



# Welwyn Hatfield Borough Council

## Tenancy Policy 2024

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<b>Scope:</b>	This policy sets out the Council's approach to tenancy management and applies to all existing and new tenants of Welwyn Hatfield Borough Council (WHBC)
<b>Effective Date:</b>	Date of Policy Effective From: <b>INSERT DATE</b>
<b>Review Date:</b>	2027
<b>Signed Off:</b>	
<b>Author:</b>	Sue McDaid
<b>Policy Owned by:</b>	Neighbourhood
<b>Statute:</b>	Localism Act 2011 Social Housing Regulation Act 2023
<b>National Standards</b>	Tenancy Standard 2012 Social Housing Regulation Act 2023 – economic and consumer standards (April 2024 onwards)

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# Tenancy Policy

## Introduction

The Localism Act 2011 introduced a package of social housing reforms, which includes the statutory requirement for a local authority to publish a Tenancy Strategy (*insert link when approved and published*) to which this Tenancy Policy is aligned. The reforms also included the introduction of fixed term tenancies and affordable rent, changes to allocations and homelessness and promotion of increased mobility for social tenants.

In April 2012, the Homes and Community Agency became the Regulator of Social Housing and set a revised regulatory framework for Social Housing in England and Wales with a revised set of regulatory standards that sets out the range of required outcomes, one of which is the Tenancy Standard.

The Tenancy Standard sets out an expectation for all Local Authorities in England and Wales to have and publish a Tenancy Policy.

Welwyn and Hatfield Borough Council are committed to ensuring that the services we deliver are tailored to the needs of the local communities we serve.

It is the tenure element of the revised tenancy standard that states the requirement for all social housing providers to publish clear and accessible tenancy policies.

## 1 Scope of Policy

### This policy sets out the following;

- The granting of Secure Council tenancies
- Legal Assignment and Succession and demotions
- Mutual Exchange
- Fixed term Tenancies
- This policy also explains the type of tenancy we will offer to new and existing tenants of WHBC.
- This Tenancy Policy document sets out the Council's approach to tenancy management and the issuing and re-issuing of Council tenancies, incorporates

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the changes brought about in the Localism Act 2011, and the changes to the regulatory standards that all social landlords are expected to meet.

- In addition, the policy identifies how the Council will support tenancy sustainment, tackle tenancy fraud, and manage discretionary succession rights.

## **2 Policy Statement**

- The aim of the policy is to be clear and transparent about the way the Council approaches tenancy management.
- The specific objectives of the Tenancy Policy are to:
  - Identify the types of tenancy that the Council offers.
  - Set out the circumstances under which tenancies will be granted.
  - Clarify the length of tenancies to be granted.
  - Be clear on the circumstances under which a further tenancy may be granted when a tenancy comes to an end.
- This policy also provides an example Tenancy Policy for registered providers operating in our area, who must have regard to our Tenancy Strategy when setting their own rent policies.

## **3 Our Approach**

Our priority is to provide local people with high quality housing, thriving neighbourhoods and sustainable communities whilst ensuring our homes go to those that need them the most. Our approach to achieving this is:

- Offering secure lifetime tenancies.
- Implementing a fair and transparent allocations scheme that, is regularly reviewed, and updated to ensure our homes go to those most in need.
- Monitoring tenancies to ensure:
  - They are successful.
  - They were not obtained unlawfully.
  - That they remain with the tenant or descendant they were legally allocated to.
  - Working with partners to provide support, advice, and interventions to help tenants sustain the tenancies if they are at risk of failing.
  - Removing barriers to mobility and choice through a mutual exchange policy.

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## 4 Types of Tenancy

- **Secure tenancies**

Secure tenancies, generally carry on indefinitely and are often referred to as lifetime tenancies. The tenancy may be ended as follows:

- by the tenant – notice to quit;
- by the Council – court order;
- by agreement – surrender.

The Council's tenancy agreement explains these circumstances in more detail and clarifies the Council and tenants' responsibilities. However, it should be noted that the Council may normally only seek to end a tenancy if the conditions of the tenancy agreement have not been adhered to, when a tenant passes away, or due to demolition or redevelopment.

Existing secure tenants transferring from other Council properties will retain their secure tenancy. Existing assured tenants of housing associations who are transferring into council properties will become secure tenants.

- **Non-secure tenancies & Licences**

There are a few exceptional situations that operate outside the normal framework of secure tenancies. These tenancies benefit from even less security and protection and normally apply to short term accommodation. The most common of these exceptions are non-secure tenancies granted by the Council under its homelessness functions, which generally relate to temporary and emergency accommodation, and also for temporary decants.

As these tenancies are insecure, they can be ended by either the tenant or the Council serving a Notice to Quit (NTQ)

In addition, sometimes, licences are issued for temporary accommodation, these can be ended by either party with reasonable notice and without the requirement of a court order.

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- **Joint tenancies**

Where the proposed joint tenants are both eligible for housing as defined by legislation, the tenancies listed above could be granted on a joint tenancy basis in the following circumstances:

- Where the proposed joint tenants are married or civil partners.
- Where the proposed joint tenants live together, and the relationship is an 'established' one i.e., evidence is produced showing they have lived together for at least 12 months prior to the joint tenancy application.
- There is a child of the relationship living permanently in the household. Joint tenancies will also be given in situations where a sole tenant's eligibility for a property (whether through bidding under choices-based lettings or through mutual exchange) is created solely because of the addition to their household of their partner.

The Council will not grant a joint tenancy to a person who is entitled to succeed to that tenancy (e.g., mother and daughter) as this could compromise its ability to make the best use of its housing stock in the future.

In the context of deciding whether to grant joint tenancies the Council has full discretion, but it will act consistently in all cases.

- **Flexible (fixed term) tenancies**

Section 154 of the Localism Act 2011 gives local authorities the power to offer flexible fixed term tenancies. A flexible fixed term tenancy is a secure tenancy of a fixed term of not less than 2 years. WHBC offered 5-year flexible fixed term tenancies for all new general needs tenancies from April 2013. WHBC have ceased offering flexible fixed term tenancies from 13<sup>th</sup> November 2023. Existing tenants who have been awarded a flexible fixed term tenancy will revert automatically to a secure lifetime tenancy when the fixed term expires and will not be subject to a flexible tenancy review at the end of the fixed term period.

## **5 Succession**

- **Circumstance in which succession can apply.**

A tenant's succession rights are set out in the Council's tenancy agreement and within the succession policy. Generally, tenants are not permitted to pass

their tenancy on to other people. It is expected that when a tenant no longer needs their home, they return vacant possession of the property to the Council who must re-let it in accordance with its allocation policy. There are however some exceptions to this rule, in some circumstances rights to succession are accrued. There are 4 types of succession:

- Survivorship: where a joint tenant passes away and the tenancy continues in the surviving tenant's name. The remaining joint tenant or 'survivor' is a successor and therefore no further succession rights exist.
- Statutory succession: this is a legal right giving successors the right to succeed a tenancy on the death of a tenant. Legislation provides for one statutory succession only, this includes survivorship, as above.
- Contractual succession is where the tenancy agreement provides additional rights of succession, without needing consent or permission. WHBC do not include contractual rights of succession within their tenancy agreements.
- Discretionary succession may be considered where a spouse or family member does not have a legal right to succeed a tenancy, but where offering a new tenancy is appropriate to the circumstances. This will always be in accordance with the [Housing Allocations Policy](#) <https://www.welhat.gov.uk/downloads/download/19/housing-allocations-policy> and all cases must be considered and approved by the Council's Exceptional Circumstances Panel.

An important note regarding succession rights is that as a result of changes to the law on succession made in the Localism Act 2011, for all tenancies started after 1st April 2012 the statutory right to succeed to a tenancy belongs only to the qualifying spouse, partner or civil partner of the tenant providing they were residing with the deceased tenant at the time of their death as their only or principal home. Tenancies which commenced before 1st April 2012 are not affected by these changes.

Further details on succession are set out in the Council's [Succession Policy](#) <https://www.welhat.gov.uk/policies/succession/3>

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## 6 Tenancy Sustainment

### • Rent Setting

The Council charges social rent on all its tenancies, which are the most affordable rents available. In setting the rent levels we adhere to the Social Housing Regulators rent standard and the Governments rent setting formula.

Service charges are shown as a separate weekly charge for the homes which benefit from certain services.

### • Sustainment Support

Successfully sustaining all tenancies in our housing stock is the Council's aim. To achieve this:

- Eviction is a last resort when all other interventions have been exhausted.
- A key objective of the Council's [rent arrears policy](https://www.welhat.gov.uk/policies/rent-arrears) <https://www.welhat.gov.uk/policies/rent-arrears>, is to 'offer comprehensive support to tenants to sustain their tenancies at all stages of the recovery processes'.
- We have our own tenancy sustainment team dedicated to working with tenants who's tenancies maybe at risk of failing.
- We have processes in place to monitor and detect any indicators that a tenant is struggling to ensure that we intervene early.
- The Council works in partnership with voluntary debt management organisations to ensure our tenants have access to independent advice and assistance.

## 7 Housing Exchanges

### • Mutual Exchange

The Council is committed to removing barriers to increase mobility and choice for our social housing residents. Tenants in our Council homes who are eligible and want to move, can exchange their home with another Council tenant or housing association tenant.

The Council operates a mutual exchange scheme where applications are dealt with consistently, fairly and in accordance with legislation. The Council has a comprehensive [Mutual Exchange](https://www.welhat.gov.uk/policies/mutual-exchange), <https://www.welhat.gov.uk/policies/mutual-exchange>, policy sets out the framework for undertaking a mutual exchange, ensuring the implications, obligations and responsibilities are clear throughout the process.

## 8 Tenancy Fraud

### • Misuse of Housing Stock and the Allocations Scheme

The Council is committed to preventing the misuse of our housing stock and allocations system, to ensure our homes go to those most in need. Using robust, effective, and timely housing management processes, we will tackle unlawful subletting and tenancy misuse promptly and effectively.

Our [Tenancy Fraud Policy, is being incorporated into Council's overarching Fraud Policy.](#) The purpose of a Fraud Policy in the context of Council housing is for:

- raising awareness of social housing fraud and its impact on the housing waiting list and communities.
- maximising the availability of Council properties by seeking to recover unlawfully rented and unoccupied homes.
- setting out a zero-tolerance approach to tenancy fraud, taking swift enforcement action and prosecuting those proven to have committed tenancy fraud, where appropriate.

## 9 Review of Decision and Complaints

- Any tenant who is not satisfied with the way the Council or its contractor(s) has dealt with the service they have received regarding the tenancy management service has the right to have their case investigated.
- The tenant should follow the Council's complaint procedure if they wish to make a complaint.
- The tenant also has the right to complain to the Housing Ombudsman.

## 10 Monitoring

- We are committed to operating a successful tenancy management service.
- We will monitor tenancies through:



- day to day tenant interactions and tenancy management services e.g., rent collection, repairs, safety checks etc.
- A tenancy audit programme.
- The policy itself will be reviewed again in 3 years' time.

## 11 Equality and Diversity

- The Council will treat all customers and staff with fairness and respect. We value diversity and work to promote equality and tackle unlawful discrimination.

We are committed to helping customers to access information about their homes and services in a way that suits individual needs.

- We will meet the requirements relating to equality and diversity laid down in the Equality Act 2010 by working to:
  - eliminate discrimination, harassment, and victimisation.
  - advance equality of opportunity and
  - Foster good relations between all our residents, service users and staff.
- The Council is committed to welcoming and valuing diversity, promoting equality of opportunity, and tackling unlawful discrimination. We will not discriminate against staff, customers or others based on their sex, sexual orientation, marital status, pregnancy and maternity, gender reassignment, race, religion, belief, disability, or age (collectively referred to as protected characteristics in the Equality Act 2010).
- The Council aims to provide homes and services that meet the diverse needs of customers. We believe that all customers should be able to access housing, support, and care services with the same ease and that the quality of our service is the same high standard for all.

## Related Documents

Document	Link
<b>Connected Policies:</b>	<a href="#">Tenancy Strategy</a> <a href="#">Housing Allocations Policy</a> <a href="#">Succession Policy</a> <a href="#">Rent Arrears Policy</a> <a href="#">Mutual Exchange Policy</a> <a href="#">Fraud Policy</a>

<b>Forms and Letters:</b>	<a href="#">Linked forms and letters that are referenced in the policy</a>
<b>Leaflets:</b>	<a href="#">Linked leaflets</a>

## Version history

<b>Version no.</b>	2	<b>Date effective:</b>	<a href="#">Date xx/xx/2024</a>
<b>Full / partial review?</b>	Full Review		
<b>Brief summary of changes:</b>	The Council has changed its preference for flexible fixed term tenancies in this borough to Secure Lifetime Tenancies following a comprehensive review of their use and effectiveness and consultation with residents.		
<b>Staff consultation (teams):</b>	Neighbourhoods and Enforcement, Allocations, Housing Options, SMT, Income and Homeownership		
<b>Resident consultation/ External Consultation</b>	Residents Panel, Virtual Panel, WHBC website.		
<b>Approved By Cabinet / Council:</b>	<a href="#">Date of Council approval</a>		
<b>Author:</b>	Sue McDaid; Executive Director (Resident Services and Climate Change)		