



Tenancy Management Policy

Last reviewed May 2023

1.0 Tenancy Management

Policy overview

This policy is managed and adhered to by the housing service. This policy will be reviewed regularly to ensure compliance with government legislation, guidance and good practice.

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1.1 Policy Statement

The Tenancy Management Policy sets out our approach to providing an efficient and effective tenancy management service. The policy is in place to ensure that we provide a service which reflects our responsibilities and good practice.

The Tenancy Management Policy focuses on managing a tenancy, both in terms of tenant rights and in making sure that tenants are aware of their responsibilities and adhere to them. This policy is designed to inform staff and tenants and to clarify expectations around delivering a fair and consistent service.

1.2 Scope of the policy:

This policy applies to secure and introductory tenants in Dacorum's Council-owned housing, and does not cover assets such as garages, shops or leasehold or temporary accommodation.

The policy covers the following areas:

- Creating a new tenancy.
- Changes in tenancies including succession, assignment and mutual exchanges.
- Managing and sustaining tenancies.

1.3 Links to the Council's corporate aims:

This policy supports the council's priorities, which are set out in the ['Vision and priorities - corporate plan'](#), in particular:

- A clean, safe and enjoyable environment
- Building strong and vibrant communities
- Providing good quality affordable homes, in particular for those most in need

1.4 Equality and diversity

The council is committed to promoting equality of opportunity in housing services and has procedures in place to ensure that all Applicants and Tenants are treated fairly and without unlawful discrimination.

1.6 Emergency restrictions

The Council is required to respond to any local or national restrictions imposed by central government. The administration of this and other Council policies could, therefore, be impacted by a pandemic or other emergency for the period that such restrictions are in operation.

2.0 Tenancy Management Policy detail



2.1 Introductory Tenancy

All new Council tenants will be granted an introductory tenancy, initially lasting up to 12 months (but which can in certain circumstances be extended to 18 months). If, immediately before the grant of the new tenancy, the new Dacorum Borough Council tenant is an existing tenant of another council provider of social housing, then they be granted a secure tenancy from the outset.

An introductory tenancy has the same rights as a secure tenancy but for the introductory period a tenant cannot:

- Buy their Council home.
- Make any alterations to the home.
- Exchange homes with another tenant via mutual exchange.
- Introductory tenants may take in a lodger but they must gain written permission.

Throughout this initial period, the tenancy will be monitored. When a tenant has successfully completed the introductory period they will then be automatically granted a secure tenancy.

If there is any breach of tenancy or other concerns regarding the tenant's management of the tenancy during the initial 12-month period, the Council can extend an introductory tenancy for a further six months. A notice that we intend to extend the trial period must be served at least eight weeks before the expiry of the introductory period, and set out the landlord's reasons for the extension, that the tenant has a right to request a review and that the review must be sought within 14 days of the notice being served. The review must be carried out and the tenancy notified of the outcome before the original expiry date of the introductory period.

If the Council considers that - due to the nature of a breach of tenancy - it is appropriate to do so, the Council may take steps to terminate the introductory tenancy before the 12-month period or extended period ends. If a decision is taken to terminate the tenancy, the Council must serve on the tenant a notice stating that:

- The Court will be asked to make a possession order for the property;
- The Council's reasons for applying for the possession order;
- The date after which possession proceedings may be begun (being at least four weeks and ending on a rent day or the day before a rent day);
- The tenant has the right to request a review of the decision and that the request for review must be made within 14 days of the date of the notice
- If the tenant requires assistance, that they should request this directly to the CAB, a housing aid centre, law centre or solicitor.

Any request for review must be completed and the tenant notified of the outcome before the date of expiry of the notice.

Any court action to request a possession order for the property must be started prior to the expiry of the introductory tenancy (or if extended, extended introductory period).

Any introductory tenancy either not extended, or where no possession proceedings have been issued within the initial introductory period will automatically become a secure tenancy. If an introductory tenancy is ended, the tenant will be supported to access help and advice on alternative housing options.

2.2 Secure Tenancy

A secure tenancy is a lifetime tenancy, meaning it cannot expire, so the tenant(s) will keep the protection of a secure tenancy so long as they continue to live in their premises as their only or principal home. A failure to do so results in security of tenure being lost automatically.

Whilst the tenancy remains secure, the Council can only terminate the tenancy if the tenant has breached their tenancy conditions.

A Secure Tenant/s can:

- Pass on their tenancy when they die - if applicable and in accordance to the relevant laws (Succession).
- Exchange homes with another tenant via mutual exchange.
- Buy their home (subject to relevant qualifying periods and types of property). This does not apply to supported housing or Tied Accommodation).
- Make improvements or alterations to their home (subject to gaining permission).
- Have lodgers or sublet part of their home (subject to gaining permission). Taking in a lodger or sub-tenant is not allowed in our supported housing.

2.3 Demoted Tenancies

The Anti-social Behaviour Act 2003 introduced a power for local authorities, private registered providers of social housing and housing action trusts to apply to demote a tenancy where a tenant, resident or visitor to a property is guilty of antisocial behaviour.

A demoted tenancy is a form of tenancy that reduces a tenant's security of tenure and other rights for 12 to 18 months. When a tenancy is demoted, the rights to succeed to or assign that tenancy and the right to buy may be altered for the duration of demotion.

2.4 Creating a tenancy

For all applications, the Council offers both sole and joint tenancies to new households moving into a new Council home. This is subject to eligibility and in accordance with the Housing Allocations Policy. It is the household's decision whether to apply for a joint or sole tenancy.

2.5 Changes to households

The tenant is responsible for telling the Council when they have changes to their household. This includes persons moving in, persons leaving the property, and to their marital status or the number of children in the household. This should also include changes to contact details or vulnerabilities. It is important if any of these changes have taken place that you contact the Council and ask to speak to a Tenancy Management officer or if you are on the housing register by updating your details.

Tenants who change their name will need to provide evidence of the change before a tenancy agreement can be updated. The Council will accept the following documents as evidence:

- Government-issued documents such as Passport or Driving licence.
- Certificate of marriage, civil partnership or divorce/dissolution.
- Confirmation from High Court if the change is via Deed Poll.

A tenant should not move person(s) into their property if this means their home would then be overcrowded.

2.6 Sole and Joint tenancies

A 'sole tenancy' is one where one member of the household signs the tenancy and is responsible for ensuring that the household fulfils the responsibilities set out within the tenancy agreement. This includes paying the rent and ensuring no one in the household is responsible for causing anti-social behaviour. Where there is a breach of tenancy, the sole tenant is accountable, even if a member of their household or guest is responsible.

A 'joint tenancy' is where both people have the responsibility for meeting the requirements of the tenancy agreement. Both tenants are entitled to stay in the home until the end of the tenancy and both joint tenants will be responsible for all the rent regardless of whether they live in the property or not. The Council will offer this type of tenancy to a maximum of two people and recognises applications for joint tenancies where two people can provide proof of marriage, civil partnership, or that they have cohabited as a couple for a minimum of 12 months. Joint tenancies will not be offered to anyone else who may be living in your home.

Joint tenants will have equal rights to the tenancy and an opportunity to have their say in any consultation undertaken by the Council. (This excludes the government's 'Tenant Satisfaction Measures', which permit only one response per household in any 12-month period.)

2.7 Succession

Succession allows the tenancy to be passed on to certain qualifying people when the tenant dies. The tenancy agreement sets out the statutory rights to succession.

The law allows only one statutory succession to each tenancy. Consequently, on the death of the tenant there can be no further right of succession where the deceased tenant is classed as a successor. The deceased tenant is classed as a successor where:

- He/she became the tenant by succession.
- The tenancy was assigned to him/her as a potential successor.
- He/she previously exchanged from another property and had been a successor there.
- He/she became the tenant under a court order and the previous tenant was a successor.

When a joint tenant dies, the tenancy passes to the surviving joint tenant/s automatically, regardless of the relationship between the joint tenants. This is called survivorship and counts as one succession. There can then be no further statutory succession.

If a deceased tenant is not classed as a successor, an occupant will qualify to succeed to the tenancy if he/she was occupying the property as his/her main home at the date of the death *and* either:

- He/she is the tenant's wife, husband, civil partner, or partner (this includes same sex couples) provided he or she lived with the tenant in the home as their principal home prior to the death of the tenant,

- If there is no spouse, civil partner or cohabiting partner in occupation and the tenancy began on or before the 01 April 2012, the tenancy could pass to another family member, provided that person had been occupying the Property as their only or main home with the tenant throughout the 12 month period before the tenant died.

Statutory succession overrides any other claims to the tenancy (e.g. under the deceased tenant's Will).

If more than one person would be entitled to succeed, the tenant's spouse or civil partner is to have priority. If there are two or more family members entitled to succeed, then they must agree between them which one is to be the successor because only one person can succeed. If they cannot agree, a management decision will be made as to whom the tenancy should pass to.

A person who succeeds to a tenancy is granted a continuation of the existing tenancy, not a new one.

There may be circumstances where a property would be much more suitable for other individuals rather than a successor, for example if the successor is significantly under-occupying or the property is adapted for a disabled person.

In such circumstances we may look to rehouse a family member successor into a more suitable property. The successor would be considered for a direct let.

If the successor refuses to move voluntarily then we may serve a notice of seeking possession for the property on the successor between 6 and 12 months after the previous tenant's death. In accordance with legislation, we would not look to seek possession of a property for under occupation if the successor was the spouse or civil partner of the deceased tenant. In such circumstances the council will make one reasonable and suitable offer of alternative accommodation

2.8 Granting of a discretionary tenancy

There are circumstances where we may consider granting a discretionary tenancy: If no statutory succession right exists.

If no succession right exists, we may consider the granting of a discretionary tenancy, either at the current property or a suitably-sized alternative. This will be an introductory tenancy and will be let in accordance with the Housing Allocations policy. Each case will be considered on its merits following receipt of a written request to remain in the property, which must be received no later than two months after the tenant's death. We may also consider a 'use and occupation' licensee for a short time to allow the occupant to find alternative accommodation.

2.9 Assignment

Assignment (passing on a tenancy) is only possible for secure tenancies in the following circumstances (as set out in the tenancy agreement):

- With agreement of all parties including the Council.
- As a mutual exchange. For this to apply, the tenant must not have arrears.
- Where a court orders it as part of divorce or judicial separation proceedings on a termination of a civil partnership under the Matrimonial Clauses Act 1973, Matrimonial and Family Proceedings Act 1984 or the Civil Partnership Act 2004.
- Where a court orders it granted relating to the tenancy.
- To a potential successor, for example, someone who would have had the right to succeed to the tenancy on the death of the tenant. This is only possible if there has been no previous assignment or succession.

Assignment is not possible under any other circumstances. Introductory tenancies may only be assigned in very limited circumstances of a court order (as described above) to a potential successor to the tenancy.

Demoted tenancies may only be assigned following a court order.

2.10 Assignment by way of mutual exchange

Requests for a mutual exchange can be accepted from any public sector tenant who has either a secure or an assured tenancy. We will not permit exchanges with tenants of private landlords. We will only refuse consent on the same grounds as are available for secure tenants and outlined in Schedule 3 of the Housing Act 1985.

Where the tenant is in breach of their tenancy (including being in rent arrears) we can impose a condition requiring the breach to be put right. If a condition is imposed, the exchange cannot take place until the breach has been remedied.

We will give or refuse consent within 42 days of the application to exchange being received.

2.11 Sole to joint tenancy

Existing tenants are able to convert their current tenancy to a Joint Tenancy. Both parties must agree for the respective partner to be added to the tenancy. The Tenancy Management Officer will need to check whether this is lawfully possible for a joint tenancy to be assigned in accordance with s.91 of the Housing Act 1985.

The tenant will then be required to complete a Deed of Assignment. We advise tenants to seek independent legal advice. Where the tenant has a statutory right of assignment, then it is not necessary to sign a new joint tenancy agreement; this will instead be recorded on the Council's system and both tenants will receive written confirmation of their joint tenancy.

Any applications for a sole tenancy to be converted to a joint tenancy will be refused if any of the following circumstances apply:

- The household cannot provide proof of marriage or civil partnership, or of joint residency for at least 12 months prior to the application.
- There is outstanding action against the household for a breach of tenancy.
- There are outstanding rent arrears.
- There is a history of tenancy breaches.
- The tenancy has been demoted.
- The applicant is already named on another tenancy.

In the case of supported housing, only people 60+ will be able to become joint tenants. However, civil and married partners are able to live with their partners in supported housing and may be eligible to succeed.

2.12 Joint to sole tenancies

In some situations, such as relationship breakdown, a household may wish to convert their joint tenancy to a sole tenancy. This again can be managed by a deed of Assignment. We advise tenants to seek independent legal advice.

The Housing Officer will need to check whether this is lawfully possible for a joint tenancy to be assigned in accordance with s.91 of the Housing Act 1985.

The tenant who wishes to remove themselves from the tenancy will be required to complete a Deed of Assignment.

Where an assignment cannot be agreed between joint tenants, those who are married or in a civil partnership can apply to the Family Court to transfer the tenancy.

If one of the joint tenants moves out of the home permanently, the remaining tenant should notify the Council.

A deed of assignment will only be agreed if:

- Both parties agree
- There are no outstanding breaches against the tenancy (this will not apply where the absent tenant was sole cause of antisocial behaviour).
- There are no outstanding rent arrears.
- The home has not been specifically adapted for the absent tenant or is larger than the household's housing needs (in which case an alternative home may be offered).

There may be circumstances where a property would be much more suitable for other individuals rather than a proposed sole tenant, for example if the tenant is significantly under-occupying or the property is adapted for a disabled person.

In such circumstances we may look to rehouse the tenant into a more suitable property. The successor would be considered for a direct let.

2.13 Exceptional Circumstances

We may consider a discretionary tenancy in exceptional circumstances, for example, if there are technical circumstances that prevent one of our properties being occupied.

A new tenancy will be granted at the discretion of the management and in accordance with the Housing Allocations Policy.

We may consider offering a property to one joint tenant after the tenancy has been terminated by the other joint tenant. A feature of a joint tenancy is that it can be brought to an end by one of the joint tenants, acting unilaterally. There may be circumstances where one joint tenant does this with unfair consequences for the other joint tenant, e.g. following a relationship breakdown. In such circumstances the Council may agree to grant the other joint tenant a sole tenancy of the property, or of another vacant property.

This will include appropriate checks to ensure that the proposed tenant would be eligible to join the housing register, both in relation to any previous history of antisocial behaviour, rent arrears and also in relation to their immigration status.

2.14 Relationship breakdown

This policy does not attempt to address Domestic Abuse. The Council has a separate Domestic Abuse Policy for Residents, Tenants, Leaseholders and Members, so each case will be dealt with accordingly.

Domestic Abuse victims have a right to apply as homeless to any council if they do not feel safe in their homes and should speak to us about what we are able to do to assist with adaptations or other changes to make sure they are safe.

Most couples need help to sort out what happens to their home and finances when their relationship ends. The law is very complicated and every case is different. A specialist adviser or solicitor can look into your situation properly and ensure you don't give up rights that you were not aware you had. There are also applications that can be made to the family court to deal with property issues in the event of a relationship breakdown and again we advise tenants to take independent legal advice under these circumstances.

If you split up, your options are likely to be:

- One person staying in the home while the other moves out.
- Both leaving and getting a new home.
- Continuing to live together, but as separate households (ie not as a couple). Discussing the issues and negotiating a mutual agreement may avoid a long and costly legal process. Mediation and/or relationship counselling can help but if you can't agree, you may have to go to court.

If you are able to agree you can follow our joint to sole process, if you are not able to agree, you should seek legal advice because the Council has limited options to resolve joint tenancy issues in the event of a breakdown of a relationship.

2.15 Monitoring tenancies and the condition of our properties

Effective management is necessary to ensure our tenants can live comfortably in their homes. We expect that tenants will maintain their properties in a reasonable condition at all times in accordance with their tenancy agreement.

We will aim to ensure that all our tenants keep to the terms of their tenancy agreement and take appropriate action to resolve any breaches effectively. If necessary, we will provide support or sign-post tenants to external support agencies.

We will use regular 'tenancy review' visits and other contacts we have with tenants as a means of ensuring that we deliver an effective, efficient and high-quality service including:

- To update tenant profile information, identify vulnerable tenants and refer tenants to appropriate support where required.
- Ensure the enforcement of tenancy conditions and that the property has not been damaged, neglected, hoarded/cluttered or used unlawfully.
- Ensure that the property is occupied by the tenant and has not been sub-let or abandoned.

2.16 Social housing fraud

We will take appropriate action in relation to possible social housing fraud including:

- Dealing with unauthorised sub-letting.
- Non-occupation by the tenant.
- Anyone fraudulently obtaining a social housing tenancy.
- Anyone wrongly claiming succession or unauthorised assignment of a tenancy.
- Key-selling – where a tenant passes the keys for a property on to someone else in return for a payment or favour.

2.17 Abandoned properties

We recognise that tenants may be away from their homes for an extended period for a number of reasons and in accordance with their tenancy agreement they must notify us of this.

Where we believe that the tenant may have abandoned the property (including anonymous notification) we will take appropriate action, in accordance with the legislative requirements and our abandonment procedure.

2.18 Lodgers and subletting

We recognise that there will be situations where a tenant may wish to rent out a room in their home, in which case the new occupier will be referred to as a lodger (or sub-tenant). Taking in a lodger may help meet a local housing need and reduce a tenant's financial commitment for under-occupying a property.

Taking in a lodger or sub-tenant is not allowed in supported housing.

Under the terms of the tenancy agreement, tenants may not sub-let their whole property and must use it as their principal home. We may, however, allow a secure tenant to sublet part of their home with our written agreement. In this instance, the legal relationship between the tenant and the landlord remains the same. The tenant's responsibility for payment of rent and charges, and adherence to the tenancy terms remains unaffected.

2.19 Overcrowding and under-occupation

All applications for non-emergency housing should be made through the housing register on the Council's website.

We recognise that in some instances accommodation may, due to family circumstances become too small or too large for the household's needs. For example, when a tenant has two or more unoccupied bedrooms.

Where such issues arise, we will work with the tenant, if they wish to be rehoused, to find the most suitable housing option available to them in accordance with the Housing Allocations Policy.

2.20 Ending a tenancy

When a tenant wants to end their tenancy, they must give four weeks' notice in writing. Their tenancy can only end on the first Sunday, four weeks after the notice was received by the Council. However, a shorter notice period may be agreed by the Council in exceptional circumstances.

The grounds upon which a landlord can serve notice to end a tenancy are set out in the tenancy agreement.

In certain circumstances set out by law, such as a serious offence committed in the vicinity of the property by a tenant or occupant, in the event of a closure order and other anti-social behaviour-related grounds, the Council may, following service of the appropriate notice, apply for a mandatory possession to be sought through the courts. This means the court does not have discretion regarding whether the possession order should be made. If such a notice is served the Council will offer the tenant a request for a review of this decision.

Where tenants are moving property, the Council will endeavour to identify rechargeable repairs at the pre-void inspection and notify the tenant of any that need to be carried out before termination of the tenancy. Any rechargeable repairs outstanding once the property is vacated will be repaired by the Council and recharged to the outgoing tenant. This may include the cost of cleaning and clearing properties and gardens, together with an administration fee.

Former tenants leaving with any arrears, whether for rent, service charges or any other debt (such as an outstanding clear landings charge) will be written to by the Council, in accordance with the current policies.

Appropriate resources (e.g. tracing agents) will be used to track down tenants who have either abandoned their homes or who have been evicted with no forwarding address.

2.21 Death of a tenant who lived alone

The tenancy does not end when the tenant dies, and the only people who can end it are:

- an executor – this is the person, named in the will, who will deal with the possessions of the person who has died
- an administrator – this person has applied to the Probate Registry and obtained letters of administration (or the grant of probate)
- the Council.

A next of kin, who is not the executor or administrator, cannot end the tenancy.

If there is no executor or administrator, by law the Council must serve a 'notice to quit' on the public trustee. The tenancy will end four weeks after this is served. Rent will be charged during this time.

2.22 Access to the property and clearance

If the executor, administrator or any other individual already has keys, the Council will not provide access to the property. However, if no-one has keys to the property, we can only give keys to the person who is the executor or administrator.

Once a disclaimer form is signed and keys returned, the Council will dispose of any goods not required. We reserve the right to charge this back to the estate.

3.0

Links to other corporate documents

This policy links to and should be read in conjunction with the following strategies, policies and other documents:

- Housing Strategy
- Tenancy Strategy
- Anti-Social Behaviour Policy
- Help to Move Policy
- Housing Allocations Policy
- Mutual Exchange Policy

4.0

Legislation

The legislation listed below will be taken into consideration when implementing this policy:

- The Housing Act 1985 & 1988.
- The Housing Act 1996.
- Housing and Regeneration Act 2008.
- Immigration Act 2014.
- Right to Rent.
- Anti-social Behaviour, Crime and Policing Act 2014.
- Matrimonial Causes Act 1973.
- Matrimonial and Family Proceedings Act 1984.
- Civil Partnership Act 2004.
- Prevention of Social Housing Fraud Act 2013.
- Localism Act 2011.
- Domestic Abuse Act 2021.
- Equalities Act 2010.
- Regulator of Social Housing Tenancy Standard