

	Title	EST 14 Tenancy Policy		
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1. Purpose and scope

1.1 This policy ensures that NCHA issue the correct type and length of tenancies to customers and aims to:

- ensure NCHA customers enjoy security of tenure and the right to live in their home without undue interference from NCHA.
- work in partnership with local authorities, having regard to their tenancy strategies and the requirements of the Localism Act 2011
- develop new affordable housing schemes for the future
- support sustainable communities on our estates
- make the best use of our housing stock

1.2 The Tenancy Policy must be read in conjunction with other NCHA policies. Where there is a variance between this policy and an individual's tenancy agreement, the tenancy agreement takes precedence.

2. Responsibilities and risk

Your Communities Manager

Your Community Co-ordinators

3. Policy details and guidance

3.1 NCHA has chosen to use the following tenancy agreements for Affordable and Social Housing (ASH) lettings to new customers:

- Social rent assured shorthold (starter) tenancies which convert after 12 months to fully assured tenancies.
- Assured shorthold tenancies (Living over the shop (LOTS)).
- Assured shorthold affordable rent (starter) tenancies which convert after 12 months to fully assured affordable rent tenancies
- Section 209 tenancies under a homelessness agreement with the local authority.

3.2 The following occupancy agreements are used where a care and support service is offered to the customer:

- Social rent assured shorthold (starter) tenancies which convert after 12 months to fully assured tenancies.
- Assured shorthold tenancies.
- Protected licence to occupy and excluded licence to occupy as defined by the Protection from Eviction Act 1977 section 3A (8).

3.3 The following occupancy agreements are used for new lettings in the Intermediate Housing Team:

- Assured shorthold tenancies.
- Letters of appointment (Almshouses).
- Company lets agreements

3.4 There are some other types of occupancy agreements held by existing customers of NCHA, such as Secure Tenancies, but these are only used in new lettings when a customer is moving from one NCHA property to another to ensure they are offered equal tenure in their new home.

n.b. NCHA ceased to use Affordable Rent Fixed Term tenancy agreements in 2018 due to the reduced security of tenure offered by this type of product, the disproportionate amount of time required to administer fixed term tenancies and the additional costs of administration involved.

3.5 Right To Review

3.5.1 Customers may ask for a review of the length of tenancy or type of tenancy offered in writing to the Your Communities Manager, providing the appeal is made within 21 days of the decision. A written decision will be given within 10 working days.

3.6 Assured Shorthold Starter Tenancies

3.6.1 These tenancies are used in most ASH lettings unless in one of the exceptions below, and in some NCHA Care and Support independent living schemes for older people.

3.6.2 The starter period allows the customer to demonstrate that they can sustain the tenancy according to the terms of the agreement.

3.6.3 Customers may terminate their occupation of the property by giving 4 weeks' notice in writing.

3.6.4 NCHA will follow due process in ending Assured Shorthold Starter Tenancies if the customers have breached the terms of their tenancy in the starter period. If a decision has been made to end a tenancy the customer will be served with the required 2 months' notice. The customer will have the right to request a review of the decision to serve that notice. On expiry of the notice and if the decision to serve the notice is upheld at review NCHA will seek a court order for possession of the property.

3.6.5 Where the starter tenancy has been conducted satisfactorily the tenancy converts to an Assured Tenancy which is the most secure form of tenancy that NCHA offers. An Assured Tenancy can only be ended following due process. If a decision has been made to end a tenancy the customer will be served with a notice seeking possession which will set out the ground(s) for possession relied upon. Such grounds are set out in Schedule 2 to the Housing Act 1988 (as amended). On expiry of the notice NCHA will seek a court order for possession of the property.

3.6.6 Where NCHA is relying on mandatory grounds for possession the customer will have the right to review the decision to serve the notice. On expiry of the notice, and if the decision to serve a notice relying on mandatory grounds is upheld at review, NCHA will seek a court order for possession of the property.

3.7 Assured Shorthold Tenancies (ASTs)

3.7.1 ASTs are used in most supported accommodation services managed by NCHA Care and Support, in LOTS accommodation managed by ASH and in the majority of lettings in the Your Communities Team.

3.7.2 Supported accommodation is not usually a home for life. Generally the customer moves into the accommodation in order to receive a care and support service. If they no longer need the service they are supported to move on so that a new person needing the service may move in.

3.7.3 LOTS accommodation are flats where customers live over a retail unit. NCHA holds the leasehold

for the flats and may be required to end a tenancy if the freeholder gave notice to NCHA.

- 3.7.4 The Your Communities Team does not usually offer a home for life, but offers flexibility according to the changing circumstances of the customer.
- 3.7.5 ASTs are used to provide this flexibility in all three cases while giving the most security possible to the customer in the circumstances described above.
- 3.7.6 NCHA will follow due process in ending Social Rent Assured Shorthold Tenancies if the customers have breached the terms of their tenancy. If a decision has been made to end a tenancy the customer will be served with the required 2 months' notice. The customer will have the right to request a review of the decision to serve that notice; this does not apply to customers in Lets Select Ltd properties. On expiry of the notice and if the decision to serve the notice is upheld at review NCHA will seek a court order for possession of the property.
- 3.7.7 Alternatively NCHA may decide to serve a notice seeking possession which will set out the ground(s) for possession relied upon. Such grounds are set out in Schedule 2 to the Housing Act 1988 (as amended). On expiry of the notice NCHA will seek a court order for possession of the property.
- 3.7.8 Where NCHA is relying on mandatory grounds for possession the customer will have the right to review the decision to serve the notice; this does not apply to customers in Lets Select properties. On expiry of the notice, and if the decision to serve a notice relying on mandatory grounds is upheld at review, NCHA will seek a court order for possession of the property.

3.8 Other Types of Tenancy Agreement

- 3.8.1 NCHA offers Section 209 tenancy agreements to customers referred by a local authority under the Housing Act 1996 section 209 agreements. This enables NCHA to house people and families who have presented as homeless for up to 12 months while the local authority assesses their homelessness duty to the household. A Section 209 tenancy agreement can be ended by the customer being served with a Notice to Quit of at least 4 weeks duration and if the customer does not vacate NCHA will seek an order for possession from the court. NCHA will end a Section 209 tenancy if the customer breaches any terms of their tenancy including non-payment of rent, if suitable alternative accommodation is offered or the local authority has decided that they no longer have a homelessness duty to the customer, for example, if they have decided that the customer had made themselves homeless intentionally.
- 3.8.2 In NCHA Care and Support properties a licence to occupy may be used instead of an AST when:
- The property is a care home and care services are provided to the service user in their room.
 - The property is temporary accommodation where the service user does not have exclusive possession of their room.
- 3.8.3 Where licence conditions have not been met, a 28 day Notice to Quit or shorter notice period may be served.

- 3.8.4 Leases are used in shared ownership properties. They can be brought to an end through forfeiture for a number of reasons, including non-payment of service charges, as detailed in the individual lease.
- 3.8.5 Appointments to Almshouses are considered to be long term and every effort is made to avoid setting aside (ending) an appointment. However it is recognised that there are occasions when this is the responsible action to take. Specific circumstances that may lead to setting aside an appointment are:
- a) The resident is no longer able to live independently due to increased frailty or disability, even with the support of social services care packages or other assistance.
 - b) The resident no longer qualifies as a beneficiary.
 - c) The resident is in arrears with the Maintenance Contribution.
 - d) The resident persistently breaches the regulations under which they were appointed (as set out in the letter of appointment).
 - e) The resident upsets, endangers, abuses or repeatedly causes a nuisance to other residents or members of staff.
- 3.8.6 Having investigated the circumstances, if the Your Communities Co-ordinator decides to set aside the appointment then this is discussed with the Clerk to the Trustees and the resident is invited to a meeting with these to state their case for the appointment to not be set aside. If the decision is made to continue with setting aside the appointment then the relevant Notice and accompanying letter will be served and when the notice period is complete an application made to the County Court if the resident has not left the property.

4. Supporting documentation and key legislation

4.1 Forms
None

4.2 Guidance
None

4.3 Legislation
[Schedule 2 Housing Act 1988](#)
[Localism Act 2011](#)
[Protection from Eviction Act 1977 section 3A \(8\)](#)
[Housing Act 1996 section 209](#)

4.4. Related policies
None

5. Monitoring and reporting
N/A

6. Definitions
N/A

7. Equality and diversity

7.1 This procedure has been written in line with NCHAs Equality, Diversity and Inclusion Policy and Equality Statement.

7.2 This policy is supported by an Equality Impact Assessment

8. Appendices

None

9. Policy Approval

9.1 This procedure has been approved prior to issue by the Director of Homes and Wellbeing or if applicable by NCHAs Board or Customer Committee.