

Tenancy Changes Policy

2020 – 2023

Document control

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Responsible Executive Director	Executive Director – Customer Insight
Author	Head of Neighbourhoods
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Version	Date of review	Details of review
1	July 2020	New policy – Separated out from Tenancy Management Policy. Written in consultation with Anthony Collins Solicitors
2	June 2021	Transferred on to revised Livv Housing Group policy template.

1. Introduction

Many tenancy agreements only give a right to assignment for the purposes of mutual exchange or succession. However, we recognise that changes in tenants' circumstances such as marriage, civil partnerships, cohabitation, separation or divorce may consequently require a change to a tenancy.

The purpose of this policy is to clarify when we will allow changes to a tenancy due to a change in the tenants' circumstances. It does not apply to:

- Mutual exchanges, where our Mutual Exchange Policy applies; or
- Changes because of the death of a tenant. In that scenario our Succession Policy applies.

This policy aims to:

- ensure that tenants are entitled to assign their tenancy where legislation or their tenancy agreement permits them to do so; and
- provide guidance as to when we may allow an assignment of tenancy where the tenant does not have a legislative or contractual right to do so.

2. Scope

The implementation and scope of the policy applies and is applicable to:

Livv Housing Group	X
Livv Homes	
Livv Maintenance	
First Ark Social Investment (Operating as Livv Investment)	
All entities	

3. Compliance

The policy is in place in order to support:

Regulatory Compliance, in particular the Tenancy Standard:	X
Legislative Compliance, in particular Housing Act 1988	X
Best Practice	

The Tenancy Standard requires:

- Registered providers to offer tenancies or terms of occupation which are compatible with the purpose of the accommodation, the needs of individual households, the sustainability of the community, and the efficient use of their housing stock.
- Registered providers to meet all applicable statutory and legal requirements in relation to the form and use of tenancy agreements or terms of occupation

4. Policy Statement

Types of tenancy change

There are four ways in which a tenancy may change under this policy:

- Joint to sole tenancy – where one joint tenant wants to leave the tenancy, but the other tenant wants to remain in the same property under the current tenancy.
- Sole to joint tenancy – where an existing sole tenant wants to add another person as a joint tenant.
- Assignment to another person – where an existing sole tenant or both joint tenants want to transfer the tenancy to another person. Where a tenancy agreement includes this as a contractual right, the requirement in the tenancy agreement is that the other person must be a potential qualifying successor to the tenancy (i.e. if the tenant had died, they would qualify to succeed to the tenancy agreement); and
- A change of name.

Court orders

An individual may make an application to Court for assignment of the tenancy. This is usually part of marital or children proceedings on family breakdowns. We are not party to those proceedings.

There are different proceedings that may apply. Those proceedings will determine the type of order and the mechanism by which a tenancy change takes place. These details are set out in our Tenancy Changes Procedure.

If we are given the opportunity to make representations in the proceedings, we will take into account the factors set out under the Requests for a change in tenancy (excluding change of name) section.

Requests for a change in tenancy (excluding change of name)

Any request for a change in the tenancy under this policy will be actioned in accordance with our Tenancy Changes Procedure.

The general factors we will take into account where we are considering a request from the tenant to change the tenancy are as follows:

- There is no right of an existing tenant to have a tenancy transferred from joint to sole or sole to joint. So we are not obliged to grant such requests. (Transfers through Court Orders can be an exception here.)
- Whether a tenant has a contractual right to transfer their tenancy to a potential qualifying successor, depends on the particular tenancy agreement terms. The tenant's tenancy agreement should be checked to determine the position in this regard.
- We will not unreasonably withhold permission for changes to tenancies from or between a spouse, civil partner or co-habiting partner as long as the conditions of this policy are met.
- We will not normally allow changes of tenancy involving other relatives, for example between a parent and adult child, or between siblings unless the tenancy agreement sets out a right to assign to a potential successor and the relative meets the conditions for succession.

- We will not normally allow:
 - anyone under the age of 18 to become a tenant unless there is both a trustee and a guarantor.
 - changes to tenancy if there are rent arrears, a history of anti-social behaviour or breaches of tenancy agreement.
 - a change if the existing tenant is a successor to the tenancy.
 - changes to tenancy if it results in under occupation as determined by our Lettings Policy or relevant lettings policy, subject to provisions under the tenancy agreement that allow otherwise. In the cases of joint to sole requests, if the spouse/partner would otherwise qualify for housing under our Lettings Policy we will make one offer of suitable alternative housing. If the offer is refused, we may seek possession of the property.
 - changes to tenancy if it results in overcrowding as determined by our Lettings Policy .
 - the tenancy agreement was granted less than 12 months previously.
 - the proposed new tenant has been evicted from one of our properties or another social housing tenancy for any reason.
 - there are any existing notices or Court proceedings in relation to the tenant, the proposed tenant and/or the property; or
 - the proposed tenant has a legal interest in another property.
- Affordability for the remaining sole tenant or new tenant.
- We will only take account of adults and children that are already living in the property as their only or principal home at the time of the request in determining the level of occupation.
- Any proposed tenant and adult occupier must have a right to rent in the UK.
- Continued suitability of the property where the tenant was granted the tenancy of the property because of particular requirements and the property having the features to meet those requirements, for example, specialist adaptations.

In addition to the factors set out in the above paragraph, when assessing a request to change a joint tenancy to a sole tenancy, We will also consider if both existing tenants agree to the change. If they do not, then the only option for one of the joint tenants under a periodic tenancy is to end their liability in respect of the tenancy is to end the tenancy by serving a valid Notice to Quit (or to consider a court application under the matrimonial or children proceedings).

In addition to the factors set out in the above paragraph, when assessing a request from:

- a sole tenant to add another person as a joint tenant; or
- a tenant to assign the tenancy to a potentially qualifying successor,
- We will also consider the length of time the other person has been living in the property as their only or main home. two months occupation is a minimum requirement.

Where a request is made by a sole tenant to add another person as a joint tenant:

- We will ensure the existing sole tenant is made aware of the implications of being a joint tenant, particularly that another joint tenant would have the right to end a periodic tenancy agreement by serving notice without the consent of the existing sole tenant.
- Only one additional joint tenant can be requested. We will not create a joint tenancy of three or more tenants.
- We will normally only allow a spouse, civil partner or co-habiting partner to be added as a joint tenant.

Our recent tenancy agreements set out limited contractual rights of succession. In considering whether a person is a potential qualifying successor, an officer will also consider the discretionary succession option under our Succession Policy.

Whenever a change of tenancy is requested, it is up to the tenant to provide the required documents and evidence before any changes can be made.

Change of name requests

If a tenant has changed their name and wants to have their new name on their tenancy (as opposed to changing the tenancy itself), the Housing Adviser can advise the tenant to send a written request to such affect along with the original or certified copy of:

- Change of Name Deed or Statutory Declaration for general name changes.
- Marriage certificate for changes due to marriage; or
- Decree Nisi and birth or marriage certificate to confirm name where changing back to the maiden name.

Once received the Housing Adviser will scan the document onto Documotive and make the relevant changes on the Orchard system.

The Housing Adviser will write to the tenant to confirm the change and return any original document.

5. Policy Outcomes

The outcome of this policy will be that we comply the Regulator of Social Housing's Tenancy Standard and are able to evidence this in our annual self-assessment. The outcome of the policy is to provide customers with information around our approach to tenancy changes and the circumstances in which they will be approved. It ensures that tenants are entitled to assign their tenancy where legislation or their tenancy agreement permits them to do so; and provides provide guidance as to when we may allow an assignment of tenancy where the tenant does not have a legislative or contractual right to do so.

6. Monitoring and Review

This policy will be monitored by exception through customer feedback (complaints, Councillor and MP enquiries etc)

Furthermore, in line with the Group's Policy Framework, this policy is scheduled to be reviewed every three years, unless due to a change in Government legislation or regulatory requirements, then the review period will be brought forward in order to ensure compliance.

7. Roles and Responsibilities

The Policy Framework documents the approval routes for all Policies & Strategies, however under this policy the following teams/employees have the following responsibilities.

Executive Director's Team (EDT)	EDT has responsibility for final sign off of the policy
Director of Customer Relationship Management	Ensure operational implementation of this policy
Head of Customer Relationship Management	Ensure key services are delivered in line with this policy and that there are robust performance management arrangements in place. And is responsible for reviewing the policy, amending it accordingly so it supports the associated strategic aims and reflects the service it relates to.
The Customer Relationship Team	Are responsible for the day to day operational delivery of the service and for providing customers with support and advice around the practical application of the policy.

8. Equality & Diversity

In order to comply with the Equality Act 2010, an equality analysis (EA) was completed as part of the policy review. Upon completing the EA it was found that the implementation of the policy would support and encourage the aims of the public sector duty. The equality analysis was completed and approved November 2019.