take appropriate action to end the tenancy, in line with Soho Housing's relevant other policies.
- 5.6. The Starter Period will generally be 12 months but we are able to extend the Starter Period by a period of 6 months if the resident does not conduct the tenancy to our satisfaction during the initial 12 month Starter Period. We can only extend the Starter Period once.
- 5.7. Where issues are reported or identified we will take prompt and appropriate action to investigate them.
- 5.8. If we do extend the initial 12-month Starter Period, we will inform the resident of the reason for extending the Starter Period and give the resident a right to review the decision to extend.
- 5.9. If the resident does not conduct the Starter Tenancy to our satisfaction, we may seek to bring the Starter Tenancy to an end and recover possession of the resident's home. If we do this, we will give the residents a right to review the decision to end.
- 5.10. The Starter Tenancy is a less secure form of tenure than an Assured Tenancy and can be ended during the Starter Period by us getting an order for possession by serving 2 months' notice on the tenant in accordance with section 21 of the Housing Act 1988 for any reason; or on one or more of the grounds listed in Schedule 2 to the Housing Act 1988.

Assured shorthold tenancy

- 5.11. An Assured Shorthold Tenancy granted for a fixed term of 1 to 5 years provides a defined period of occupancy, during which the resident is expected to comply with

the terms of the tenancy agreement. The tenancy may be brought to an end through obtaining an order for possession by serving 2 months' notice on the tenant in accordance with section 21 of the Housing Act 1988 for any reason; on one or more of the grounds listed in Schedule 2 to the Housing Act 1988.

- 5.12. Where appropriate, Soho Housing may offer to extend the tenancy by mutual agreement, subject to a review of the tenant's conduct and housing need. Any extension should be formalised through a new tenancy agreement or a written variation. We will ensure that residents are provided with clear information about their rights, responsibilities, and options well in advance of the tenancy end date and will offer advice and support to help prevent homelessness or disruption.

Licence to occupy

- 5.13. A Licence is a legal contract which gives a resident permission to live in accommodation where they do not have exclusive occupation of that accommodation. When a Licence is issued, Soho Housing can end the Licence by serving notice on the resident in accordance with the provisions of the Licence.

6. Tenancy sustainment

- 6.1. We will help tenants sustain their occupancy agreements to prevent unnecessary evictions.
- 6.2. We will provide clear and full information about the occupancy agreement to residents before they sign the agreement to ensure that residents understand their rights and obligations in their respective occupancy agreements.
- 6.3. We will work with our residents to help them sustain their tenancies and access support, offering help and advice as required, while taking their personal circumstances and any vulnerabilities into account.
- 6.4. We will support our tenants on Starter Tenancies to help them successfully sustain their tenancy and will provide intervention and signpost to external agencies when required. We will use eviction as a last resort and only where other attempts to resolve any breaches of tenancy have failed. Before taking any legal action we will consider whether additional support is required and/or a multi-agency approach is appropriate.
- 6.5. We will also visit all starter tenants at least once in the first year to help them manage their tenancy and address any areas of concern or potential breaches of their tenancy conditions.

7. Assignments

- 7.1. As assignment is where a tenancy is legally transferred to another person by deed. The incoming tenant (assignee) occupies the property on the same terms, taking on the rights and responsibilities of the outgoing tenant (the assignor). A tenancy can transfer from an existing tenant to a new tenant, be a transfer from a joint to sole tenancy or from a sole to a joint tenancy. No new tenancy is created when an assignment takes place (except in certain circumstances where there is a mutual exchange).
- 7.2. Our tenants will have different assignment rights depending on what type of tenancy they hold. Our tenancy agreements terms and conditions do however set out what assignment rights our residents have and in what circumstances so that our residents are aware of their individual rights. Residents on licences cannot normally assign their licences.
- 7.3. Our tenancy agreements normally give an absolute prohibition on the assignment of the tenancy except:
 - where Soho Housing is instructed to assign the tenancy by a Court Order as part of matrimonial or children court proceedings
 - with the written consent of Soho Housing when a tenant is exercising any right to mutually exchange their home with another tenant (see mutual exchange below)
 - where the tenancy agreement provides that we will allow an assignment and we have agreed to the assignment in writing.
- 7.4. Upon receiving an order from the court to transfer the tenancy to one joint tenant, we will convert the joint tenancy into a sole tenancy, in accordance with the court order.
- 7.5. Where the assignment is a mutual exchange, it will be dealt with in accordance with our separate Mutual Exchange Policy which should be referred to for details.
- 7.6. We will in addition, consider the following requests to assign an existing tenancy to assist residents to sustain their tenancies at our discretion:
- 7.7. Joint Tenancy to Sole Tenancy by assignment
 - Once a tenancy has been granted in joint names the parties cannot simply agree to 'take people off the tenancy' just because one of the joint tenants has left the property and/or the remaining joint tenant requests it.
 - Where one joint resident wishes to leave another joint resident in occupation, or where a joint resident has already left and is willing to allow the remaining tenant to become the sole tenant, we will consider agreeing to an assignment of the tenancy from a joint tenancy to a sole tenancy. A joint tenant will only be removed with the written consent of both tenants.

- We do however, in certain circumstances, reserve the right to seek possession of the property, even where the remaining joint tenant may wish to remain in the home, for example, if the home is no longer suitable for their needs and they have refused a reasonable offer of suitable alternative accommodation.
- Where a domestic abuse victim remains in the home and the perpetrator has fled the house having committed a serious criminal offence, and an assignment of the tenancy is not possible, we will consider inviting the remaining joint tenant to give us notice to end the tenancy and then grant them a new tenancy where this complies with our Allocations and Lettings Policy.
- Where a serious criminal offence has been committed and where the victim has fled the house as a result of domestic abuse, we may apply to the courts to terminate the tenancy and evict the perpetrator.
- When we grant a new tenancy to the victim, of original home or of another property the form of tenancy offered will be in accordance with this policy.

7.8. Sole to Joint Tenancies

- This is where a sole tenant may ask to add their spouse, civil partner or partner to their tenancy. The position depends on whether there is an assured or secure tenancy. This is because a sole secure tenancy cannot be assigned to become a joint tenancy (because otherwise the secure status is lost) so in this case the tenancy would need to be brought to an end and a new tenancy granted, if Soho Housing and the resident is willing to agree to this.
- Soho Housing will only agree to an assignment of an assured tenancy into the joint names of the tenant and another person, if they are their partner according to the following criteria:
 - following marriage or civil partnership on production of the relevant original certificate
 - if living together on production of 12 months proof of residency as a couple
- In all cases, where we have to consent to the assignment, the request may be refused if:
 - the tenant assigning is not planning on leaving the property permanently
 - there are arrears on the rent account or other breaches of tenancy (each case will be considered on individual circumstances)
 - the tenancy is subject to legal action by Soho Housing
 - the assignment would result in under occupation or overcrowding
 - the property has been adapted and adaptations are not required by the assignee or their family
 - the assignment does not otherwise represent the best use of our stock

- the remaining joint tenant is a perpetrator of domestic abuse
- we have doubts about the proposed assignee's ability to sustain the tenancy.

8. Succession

- 8.1. Succession occurs when a tenancy passes by law to a surviving joint tenant or to an eligible person on the death of the tenant in accordance with the Housing Act 1985 or the Housing Act 1988 or where an eligible person has the right to be granted a new tenancy of the property or of another property.
- 8.2. This policy applies to tenants on Assured Tenancies and Secure Tenancies. Residents on licences or other forms of tenancy covered by this policy do not have succession rights.
- 8.3. Our tenants will have different succession rights depending on what type of tenancy they hold. Our tenancy agreements terms and conditions do however set out what succession rights our residents have and in what circumstances so that our residents are aware of their individual rights.
- 8.4. The different succession rights are set out below:

Surviving joint tenant - If the tenancy agreement is in joint names and one joint tenant dies, the tenancy will continue with the surviving joint tenant as the sole tenant. This is called the right of survivorship and happens automatically on the date of death.

Statutory succession - If a tenancy agreement is in the name of a sole tenant and they die, then an eligible person (usually a spouse, partner or civil partner) who meet the eligibility criteria can succeed to the tenancy.

Statutory contractual succession - A statutory contractual succession is where additional succession rights have been included in the tenancy agreement for other eligible persons to succeed to the tenancy where there is no one qualified to succeed by way of statutory succession. These are usually only granted to a family member (other than a spouse, partner or civil partner) who has lived with the tenant for 12 months prior to their death. Such an eligible person who meets the eligibility criteria can succeed to the tenancy. When statutory succession/statutory contractual succession occurs the tenancy vests automatically by law in the qualifying successor and a new tenancy is not entered into. In law there can only be one statutory/statutory contractual succession of a tenancy, including a survivorship of the tenancy, which counts as a statutory succession.

Contractual succession - A contractual succession is where additional succession rights have been included in the tenancy agreement for someone other than the

tenant's spouse, partner or civil partner to be granted a new tenancy of the property or another property. These are usually only granted to a family member (other than a spouse, partner or civil partner) who has lived with the tenant for 12 months prior to their death. Such an eligible person who meets the eligibility criteria has the right to be granted a new tenancy of the property or another property, depending on the wording of the particular tenancy agreement. In some cases, a contractual succession cannot take place if a statutory succession (including a survivorship right) has been used up. We will therefore read the individual tenancy agreement carefully to check if contractual succession rights exist and what the criteria are.

Discretionary succession - A discretionary succession is where there is a person requesting to succeed to the tenancy was left in the property on the death of the tenant but has no statutory or contractual right to succeed. They are asking us to exercise our discretion to let them stay by the discretionary granting of a new tenancy. If a person living at the property is not qualified to succeed the tenancy, then Soho Housing may consider granting a discretionary tenancy to the person on a case-by-case basis. In reaching a decision, Soho Housing will take the following issues into account:

- The property type e.g. adapted, sheltered accommodation.
- Over-crowding or under-occupation, especially adapted or other suitability issues.
- How long the applicant has resided at the property prior to the death of the tenant.
- The housing, social and medical needs of the applicant.
- The demand from other applicants for this type of property.

8.5. For discretionary offers of tenancy, the type of tenancy agreement offered will be a Starter Tenancy in accordance with this policy.

8.6. Where we have decided to offer a discretionary tenancy, but the property is too large for current occupier(s), we will make one offer only of suitable alternative (smaller) accommodation, not of the same property.

No right to succeed

8.7. Once we have decided the remaining occupants have no right:

- to succeed to the tenancy, or
- to be granted a new tenancy; and
- we have decided not to offer a discretionary tenancy, we will notify the occupiers immediately.

8.8. Once we have decided the remaining occupants have no right, we will set up a use and occupation account (once the existing tenancy has ended) and the current occupiers will be required to pay use and occupation charges. We will seek to

recover possession of the property and offer advice to all occupiers on finding suitable alternative accommodation.

- 8.9. If there is more than one claimant seeking to a right of succession and they cannot decide amongst themselves who will succeed to the tenancy, then we will usually (but not always) make the decision for them. This decision will be based on the occupancy checks we normally carry out to determine the suitability of a housing applicant for one of our homes.

9. Tenancy fraud

- 9.1. Soho Housing takes a pro-active approach to prevent and detect tenancy fraud.

- 9.2. Examples of tenancy fraud include:

- not using the property as the principal homes
- unlawfully sub-letting the property (for example Airbnb)
- obtaining a tenancy by deception
- benefit fraud
- wrongly claiming succession

- 9.3. We will be working closely with other stakeholders such as the police and local authorities to prevent, detect, and resolve any tenancy fraud.

- 9.4. Soho Housing will carry out tenancy audits to verify household details to confirm that the right people are occupying its properties and our staff will receive training in the detection and prevention of tenancy fraud.

- 9.5. We will investigate all cases of reported and/or suspected tenancy fraud and where we find evidence, we will act. This may include taking steps to recover possession of the property and where there may be unauthorised occupants who are unaware that tenancy fraud has been committed, we will provide them with appropriate advice and information.

- 9.6. In accordance with the Prevention of Social Housing Fraud Act 2013, where we find evidence of fraud, we may seek to bring a criminal prosecution connection with the relevant local authority which may include seeking an unlawful profit order.

10. Ending occupancy agreements

- 10.1. Residents can end their occupancy agreement in the way set out in their occupancy agreement, which is usually by giving us 4 weeks' notice in writing. The agreement will also usually set out what residents must do when moving out of the property.

- 10.2. We can end a resident's occupancy agreement in the way set out in the resident's occupancy agreement, usually if there has been a breach of the agreement.
- 10.3. When ending residents' occupancy agreements, we will comply with all relevant law including the Housing Act 1985, the Housing Act 1988 and the Protection from Eviction Act 1977 and any other relevant policies.
- 10.4. Where an occupancy agreement tenancy is going to be brought to an end by us, we will provide or signpost residents to advice, information and assistance in relation to their housing options to enable them to access alternative accommodation.
- 10.5. We will have particular regard to our duty to co-operate with the local housing authority to prevent homelessness.

11. Key controls

- 11.1. All the activities in this Policy have associated detailed procedures so that employees operate within regulatory and legislative frameworks.

12. Associated Documents

- Allocations and Lettings Policy
- Mutual Exchange Policy
- Decant Policy

13. Equality and Diversity

- 13.1. We have carried out and considered the Equality Impact Assessment as part of this policy approval process.

14. Review

- 14.1. This Policy will be reviewed every 3 years. If necessary, this Policy will be reviewed sooner to incorporate legislative, regulatory, best practice developments, or address operational issues and any proposed changes will be presented to Executive Team for approval.