

Tenure Policy

1.0 Policy statement

- 1.1 Stonewater will ensure that all customers receive the correct occupancy agreement (tenancy agreement, licence or lease).
- 1.2 Stonewater aims to give customers the greatest security of tenure appropriate to their circumstances. We will grant tenancies which comply with legislative and regulatory requirements and with our duties under the Equality Act 2010. We will provide clear and full information to customers about the occupancy agreement before they sign.

2.0 Policy scope and objectives

- 2.1 The policy applies to every development and home owned (outright or leased) by Stonewater unless a lease states otherwise. The choice of which occupancy agreement to use is left to the discretion of Stonewater. However any decisions should wherever possible be made within the context of this policy, which reflects housing law and best practice. Where Stonewater is restricted on which occupancy agreement to grant by the head lease or covenants on the property, this will be explained to the customer so they understand the implications on their security of tenure.
- 2.2 This policy does not apply to properties owned by another landlord but managed by Stonewater.
- 2.3 We will offer joint tenancies to all customers who are nominated jointly for a home by the local authority or where a joint application is made through an alternative advertising source.
- 2.4 Customers will be advised to seek legal advice around the implications of sole and joint tenancies. If a customer is already a sole tenant and is seeking a joint tenancy we will limit those that are permitted to become a joint tenant to only those who are the tenant's spouse or partner. Please refer to our Tenancy Changes Policy.
- 2.5 We will not grant a joint tenancy to any more than 2 adults, unless in exceptional circumstances. We will not grant a tenancy to more than 4 adults. Occasionally, we may grant a joint tenancy to an adult and a minor, provided the adult joint tenant acts as trustee for the minor.
- 2.6 We will be mindful of any relevant provisions of the Domestic Abuse Act 2021, in particular to any indication of coercion or control when discussing occupancy agreements with customers and reserve the right to suspend a decision until further investigation has taken place.

3.0 Regulatory and legal considerations

- Housing Act 1980
- Housing Act 1985
- Housing Act 1988

- Housing Act 1996
- Localism Act 2011
- Schedule 1 (6) of the Law of Property Act 1925
- HCA Regulatory Framework 2012
- Equality Act 2010
- Coronavirus Act 2020
- Domestic Abuse Act 2021

4.0 Policy details

4.1 Definition

The tenancy agreement is the written legal contract we have with our tenants which sets out the respective rights and obligations concerning the occupation of the property.

4.2 We will use the following tenancy types under the circumstances described:

4.2.1 New social housing tenants

All new social housing customers will be offered a 12-month starter tenancy which will automatically convert if there are no issues concerning tenancy conduct over this period. We are able to extend the starter period for up to an additional 6 months where we have concerns regarding tenancy conduct.

4.2.2 Tenants transferring (non-assignment):

All customers moving into an affordable or intermediate rent home will be offered a starter tenancy, irrespective of their current tenancy with another registered provider, local authority or landlord.

All existing customers applying to rent a social rent home, including those of other social landlords, will be offered no less security of tenure than their previous tenancy for example an incoming tenant from another housing association who held an assured tenancy will be granted an assured tenancy, unless we have expressly agreed a reduction in security of tenure as a consequence of actual or contemplated legal proceedings. Those existing customers with a protected assured periodic tenancy (transferring from local authority) will be granted a tenancy with the same rights if they transfer within our housing stock.

Where a customer is shown to be transferring due to being a victim of domestic abuse, we will look to offer no less security of tenure than their previous tenancy.

Where a tenant transfers to Stonewater as part of a stock acquisition they will retain their existing tenancy, type and rights on transfer. Where customers have been issued a fixed term tenancy by their previous landlord we will look to move them to an assured tenancy or assured shorthold tenancy on its expiration (whichever is appropriate).

4.2.3 Tenants permanently displaced

If a tenant is permanently displaced as a consequence of redevelopment/major works we will ensure that the tenant is provided with no less security of tenure to the alternative property.

4.2.4 Mutual exchange

We do not allow customers with starter tenancies to mutual exchange. In accordance with Section 158 of the Localism Act 2011 where a tenancy started prior to 1st April 2012 and there is a mutual exchange with a flexible or fixed term tenant, the tenancy status will be retained. Please see our Mutual Exchange Policy for further detail.

4.2.5 Assured shorthold tenancy agreements

Where properties fall outside of our usual social lettings arrangements, for example they are designated for market rent, the property is available for a time limited period, or the Rent to Buy scheme, we will generally offer assured shorthold tenancy agreements.

We may also offer an assured shorthold tenancy agreement to any customer applying within our social lettings arrangements that is not able to demonstrate indefinite leave to remain. In these circumstances the customer will be offered a fixed term assured shorthold agreement for a length that is no greater than their current limited leave to remain. Prior to the expiry of this, should the customer be able to demonstrate they now have Indefinite Leave they will be offered an assured starter tenancy.

4.2.6 Shared owners

We will grant a Shared Ownership lease in accordance with legislation, regulation and good practice.

4.2.7 Licences

We will issue licences to occupy houses in multiple occupation (HMOs) and/or properties that have shared communal facilities such as kitchens and bathrooms.

Licences to occupy will also be offered to existing tenants, who are required to move out of their home for a temporary period only and may be offered to new occupiers where accommodation is being provided for a temporary period.

4.2.8 Use and occupation

Upon the death of a tenant, where a household member is left in the property without right to succeed we may, on occasion, tolerate occupation for a short period provided the occupier pays damages for their use and occupation of the property. This will be for a period of no more than 6 months to provide them with time to source an alternative property. During this time, we will seek use and occupation damages in full. Details as to why use and occupation may be granted are detailed in the Tenancy Changes Policy.

4.2.9 Leases

We may offer leases for non-residential units such as garages or commercial buildings. These will be negotiated and agreed on an individual basis with the customer involved.

4.3 Tenancy termination

4.3.1 Our tenancy agreements will set out the relevant notice periods required to end and occupancy agreement/tenancy.

4.3.2 The grounds on which we are able to rely on in order to end a tenancy are set out within the tenancy agreement. This includes whether we are able to utilise Ground 8 to apply for a mandatory possession order (where a customer owes 8 weeks rent or more).

4.3.3 We will always consider full circumstances when relying on this ground striking a balance between supporting our customers to sustain rent payment and protecting the business.

4.3.4 Where a customer holds a Starter tenancy we may serve an s21 notice and apply for a mandatory possession order where there have been tenancy conduct issues, and we do not believe the tenancy to be sustainable in the longer term. Where we serve an s21 notice we will provide the customer with a right of appeal.

4.4 Tenancy fraud

4.4.1 We will hold and process tenants' personal information (including sensitive personal data) to assess tenancy applications, confirm a customer's Right to Rent in the UK, mitigate against tenancy fraud and assist the on-going management of any tenancy. Information will be shared with third parties such as credit reference agencies (e.g. Experian) and checks will be undertaken in partnership with them to enable us to:

- assess the suitability of housing applications
- manage tenancies
- verify identity and undertake checks to prevent or detect crime.
- recover former debt.

4.4.2 Where we identify tenancy fraud we will work with partners to take robust action which may include possession proceedings and/or prosecution and unlawful profit orders.

5.0 Service standards

5.1 Stonewater will select the most appropriate form of occupancy agreement for our homes that:

- ensures that tenancies granted are consistent, transparent and fair
- assist the mobility of our customers

- respond to the changing needs of our customers
- support the development of balanced and sustainable communities across the areas within which we work
- ensure Stonewater complies with all legal and regulatory requirements
- make the best use of our housing stock
- ensure we co-operate with local authority partners in meeting local housing need.

5.2 In the event of a pandemic or other emergencies our procedures will be reviewed to reflect government guidance.

6.0 Equality, diversity and inclusion

6.1 We will apply this policy consistently and fairly and will not discriminate against any person on grounds of age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership, and pregnancy and maternity, or any other matter that may cause a person to be treated with injustice.

7.0 Related policies

7.1 This policy should be read in conjunction with the following policies:

- Tenancy Changes Policy
- Access to Housing Policy
- Mutual Exchange Policy

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