

Appendix 1

Employee Guidance – Lettings Policy

Political & Regulatory Context

Welfare Reform and Work Act 2016

The Welfare Reform Act introduced a number of significant changes to the benefits system, including, but not limited to:

Universal Credit – This single benefit is being rolled out in phases across the country and will replace Housing Benefit, Income Related Job Seekers Allowance, Income Related Employment & Support Allowance, Income Support & Tax Credits. The benefit is paid monthly in arrears and is calculated according to claimants' circumstances. Claimants of Universal Credit require online access to make their application and manage their accounts where they can view "to dos", query and submit information and view payments.

Bedroom Tax – (under occupancy charge / spare room subsidy) – this includes the restriction of Housing Benefit or Universal Credit housing costs entitlement for social housing tenants whose accommodation is larger than the Government have confirmed they need.

Benefit Cap - The benefit cap is a limit on the total amount of benefit that can be claimed. It applies to most people aged 16 or over who have not reached state pension age. The amount a household gets from some benefits might go down to make sure income does not exceed the cap limit.

Localism Act 2011

The Localism Act resulted in some changes to the way that housing will be allocated to customers. The Act allows local authorities greater control over who they admit to waiting lists for social housing in their areas. The Act also aims to support greater tenant mobility across the social housing sector. The Act still requires local authorities to give priority to households meeting the existing reasonable preference criteria; but in addition to this, local authorities will be given greater flexibilities to shape their approach to allocations.

Immigration Act 2014

The Immigration Act states that a landlord should not authorise an adult to occupy a property as their only or main home under a residential tenancy agreement unless the adult is a British citizen, or a European Economic Area (EEA) or Swiss national, or has a 'right to rent' in the UK. Someone will have the 'right to rent' in the UK provided they are present lawfully in accordance with immigration laws.

Allocation of accommodation: Guidance for local housing authorities in England – encourages authorities to make use of the existing flexibilities within the allocation legislation to ensure that social homes go to people who need them the most. The guidance suggests that authorities should consider serving/former members of the Armed Forces, households in work or seeking work, carers and prospective adopters and foster carers when setting their allocation schemes. The Group will keep up-to-date with statutory guidance and are committed to working with our key local authority partners to ensure that we work together to meet the housing needs of the areas in which we operate.

Regulatory Framework for Social Housing in England – the Tenancy Standard contains specific requirements around allocations and mutual exchange. The Standard states that 'Registered providers shall let their homes in a fair, transparent and efficient way. They shall take into account the housing needs and aspirations of tenants and potential tenants.' There are further specific requirements around tackling over-crowding/under-occupation, providing opportunities for transfers and working with local authorities to meet local housing priorities.

Charitable Status – Group members are charitable organisations and as such we predominantly house charitable beneficiaries, and in accordance with the objects of each association (statement of its purposes). A charitable beneficiary is someone in receipt of welfare benefits or on a low income, older people, people with disabilities, those who have a long term physical or mental illness or people in other recognised charitable need. The household must have an annual gross income of less than £60k and capital, savings and equity of less than £50k.

Local Lettings Plans, Planning Conditions and Section 106 Agreements – we will work with our local authority partners to develop local lettings plans where needed. These are intended to improve or maintain the sustainability of the communities in which we operate. Plans are unique to the circumstances of the individual area and are reviewed on an on-going basis to ensure that they remain fit for purpose and do not adversely affect customers by the Welfare Reform Act and other legislation.

The Planning Department of a local authority may place restrictions on planning approvals. These can be planning conditions with letting restrictions known as Section 106 agreements. These are legal agreements between the local authorities and developers and are contained within any planning permissions. For example, the Planning Department may restrict a new development in a village by stating that only people with a local connection to that village can be housed in the available properties. Where these restrictions are in place, we must abide by them and any properties advertised and allocated must fully comply with the criteria.

Affordable Rent Tenancies – where a property is to be let at an affordable rent, we must ensure that this is clearly specified as part of the advertisement and confirmed at the point of offer. We will also ensure that customers are given appropriate advice in respect of affordable rents and ensure that we have checked the affordability for the applicant of such properties.

Occupancy Criteria – General Needs Properties – we have procedures in place to ensure we make best use of our housing stock. Our procedures provide clear guidelines on how we will let our homes and contain the following principles:

The Group will not:

- Deliberately overcrowd a property when it is allocated.
- Allocate a property where any child aged 16 or over will be required to share a bedroom.
- Allocate a property where children between the ages of 10 and 15 of the opposite sex will be required to share a bedroom.

The Group will:

- Allocate properties where children up to the age of 9 are expected to share a bedroom, regardless of gender.
- Offer adapted houses to people/families whose health or mobility will benefit from facilities in the property.
- Provide applicants with children the choice to live above the ground floor where accessibility is not an issue, unless there is a letting criteria in place which prevents this.
- Facilitate, wherever possible, the requirements of a disabled applicant or partner, an extra room for a non-resident overnight carer.
- Give consideration to applicants who may be caring for foster children.
- Give consideration to applicants who are at least 24 weeks pregnant with their first child for a two bed property.
- Give consideration to applicants who have shared access to children.
- Consider the financial capability of an applicant and their ability to demonstrate they can pay the rent.
- Consider the sustainability of applicants and their ability to demonstrate they will engage with any support services required to ensure that they successfully maintain their tenancy.

Occupancy Criteria – Independent Living Schemes – applicants aged 55 or over are eligible to apply for accommodation at these schemes (subject to any specific criteria for the particular scheme). The design and support provided is focussed on the needs of older people and those with specific care and support needs.

In exceptional circumstances a younger partner or carer may move in with someone over 55, or we may consider a younger applicant, where it is evidenced through a support assessment that they have a specific care or mobility need. Decisions will be made taking into account the individual circumstances of the applicant/s and the nature of the scheme, including whether properties are difficult to allocate.

Occupancy Criteria – Supported Housing – applicants aged 60 and over with identified support needs are eligible to apply for accommodation at these schemes. Applicants who do not have support needs will not be housed in a supported scheme. Applicants aged under 60 but have identified care needs and would benefit from the support provided at such schemes, will be considered on

a case by case basis. All applicants are required to have a support assessment by Social Services. We aim to achieve a balance in terms of differing care needs of people being housed in Supported Housing, from those who require intensive care and support, to those who require a lower level of support.

Adapted Housing – where a customer’s current home is no longer suitable for their needs due to illness or disability, we will work with the customer to identify the best long term solution. Where it is identified that a move to alternative accommodation is the best solution we will, wherever possible, transfer the customer outside of our general route (with the authorisation of a Regional Manager). Applicants for housing, that require adapted accommodation, may be given additional priority by the Local Authority in accordance with their own Choice Based Lettings Schemes. (refer to the Group’s Aids and Adaptations Policy for our approach to adaptations).

Where adapted housing is provided and the disabled person moves or dies, and the adaptations are not required by the remaining household, we will consult with the household to consider alternative housing options. Such allocations will be made outside normal allocation routes and will be authorised by a Regional Manager. Where suitable alternative accommodation is offered and refused, we may seek to recover possession of the property by using Ground 9 of Schedule 2 of the Housing Act 1988.

Occupation Levels – dealing with cases of over-crowding and under-occupation helps us to make best use of our stock. Where a tenants is under-occupying their home and wishes to move, we will work closely with our local authority partners to encourage a move into more suitable, smaller, accommodation. We will give advice on all the housing options for their area, this includes applying to the relevant Local Authority, applying to Homes Direct and/or seeking a Mutual Exchange.

Management Moves – there may be exceptional circumstances where there is an overriding urgent housing need to allocate an alternative home to an existing customer, e.g., victims of domestic abuse, racial harassment, homes damaged by fire, flood or other disaster or where there is evidenced threat to life or serious risk of harm to either the applicant or wider community. Each case will be considered individually on its own merits and will require the approval of a Regional Manager. These sensitive allocations will be outside our usual allocations routes and may also need agreement with a local authority. If a tenant is approved for a management move, they will receive up to two reasonable offers and the Management Move status will remain valid for a period of up to 3 months.

Decants – existing tenants may be moved (decanted) either temporarily or permanently if vacant possession of their existing property is required to carry out major repairs or demolition. Permanent decants and temporary decants will usually be achieved by a direct match to a suitable void property.

Succession – members of the Group will grant succession to tenancies in accordance with current legal requirements and best practice. Section 17 of the Housing Act, 1988, grants a statutory right of succession to a tenant’s spouse, person living with them as their spouse or a person living with them as their civil

partner. A landlord can also include in a tenancy agreement express rights for other persons to succeed. Where such an express Clause is contained with a tenancy agreement that is a statutory right. The Group's Tenancy Agreements contain express rights.

The Group's approach is summarised as follows:

On the death of a tenant:

1. Any surviving joint tenant(s) will become the tenant by succession; or
2. Their spouse, or person living with them as their spouse, their civil partner or person living with them as their civil partner, as long as they occupied the home as their only or principal home at the time of the tenant's death, will become the tenant by succession, as long as they were not a successor as defined in the Housing Act 1988; or
3. Where the tenant has no spouse or no person living with them as their spouse, no civil partner or no person living with them as their civil partner, then a member of their family who has lived with them at the premises as their only or principal home throughout the previous 12 months before the tenant died, will become the tenant, as long as they were not a successor as defined in the Housing Act 1988. In this Clause a member of the tenant's family means their parent, grandparent, child, stepchild, brother, sister, uncle, aunt, nephew or niece, whether by blood or marriage/civil partnership.

The law only allows one succession of each tenancy. If there are two or more members of the tenant's family who qualify to succeed the tenancy, they can either agree between themselves who will succeed or we will decide who we will offer the tenancy to. Each claimant will be advised who has been successful in succeeding the tenancy.

Pre-Tenancy Assessment and Sign Up - all applicants will be required to undergo a thorough assessment process to determine their suitability to the property. This includes an applicant's economic/financial status (including any benefit restrictions that may be in place), support needs and any other factors which may determine sustainability of the tenancy.

Landlord references will be sought for all former tenancies held by an applicant for the previous five years. Permission may be sought from applicants to carry out a credit check.

Applicants will be required to pay one month's rent in advance. (A degree of discretion may be applied according to individual circumstances). It is also expected that future rent payments are made via direct debit and a credit of at least one month's rent is built up over time, regardless of their income. Arrangements will be discussed at offer stage with payment taken at sign-up; a small amount each week can be added to any Direct Debit arrangements to build up this credit.

All applicants will be required to provide two forms of identification, one of which must include a photograph. Failure to provide all the required

information/documentation or provides false information, will have their application rejected.

Where relevant, applicants claiming welfare benefits will be required to sign a disclaimer, at the point of sign-up, confirming that they have understood the implications of any benefit changes, how this may affect their future income and how their rent will be paid.

Existing Tenants – all existing tenants of the Group whom are considered for a move to another of the Groups properties, will be subject to additional checks to confirm that they have fully adhered to the terms of their existing tenancy and will be required to give the required notice on their existing tenancy as per their tenancy agreement. Additional checks will include the following:

- Pre-transfer inspection – undertaken by the Communities & Neighbourhoods Team to assess the condition of the existing property. Failure to meet the Groups standards will result in any application to transfer being declined until such time as works have been undertaken to bring the property up to the required standard.
- Any other breach of tenancy conditions.

Existing Tenants would not usually be eligible to reapply for any further transfers for a period of 2 years from the date of their last move unless there is an exceptional change in circumstances and/or they meet a reasonable preference criteria on having re-applied to the Local Authority.

Pets – see the Group's Keeping Pets and Animals Policy.

Applications which are Rejected - where we reject an applicant we will provide written explanation for this rejection within 5 working days, this will include details of our appeals process. Appeals will be overseen by an equivalent manager and will be responded to within 10 working days of the written appeal request. We will signpost applicants whom are rejected to housing advice for further support. We will update the relevant local authority where we have rejected a 'nomination', giving the reasons for this rejection.

Possible reasons for declining an application may include, but are not limited to:

- **Under 18s and vulnerable adults** – applicants aged 16/17, or who are defined as vulnerable will be accepted subject to the local authority having a legal duty to rehouse them. Where a tenancy is to be offered to applicants aged 16/17, we would require any such tenancy to be held 'in trust' by a responsible adult over the age of 18, known to the applicant, until the applicant reaches the age of 18. We will undertake an additional assessment to ensure the best prospect of the tenancy being successful and sustained. This may include ensuring that appropriate support packages are in place (either by Statutory or third party agencies). Where a young person qualifies for assistance under the Children (Leaving Care) Act, the Local Authority Children's Services Team would be expected to meet their housing costs until they reach the age of 18. We reserve the right to refuse an applicant if there is inadequate support in place.

- **People subject to immigration control** – people who are subject to immigration control and who are not eligible for housing under the Allocation of Housing Regulations 2002, cannot be housed. In addition the Immigration Act 2014 requires landlords to only allocate a property to those that have a 'right to rent'. Any applicant that does not meet these requirements will not be housed and have their application refused.
- **Anti-Social Behaviour** – if the applicant or any member of their household, has been evicted for anti-social behaviour breach of tenancy, has a current Harassment or Non-molestation Order, Injunction, Anti-Social Behaviour Order, Notice of Seeking Possession or any other Court Order against them, this will generally classify them as unsuitable to be a tenant and make them ineligible for housing with the Group.
- **Rent Arrears** – any applicant who owe money to a former landlord will not usually be eligible to be allocated housing. If there is an existing pre-payment plan to clear any debts to the landlord, which is being fully maintained to the satisfaction of the Group, consideration may be given to being allocated a new tenancy. Current tenants are usually required to have a clear rent account and have no other outstanding debts with the Group before they can move. However, if a duty has been accepted by the Local Authority under the provisions of the homelessness legislation, and arrears exist, each case will be considered individually on a case by case basis. Account will be taken of the circumstances under which the arrears were accrued, for example, where they were due to ill health, unemployment or domestic abuse and where the applicant may not have had control of their finances. If an applicant is rehoused with a former tenancy debt in these circumstances, the debt will be included in the tenancy agreement to ensure that the monies are recovered.
- **Criminal Convictions** – all applicants will be asked to disclose any history of criminal convictions (apart from minor motoring offences). This does not apply to any convictions that are legally spent or are covered by the Rehabilitation of Offenders Act 1974. We will seek advice from Police and Probation Service in respect of any applicant whom has been convicted of serious criminal offences, in order to assess whether it is safe to house them in a particular location. There may be occasions, due to the nature of the offence and any risk assessment, where housing cannot be offered to the applicant.
- **Damage to Property (Former Tenancy) and Violent and Aggressive Behaviour** – any applicant whom has caused damage to a property from a former tenancy will have their application declined. Only in exceptional circumstances (domestic abuse, high level anti-social behaviour) would we proceed with an offer of alternative accommodation. In this circumstance we would, prior to any offer, agree with the applicant to put in place arrangements to clear any outstanding monies owed in relation to repairs required to rectify the damage.

Any individuals who have been violent or aggressive to a Group employee, another landlord or local authority is likely to have their application rejected. This includes actual physical attack, serious verbal abuse or intimidating behaviour which has warranted a referral to the Police and/or has required an incident report to be completed. (Please see the Group's Dignity at Work Policy for further information).