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TENURE POLICY

Introduction

This policy sets out Sutton Housing Society's (SHS') approach to the type of tenancies we will grant and in which circumstances. It also includes details about which grounds for possession we will use.

This policy sets out SHS' commitment to offer and issue tenancies which are compatible with the purpose of the accommodation type, the needs of individual households and the efficient use of our housing stock.

This policy ensures that:

- we meet our statutory and regulatory obligations
- staff are aware of the grounds for possession which we may rely on, and our approach to using the mandatory grounds
- tenancies are granted consistently in a transparent and fair way

What is a Tenancy?

A tenancy is a contract; SHS as the landlord, grants exclusive possession of an individual home to another person(s) known as a tenant, in exchange for the tenant's periodic payment of rent.

SHS tenants enjoy security of tenure and the right to live peacefully in their home without our interruption or interference. There will be occasions when we will need to gain access to our properties, sometimes in an emergency; these are stated in our tenancy agreements.

Types of tenancy offered by SHS

SHS offers three types of tenancy. These are:

1. Assured Tenancies:

These tenancies are used where there is an intention to offer a home for life (sometimes referred to as "lifetime" tenancies). Providing the tenant does not breach the tenancy conditions, they will usually be able to stay in their home for the rest of their life. These tenancies are issued as weekly tenancies.

This tenancy is also known as an "assured non-shorthold" tenancy.

2. Assured Shorthold Tenancies:

These tenancies are issued where there is not a clear intention to offer a home for life. Like assured tenancies, they are usually issued as weekly tenancies. They have less statutory rights than assured tenancies and can be ended more easily. SHS uses these tenancies where a home owner is moving into our accommodation and is actively trying to sell their home; to individuals housed under the Veterans Nomination Scheme and to individuals housed as part of the Syrian Refugee Resettlement Programme.

3. Secure Tenancies:

These tenancies are regulated by the Housing Act 1985, and are sometimes referred to as 'lifetime' tenancies. We do not issue secure tenancies for new tenants; however, anyone who has a tenancy that was granted before 1 April 1989 is likely to be a secure tenant. The tenancy will not usually be terminated unless there are serious tenancy breaches.

A secure tenancy is only issued to existing SHS tenants if they were already a secure tenant with us immediately before they enter into the new contract (e.g. if they move home within SHS housing). This is in accordance with section 35(4) (d) of the Housing Act 1988; we do not have the discretion to grant another form of tenancy.

Under 18s

A person under 18 years of age cannot hold a legal interest in land, and therefore cannot hold a tenancy.

In these circumstances, SHS would grant an 'Agreement for Tenancy' until the person turns 18 years old. An 'Agreement for Tenancy' assumes that minors have the capacity to contract for 'necessaries' such as accommodation, food and clothing.

This agreement reflects the underlying intention of the Tenancy Agreement, whilst acknowledging the legal status of the minor. The minor will sign and date both the Agreement for Tenancy and Tenancy Agreement at the same time and we will consider this to be the tenancy commencement date.

A minor may succeed to a tenancy by statutory succession. Succession to a tenancy takes place even if the minor is under 18 years old. In these cases we will provide the minor with an Agreement for Tenancy until they turn 18 years old, as outlined above. We will liaise with family members and social services that may need to carry out a 'child in need' assessment to ensure the minor will be cared for.

We will ensure there is a Guarantor for the Agreement for Tenancy and ask them to sign a Form of Guarantee. The Guarantor may be an individual or an agency such as a local authority or Social Services department.

Mutual Exchange

Tenants have the right to mutually exchange their accommodation, in line with our Mutual Exchange policy and with the permission of their landlord.

Succession

SHS Assured Tenants have a statutory right to one succession to a spouse, co-habiting partner or civil partner. We may also permit a discretionary succession to a qualifying family member, or in exceptional circumstances a vulnerable household member.

Assignment

Assured tenants have the right to assignment their tenancy to someone with the statutory right of succession to the tenancy. We may consider a discretionary assignment to a qualifying family member, or in exceptional circumstances, a vulnerable household member.

Joint Tenancy

We will allow a joint tenancy to be created; this will count as the one statutory succession to the tenancy. Please note that either party to the joint tenancy can legally bring the tenancy to an end.

Ending a Tenancy

A tenancy can only be brought to an end in specific ways and SHS has clear procedures for terminating a tenancy.

Eviction is always as the last resort; SHS will only seek possession where it is proportionate to the case, and when we have exhausted non-enforcement measures as set out in the relevant policies and procedures.

We rely on the grounds for possession available through legislation:

- for secure tenancies - Housing Act 1985 (schedule 2)
- for both assured and assured shorthold tenancies - Housing Act 1988

(Both as amended by the Housing Act 1996 and the Anti-social Behaviour, Crime and Policing Act 2014)

A list of grounds for possession for secure, assured and assured shorthold tenants is attached as an appendix to this policy.

Where we decide to end an assured shorthold tenancy, we will use the accelerated possession process and serve a Notice Requiring Possession complying with s.21 of Housing Act 1988.

When an Assured Shorthold tenancy is due to end, and if there has been no concerns for the management of the tenancy during the original term, and if the private home has been sold, SHS will offer a new Assured Tenancy as standard.

For tenancies where the initial review has identified concerns for the management of the tenancy, or where the private home has still not sold, we will carry out a review to decide whether to issue a new Assured Shorthold tenancy to individual or whether to take action to terminate the tenancy. The review is carried out at month 9 of 12.

Where a decision is taken not to offer a new Assured Shorthold tenancy, individuals will be provided with advice on further housing options and signposted to statutory and non-statutory partners for assistance and advice.

Tenancy Fraud

The term tenancy fraud is used to cover various types of tenancy misuse including;

- Illegal subletting where the tenant sublets the whole of the property
- Unauthorised succession where someone misrepresents their circumstances in order to qualify and succeed a tenancy
- 'Key selling' where the tenant leaves the property and passes on the keys for a one-off lump sum payment.

SHS ensures that all tenants are signed up in accordance with this policy, our Lettings policy and associated procedures. SHS takes all instances of reported tenancy fraud very seriously and investigates all claims made.

Equality and Diversity

SHS recognise that tenants of all races, ages, religions, gender, sexual orientation, literacy levels and disability should be treated equality and fairly and we will not discriminate in implementing this policy and procedure.

SHS will be sensitive to tenants' individual needs and will tailor our services and approaches accordingly.

All tenants/applicants have access to this document upon request.

Equality, Diversity and Inclusion training is mandatory for all SHS staff.