

## TENURE POLICY

### Responsible Officer

Director of Customer Services

### Aim of the Policy

The overall aim of the policy is to ensure tenancies are sustained and any unnecessary evictions are prevented; through the tenancies we grant and how we manage them. This Policy sets out our approach to tenure and tenancy management including how we ensure we meet our legal and regulatory requirements. It is supported by detailed tenancy procedures.

### The Policy

#### 2.1 Phoenix will grant the following types of occupancy agreements:

- Assured Protected (transferring tenants from Lewisham 2007)
- Assured Protected (original Lewisham tenants transferring from L&Q to Phoenix 2021)
- Assured (Affordable and Social rents)
- Assured Shorthold (Affordable and Social rents)
- Assured (Extra Care)
- Assured Shorthold (Extra Care)
- Licence

We will also manage the following types of occupancy agreements where granted by London and Quadrant prior to the tenancies transferring to Phoenix:

- Assured Fixed Term, with a probationary period (Affordable and Social rents)
- Assured Fixed Term without a probationary period (Affordable and Social rents)
- Secure Fair Rent
- Assured (Affordable and Social rents)
- Assured Converted (Affordable and Social rents)
- Starter Tenancy (Affordable and Social rents)

A summary of the conditions of the agreements referred to above is available on request.

#### 2.2 By granting this range of agreements we can meet the following objectives:

- Keep the Promise to tenants transferring from Lewisham Council to Phoenix or from Lewisham Council then to London and Quadrant to Phoenix, to preserve their secure tenancy rights;
- Support new tenants to manage a tenancy for the first time;
- Provide life-time tenancies to provide stability for tenants;
- Ensure tenants are not discouraged from moving through fear of losing some security of tenure;
- Meet any grant conditions for new homes;
- Support the Council to reduce the use of temporary accommodation;

- Enable tenants to move temporarily as a result of unforeseen circumstances; then return to their principal home;
- Let garages and sheds to residents.

Phoenix will not grant new fixed term tenancies unless they are required as part of a capital grant funding agreement which has been approved by the Board or in other specific circumstances approved by the Board, (for example the leasehold hardship buy back policy; which states the leaseholder will be granted a fixed term tenancy for 2 years).

This means that all assured shorthold tenancies will be converted to assured tenancies following successful completion of a probationary period. It also means all fixed term tenancies previously granted by London and Quadrant will be granted life time tenancies at the end of their fixed term. This was agreed by the Board in 2021, when considering our offer to L&Q tenants.

### **2.3 When will we grant the different occupancy agreements?**

Assured Protected (preserved rights)- this is the agreement signed by tenants who were Lewisham tenants either:

- Before being transferred to Phoenix on the 03-12-2007 or
- Before being transferred to L&Q on the 07-07-2008 who then transferred to Phoenix on the 29-11-2021.

Tenants transferring 03-12-2007 who have not signed a new tenancy agreement since the transfer will as a result of the legal transfer have this tenancy agreement by default. Tenants transferring from L&Q on the 29-11-2021 will not be asked to sign a new tenancy agreement.

An assured protected tenancy is also granted to any tenant who transfers to another Phoenix property who had an assured protected tenancy before they moved.

This does not apply if the property they move to has a specific allocation criteria and or the nature of the property and its purpose means the rights of tenants and responsibilities of the landlord and tenant cannot be the same as those set out in the Assured Protected (preserved rights) tenancy. In this case an assured tenancy will be granted. For example at an Extra Care Scheme.

Assured- this agreement is granted to any tenant who transfers to another Phoenix property who had an assured tenancy before they moved. This tenancy would not be granted to any Phoenix tenant who previously held a Assured Protected Tenancy; unless they were moving to a property which has a specific allocation criteria and or the nature of the property and its purpose means the rights of tenants and responsibilities of the landlord and tenant cannot be the same as those set out in the Assured Protected (preserved rights) tenancy.

It is also the tenancy that new (\*) tenants agreements convert to after their probationary period has ended, (See below under assured shorthold). It is also the tenancy granted to tenants transferring from L&Q who were granted a fixed term agreement, when their fixed term ends provided they have met their tenancy conditions.

\*new tenant means a tenant who has not held a Phoenix tenancy before.

Assured Shorthold- this agreement is granted to all new tenants and continues for a 12 month probationary period. Once the probationary period ends it will be converted to an Assured Tenancy as soon as is reasonable after the anniversary of the tenancy.

If however there are any breaches of the tenancy that have not been resolved; we will extend the term of the agreement. Any extension of the term will be discussed with the tenant(s) and be confirmed in writing before the term expires; this ensures that there are opportunities for the tenant(s) to resolve any issues. Tenants can appeal a decision to extend the term of their tenancy using our complaints policy.

In exceptional circumstances Phoenix will serve a Section 21 Notice Requiring Possession (NRP) to end an assured shorthold tenancy and apply to the Court for possession. This will only happen as a result of a serious breach of tenancy where we would also be seeking outright possession if the tenant held an assured tenancy. One example of a serious breach of tenancy could be consistently not paying their rent and causing serious Anti-Social behaviour.

Tenants can appeal about a decision to end their assured shorthold tenancy rather than extend or convert it; by using our complaints policy.

If a tenancy is demoted by the Court the demoted tenancy is also, effectively an assured shorthold tenancy.

We will grant an assured shorthold with no conversion clauses to an assured tenancy to residents moving into our designated temporary social housing properties. These tenancies will be ended when the Council makes an offer of permanent housing.

Licence- A licence will be granted when a tenant has to move on a temporary basis but will return to their original tenancy, (this is also known as a temporary decant).

If after the licence is granted the tenant cannot move back to their permanent home; they will be granted the same type of tenancy that they had in their permanent home in either the home they moved to temporarily or another property they transfer to.

A licence will be granted to homeless applicants referred to Phoenix by the London Borough of Lewisham pending homelessness enquiries, into our permanent general needs stock. Once Lewisham confirm they have a duty to rehouse them; we will grant them an assured shorthold tenancy which converts to an assured as we do for other new tenants.

A licence is also granted for the use of parking spaces, pram sheds and garages.

Secure, fair rent tenancy- A secure fair rent tenancy will be granted to any tenant transferring to another Phoenix property who held a secure fair rent tenancy with Phoenix prior to transfer.

This does not apply if the property they move to has a specific allocation criteria and or the nature of the property and its purpose means the rights of tenants and responsibilities of the landlord and tenant cannot be the same as those set out in the Assured Protected (preserved rights) tenancy. In this case an assured tenancy will be granted. For example at an Extra Care Scheme.

## **2.4 Who must use this policy?**

This policy must be used by all staff advising current tenants or applicants on tenancies; staff granting tenancies and staff managing tenancies.

## **2.5 Exceptions to this policy**

Any exceptions to this policy must be approved by the Executive Team (ET) and be reported to the Board. Where appropriate the Director of Customer Services will consult with their Board Champion(s) before presenting the case to the ET for approval.

## **3.0 Reference to other documents and associated policies and procedures**

- Offer Document 2006
- The Regulatory Framework for Social Housing in England
- The Regulatory Code for Social Housing
- Occupancy agreements granted by Phoenix
- Occupancy Agreements
- London Borough of Lewisham Tenancy Strategy 2011
- The Localism Act 2010
- Probationary tenancy procedures
- Transfer Agreement 03-12-2007
- Transfer Agreement 29-11-2021
- Novation Agreement

## **4.0 Monitoring and review**

An Equality Impact Assessment of this policy will be carried out every year as part of a performance report on tenancy management and sustainability.

This policy will be reviewed alongside the Association's Development Strategy; any changes to our Regulatory Framework set by the Social Housing Regulator; (which is currently the Regulator of Social Housing) and the Tenure Strategies adopted by our Local Authority partners (Lewisham and Bromley).

## **5.0 Legislation**

- Allocation of Housing and Homelessness (Eligibility (England) Regulations 2006
- Housing Act 1988, 1996, 2004
- Equality Act 2010
- Localism Act 2011
- Regulatory Framework for Social Housing in England 2012
- Housing & Planning Act 2016

## Definitions

Term/acronym	Description
Resident	Includes tenants.
Phoenix	Phoenix Community Housing.

Document Type:	Policy
Title:	Tenure Policy
Author:	Director of Customer Services
Department Owned By:	Customer Services
Data Protection Impact Assessment:	No
Equalities Impact Assessment:	Yes
Approval Date:	2021-11-25
Approved By:	Board
Implementation Date:	2021-11-29
Status:	Final
Version No:	V3
Last updated:	2021-11-18
Issue Date:	2021-11-29
File Path:	<a href="#">CS Tenure Policy FINAL V3 Nov 2018 revised Nov 2021</a>