

# Tenancy Policy

**Title:**

Tenancy Policy

**Date created:**

November 2011

**Author:**

K Bond

**Date reviewed:**

March 2016

**User:**

PRH

**Approved by:**

Policy Forum

## 1 Introduction

---

- 1.1 This policy sets out a framework under which Notting Hill Housing Trust will let and manage homes following the introduction of the affordable rent product

## 2 Background

---

- 2.1 In 2010, the Government introduced plans to provide registered providers like NHHT with new powers to use fixed term tenancies and to charge rents of up to 80% of the equivalent market rent for new homes and for a proportion of homes which become vacant in each year. These powers are linked to the requirement for NHHT to use the additional income to support new housing development.
- 2.2 The new arrangements separate tenure from rent levels. So, it is possible to have:
- a fixed term assured shorthold tenancy with a social rent (i.e. target rent)
  - a fixed term, assured shorthold tenancy with an affordable rent
  - an assured (non shorthold) tenancy with an affordable rent
  - an assured (non shorthold) tenancy with a social rent
  - a secure tenancy at a fair rent
- 2.3 The regulator requires NHHT to have a tenancy policy which sets out our approach to letting and managing our homes under the affordable rent regime.

## 3 Principles

---

- 3.1 The principles which underpin our approach are:

- |   |
|---|
| <p>3.1.a Making the best use of our housing assets</p> <p>3.1.b Helping local authorities to meet their strategic housing goals</p> <p>3.1.c Letting homes in a simple, fair and transparent way</p> <p>3.1.d Providing clear information for customers about options / choices</p> <p>3.1.e Aiming to prevent homelessness and protect families and vulnerable</p> |
|---|

households

3.1.f To ensure we meet our obligations in the rent and tenure standards set out in the regulatory framework for social housing

## 4 Content

---

4.1 This policy sets out our approach to :

- Types of Tenancy
- Tenancy terms
- Ending Tenancies
- Succession
- Right to Acquire
- Rights of Appeal
- Review of this Policy

## 5 Types of Tenancy

---

- 5.1 NHHT will generally grant **Assured Shorthold Tenancies** for all new homes and for properties which become vacant and are subsequently re-let unless the incoming tenant has security of tenure. These tenancies will have a fixed term and will be renewable on the expiry of the term. Fixed term tenancies will be granted regardless of the rent level that is to be charged.
- 5.2 All new tenancies – other than those granted to existing tenants of NHHT - will be preceded by a probationary tenancy. This will be granted as an **Assured Shorthold Tenancy** for 12 months. In exceptional circumstances, NHHT may extend this for a further 6 months.
- 5.3 In certain exceptional circumstances, NHHT will grant an **Assured (Non-Shorthold) Tenancy**. These tenancies are “lifetime” tenancies and do not require formal renewal. The circumstances under which we would let properties on an Assured Non Shorthold Tenancy are detailed below.

## 6 Exceptions (Tenure)

---

- 6.1 All new tenancies will be let as fixed term assured shorthold tenancies except where:
- The property is to be let to an existing assured non-shorthold or secure tenant (aka lifetime tenant), *of a social rented home moving to another social rented home (but not an affordable rented home)*
  - The property is to be let to an existing NHHT assured non-shorthold or secure tenant as a result of a decant or where the tenant has a right to return (for example for redevelopment/regeneration purposes)
  - The property (including an affordable rent property) is let to an existing NHHT secure tenant



- The property is a mutual exchange where one or both customers have a protected right to retain a lifetime tenancy
- The property is covered by an existing contractual requirement to let on a particular type of tenancy (e.g. Certain supported housing schemes or where required as a planning condition)
- The property is a long term registered care facility
- The property is being used specifically to provide short term temporary occupancy (e.g. Intermediate / respite care or short life use)
- The property is let to an existing NHHT assured non shorthold or secure tenant on Affordable Rent who is downsizing to a smaller property appropriate to their family size.
- The property is let to a non NHHT assured (non shorthold) or secure tenant who is downsizing to a one bed or smaller home.

6.2 This list is indicative and not intended to be exhaustive.

## 7 Tenancy Terms

---

### 7.1 Rents

- 7.1.1 When an Affordable Rent is set for the first time the rent level is dependent upon the property type but it will be set at the lower of 80% of the market rent, LHA cap or NHHT caps. All Affordable Rents will be inclusive of service charges.
- 7.1.2 The market rent will be assessed on the basis of a system of comparison which incorporates the guidance of a qualified valuer and will follow the principles of market rent valuation set out by RICS.
- 7.1.3 NHHT will set re-let cap rents at levels to be agreed annually by the Board. In 2015/16, rent caps (inclusive of service charges) for affordable rented homes that are conversion re-lets will be:

Bedroom size	Re-let cap
Studio/Bedsit	£190.76
1 bed	£199.94
2 bed	£209.12
3 bed	£218.30
4 bed+	£227.48

For **new build or newly acquired homes**, rents will be set at 80% of market rent or the LHA rate unless a different level is agreed on a scheme by scheme basis with the LA.

**NB:** For new schemes, the re-let cap will not apply when they are re-let.

- 7.1.4 Social Rents will be target rents as set out in the Rent Standard guidance as amended from time to time by the Regulator. Social rents will generally be exclusive of service charges.
- 7.1.5 Fair rents for secure tenants will be verified by the Valuation Office agency every 2 years, will not exceed the target rent for that property, and will be reviewed annually by the usual increase formula issued by the regulator.
- 7.1.6 Rent caps exist for social rents within the rent restructuring guidance and these are also reviewed annually by the regulator. For 2016/17 the social rent caps (exclusive of service charges) will remain at the same level as in 2015/16 as follows:

Bedroom size	Re-let cap
<b>Bedsit &amp; 1 bed</b>	£141.43
<b>2 bed</b>	£149.74
<b>3 bed</b>	£158.06
<b>4 bed</b>	£166.37
<b>5 bed</b>	£174.69
<b>6 bed +</b>	£183.00

## 7.2 How Will We Determine Which Rent Type to Charge?

### 7.2.1 Newly Developed Homes

- 7.2.1.1 For new homes NHHT will agree a lettings approach with the Local Authority. This will seek, where possible, to reflect the priorities as set out in the Local Authority’s strategic tenancy policy and the requirements of NHHT’s framework delivery agreement with the Homes & Communities Agency (HCA). These priorities will also be reflected within the Rent Policy.

### 7.2.2 Re-let Properties

7.2.2.1 Properties which are re-let will generally be offered on affordable rent terms

7.2.2.2 Target or social rents will generally be charged for:

- properties which are covered by a specific nomination or section 106 planning agreement which requires a social rent to be charged
- properties which are offered to customers who are currently being charged target or social rent and are required by NHHT to move to an alternative home
- properties which are offered to customers who are currently being charged target or social rent to facilitate decanting for development or major works
- properties which are offered to NHHT tenants downsizing to a smaller property appropriate to their family size who currently hold a non shorthold assured tenancy
- properties which are offered to customers who are currently being charged target or social rent and have an “emergency” or “urgent” need to move (i.e. customers who have been awarded a Band A or Band B transfer status). This does not apply to new builds or active asset management properties which have fixed rents.



### 7.3 Rent Reviews

- 7.3.1 Social and Affordable Rents will be reviewed on the 1<sup>st</sup> Monday in April each calendar year and will be increased or decreased in line with the rent standard guidance.
- 7.3.2 Secure Rents are reviewed annually on their anniversary. General needs secure tenancies will be exempt from the 1% rent reduction where the registered fair rent falls below the 2016/17 target rent level
- 7.3.3 Social rents will generally be exclusive of service charges which will be set and reviewed separately.
- 7.3.4 Details of how rents are set and reviewed annually are contained in the Rents Policy

### 7.4 Length of Tenancy

- 7.4.1 The majority of new tenancies will be let on a fixed term assured shorthold basis, for a period of five years.
- 7.4.2 Tenancies will be renewable at the end of this period subject to the tenancy having been conducted properly, the property still being appropriate for the household needs, and the tenant remaining eligible for social housing.
- 7.4.3 For new tenants, tenancies will be preceded by a probationary period of 12 to 18 months. If the tenancy is properly conducted (i.e. if rent is paid, the property is cared for and the customer does not behave in ways which disrupt or inconvenience others) then NHHT will generally grant a five year assured shorthold tenancy at the end of the probationary tenancy period.
- 7.4.4 In exceptional circumstances only, NHHT may offer a two year fixed term tenancy. The decision to issue a two year fixed term tenancy must be approved by the Regional Head of Housing.
- 7.4.5 At the end of the two year fixed term tenancy, NHHT would normally offer a five year fixed term tenancy if the contract has been operated properly (rent paid, conditions met) and if the home is still appropriate to meet the household need and the tenant remains eligible for social housing.

### 7.5 At the End of the Fixed Term Tenancy

- 7.5.1 At the end of a fixed term tenancy, NHHT will generally wish to offer a new five year term so long as:
- The tenancy has been conducted in line with the agreement
  - The home is still appropriate for the needs of the household
  - The tenant is still eligible for social housing



- 7.5.2 The full set of criteria NHH will consider will be set in out in the [Reviewing Fixed Term Tenancies Procedure](#)
- 7.5.3 At least nine months before the end of the tenancy, the Housing Officer will review the tenancy and discuss the household circumstances and needs with the tenant. At seven months before the end of the tenancy the final decision will be made as to whether to renew the tenancy.
- 7.5.4 **No later than six months before the end of the tenancy**, the Housing Officer will notify the customer of the proposed renewal or termination of the tenancy.
- 7.5.5 Where a renewal at the same property is proposed, the rent for the property will be reviewed in line with current market rents, capped at the existing rent level. This means that a customers rent may decrease at the time of renewal but will not increase. The rent will therefore still be subject to increase the following April by the usual formula.
- 7.5.6 Where termination of the tenancy is proposed, the Housing Officer will provide advice and assistance to the customer on finding alternative accommodation. This may include alternative options such as market rent, shared ownership or available homelessness services.
- 7.5.7 In cases involving households with school age children, or where a household is vulnerable by reason of age, disability or illness of a member of the household, there will be a presumption in favour of renewal of the tenancy where the tenancy terms have been adhered to.

## 7.6 Succession

- 7.6.1 Tenants of properties held on a fixed term tenancy will have a statutory right of succession to the spouse, civil partner or partner of the deceased tenant. Only one statutory succession will be permitted. The tenant transferring in to the fixed term tenancy will take on the remainder of the five year term.

## 7.7 Right to Acquire

- 7.7.1 Tenants of properties held on a fixed term of at least two years will be granted the right to acquire under the new legislation (Localism Act 2011).

# 8 Appeals

---

- 8.1 Tenants or prospective tenants who are unhappy with any decision made under this policy shall have a right of appeal.
- 8.2 The Lettings Panel will consider appeals in relation to :
- The type of tenancy offered
  - The terms of tenancy offered
  - The length of tenancy offered
- 8.3 The Permission to Evict Panel will consider appeals in relation to:-
- The decision not to offer a new fixed term tenancy.



- 8.4 It is specifically not anticipated that appeals against decisions will require properties to be held vacant.
- 8.5 Appeals will be conducted in line with the lettings and tenancies appeals process that is set out in the Lettings Procedure.
- 8.6 All other complaints will be dealt with under the NHH Complaints Procedure.

## 9 Review Period

---

- 9.1 This policy will be reviewed annually and any review will include appropriate resident consultation from time to time.

<b>Date</b>	<b>Amendment</b>	<b>Version</b>
1/4/14	Changed rent caps to 2014/15 caps	v1.0
4/7/14	Updated newbuild social rent caps.	v1.1
23/3/15	New rent caps for re-lets, new lets and social rents. Inclusion of band A & B transfer in list of exceptions for rent type. Sign off from regional head introduced for two year fixed term tenancies. Updates re fixed term tenancy renewals.	v1.2
30/4/15	Amended to make clear that rent exemption relating to Band A /B does not apply to new builds or active asset management properties	v1.3
11/05/2015	Amended to clarify where exemptions for target and social rent apply	v1.4
22/03/2016	New template. Updated to reflect new re-let caps for 2016/17 and also to remove new let caps (new lets now capped at LHA or 80%). As agreed by EB and Board.	V1.5
31/03/2017	Updated new AR re let caps for 2017/18	V1.6