BURY COUNCIL – HOUSING SERVICES

HOUSING TENANCY POLICY

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1.0 PURPOSE

Bury Council Housing Services has a duty to set out its approach to granting tenancies for the homes it owns. It also needs to ensure the approach is aligned to Bury Council's Strategic Tenancy Policy, which continues to support the principle of lifetime tenancies for un-adapted, general needs housing stock.

2.0 SCOPE

This policy sets out the approach to tenancy management as follows:

- Sets out how Housing Services will support Bury Council's Strategic Tenancy Policy and preference for lifetime tenancies.
- Ensures compliance with the Regulator for Social Housing's (RSH) tenancy standard.
- Provides clarity about the types of tenancy granted and the circumstances in which they may be granted.
- Ensures best use of the housing stock, meets household needs, and contributes to sustainable communities.
- Sets out how tenants will be supported to maintain their tenancy and prevent unnecessary legal interventions or evictions.
- Ensures consistency of approach and offers transparency to customers.
- Offers a clear and fair appeals process for dealing with tenancy changes.
- Outlines the overarching approach to tenancy management.

3.0 MANAGEMENT RESPONSIBILITIES AND STATUTORY REQUIREMENTS

The tenancies granted and managed by Bury Council are done so within the context of the following legislation:

- Housing Act 1985, 1988 and 1996 (as amended).
- Localism Act, 2011.
- Equality Act, 2010.
- Landlord and Tenant Act, 1985.
- Protection from Eviction Act, 1977.
- Immigration Act, 2014.

The Council's approach also takes account of the regulatory framework set out by the Regulator of Social Housing (RSH).

4.0 ALLOCATIONS AND LETTINGS

Properties will be let in accordance with the Council's Allocation Policy and Choice Based Letting (CBL) service.

The Council's approach to downsizing and overcrowding is set out in its Strategic Tenancy Policy and Allocations Policy. There is also a commitment to supporting the wider initiatives developed by the Greater Manchester Combined Authority (GMCA) and Greater Manchester Housing Providers (GMHP) to reduce and prevent homelessness.

Confirmation of lettings will be provided to the government through CORE which is the complete census of social housing lettings provided by local authorities and registered providers that own social housing stock.

5.0 TYPES OF TENANCIES

The Council offers a range of tenancy types, depending on the needs of customers seeking rehousing, the nature of the accommodation available and the ownership of the property being let. Different rights and terms apply to the various tenancy agreements that are offered. Further details on this are included in appendix one at the end of this policy statement.

New tenants will be provided with a copy of their tenancy agreement before they move into their new home to ensure they understand their rights and responsibilities. All tenants will be expected to adhere to these terms and conditions.

Where it is identified that a new or existing tenant is vulnerable, a full assessment will be carried out to ensure they receive the appropriate level of support to help them sustain their tenancy. This support will either be offered by Council staff or through referral to other agencies.

The Council will intervene as soon as it becomes aware of any tenancy breaches and try to resolve the matter informally. If this is not possible, legal action will be taken, including possession proceedings where necessary. The tenant will be advised in writing of the Council's decision together with the reasons for doing so.

Any legal costs associated with the action taken will be recovered from the tenant. Where legal action is taken which results in mandatory possession action, the tenant will have the option to appeal the decision.

Details on how they can do this will be given to the tenant at the time the decision is made.

Eviction remains the action of last resort and will only be used in exceptional circumstances.

Requests for tenancy changes will be dealt with fairly and consistently and in accordance with this policy. Complaints about tenancy issues or other aspects of the service will be considered in line with the Complaints Procedure. This does not include decisions regarding legal proceedings, which are covered under relevant Court protocols.

6.0 SOLE AND JOINT TENANCIES

Upon sign up of a new tenancy, either a joint tenancy or a sole tenancy will be created depending on the information that is provided on the rehousing application form. Where a joint application is made for rehousing, the tenancy is likely to be a joint tenancy. Conversely, applications for housing from a single person will likely be sole tenancies.

Joint tenants have equal rights to live in the home, and they are ‘jointly and severally liable’ for meeting all the responsibilities set out in their tenancy agreement.

7.0 NOTICE PERIOD

Tenants are required to give at least four weeks’ notice in writing of their intention to end their tenancy. A shorter notice period may be accepted in specific circumstances, such as when a tenant dies.

The notice period will only commence after the termination notice is received, which always begins on the following Monday. Rent will be charged for the full notice period.

Tenants wishing to end a joint tenancy without the agreement of the other joint tenant should seek advice before doing so. This is because the tenancy will end and neither joint tenant will have the legal right to continue to occupy the property. In such circumstances, it will be decided whether it is appropriate to grant a new sole tenancy to the remaining joint tenant.

8.0 SUCCESSION

Succession will be granted in accordance with statutory requirements, the Council’s Allocation Policy and the terms set out in the relevant tenancy agreement.

In certain circumstances, succession rights may be extended to family members other than the deceased tenant’s spouse or civil partner. The person applying will need to prove that they have lived with the deceased for twelve months prior to their death and provide evidence to support their occupancy when claiming succession.

The right of succession is linked to the tenancy and not the property. In circumstances where the property does not meet or exceeds the housing needs of the person taking over the tenancy, the Council reserves the right to offer them suitable alternative accommodation.

Only one right of succession is allowed for each tenancy.

9.0 ASSIGNMENTS

An assignment is the legal transfer of a tenancy from one person to another during the lifetime of the tenancy.

An assignment does not create a new tenancy. Instead, the existing tenancy continues and is transferred to another person, who takes on all rights and responsibilities under that tenancy.

Assignments may take place in the following circumstances:

- To a potential successor, where the individual would qualify to succeed the tenancy in the event of the tenant's death, and no previous succession or assignment has taken place. The assignment must occur before the tenant permanently leaves the property.
- Following a Court Order, such as those arising from matrimonial, civil partnership, or Children Act proceedings.
- Through a mutual exchange with another social housing tenant, where tenancy conditions allow.

Assignments may include transfers from joint to sole tenancy, sole to joint tenancy, or sole to sole tenancy, depending on individual circumstances.

10.0 MUTUAL EXCHANGES

Bury Council supports tenant mobility through mutual exchange, enabling tenants to move within Council housing stock and to that of other Registered Providers (RPs) or Local Authorities. This provides greater choice of accommodation and location, particularly where a tenant's current home no longer meets their needs.

Tenants who hold a secure tenancy may be eligible to carry out a mutual exchange, where this right is set out in their tenancy agreement. This does not normally apply to introductory, starter, or fixed-term tenants unless their agreement specifically provides this right, nor to leaseholders or shared owners.

Tenants must obtain written consent from Bury Council before proceeding with a mutual exchange. The Council will not unreasonably withhold consent and will assess each application in line with tenancy conditions and relevant legislation.

- Prior to approval, the Council may:
- Inspect the property
- Carry out relevant checks, including health and safety assessments
- Ensure the accommodation is suitable for the incoming household

Mutual exchanges will be completed in accordance with legislative requirements. This may include:

- Assignment of tenancy; or
- Surrender and regrant of a tenancy, where required by the Localism Act 2011

The Council may refuse a mutual exchange where legal grounds apply, including those set out in Schedule 3 of the Housing Act 1985 or Schedule 14 of the Localism Act 2011.

Tenants must not proceed with a mutual exchange without prior written consent. Unauthorised exchanges will be treated as a breach of tenancy, and action may be taken in line with tenancy enforcement procedures.

Where a mutual exchange is agreed but not completed as planned, tenants may be required to return to their original property. Failure to do so may result in further action.

The Council will aim to provide a decision on a completed mutual exchange application within 42 days.

Tenants are encouraged to use national home exchange services, such as HomeSwapper, to support finding suitable exchange partners.

11.0 POLICY EXCEPTIONS

In exceptional circumstances, consideration may be given to variations to this policy where the law allows. The variation will depend upon the individual situation, any exceptional circumstances, evidence available and after following due and diligent process. The decision and reasons for the decision will be recorded.

12.0 PREVENTING FRAUD

The Council is committed to tackling fraud and will exchange information with other agencies as part of the National Fraud Initiative.

Action will be taken including possession proceedings against tenants who fail to provide relevant information, hide material facts, or give false details when they applied for housing, when granted a tenancy or to seek to assign their tenancy or make other changes to it.

13.0 REVIEW

This policy will be reviewed every three years unless there are changes to legislation, regulation, best practice, or a business need. This policy will also be reviewed in line with any subsequent reviews of the tenancy strategies of the local authority.

APPENDIX 1

Tenancy Types

The Council offers the following types of tenancies:

Introductory tenancies

Introductory tenancies will be granted to all new tenants moving into a property owned by Bury Council. These tenancies are sometimes referred to as ‘probationary tenancies.’

An introductory tenancy is a weekly tenancy which lasts for a probationary period of one year unless extended. Introductory tenancies can be extended by 6 months if the tenancy conditions are broken, following the serving of a ‘notice of extension.’ The Tenant has a right to request a review of this decision.

Introductory tenants do not have the same rights as secure tenants.

Introductory tenancies will be reviewed on a regular basis to ensure that tenancy conditions are being adhered to.

At the end of the introductory period, the tenancy automatically becomes a secure tenancy unless possession proceedings have begun.

Introductory tenancies are let on social rents, although there are a small number of properties that are let on affordable rents.

Secure tenancies

Secure tenancies are granted to existing secure and assured tenants moving from a registered provider property into a council owned property. Introductory tenants who have successfully completed their 12-month probationary period will automatically transfer into secure tenancies unless possession proceedings have begun.

The tenancy is granted for life if the conditions of the tenancy agreement are met. A Court Order can only end the tenancy.

Secure tenancies are let on social rents, although there are a small number of properties that are let on affordable rents.

Mesne (Mesne profit)

This agreement is used where a tenancy has ended, and full possession of the property has not been obtained. Examples include circumstances where people still occupying the property are not the Council’s tenants and legal action is being taken to regain possession.

A mesne profit agreement is sometimes known as ‘use & occupation’ and remains in place until possession it gained. It is not a tenancy agreement, and the weekly charge is not considered a ‘rent’ charge.

There are no review date and no extension option.

The ‘use and occupation’ charge will match what the former rent had been on a weekly/daily basis.

Decant Licence.

This agreement will be used where a resident is unable to occupy their home for a period, and they need to live in an alternative home. This may be for safety, major repairs, or other reasons.

The ‘substantive tenancy’ remains in place, has greater benefits, and will be the one which would be used to take any tenancy action, for example for non-payment of rent. Rent will still be due on the substantive tenancy.

Furnished tenancies

In certain circumstances, furnished tenancies may be offered to Council tenants.

Tenants included in the furnished tenancy scheme are charged the standard (unfurnished) rent for their home, plus an additional furniture charge. The furniture charge varies according to the dwelling size and covers the cost, repairs, and renewals of furnishings over a 5-year period.

APPROVAL AND REVIEW

Document owner: Kimberley Partridge	**Kimberley Partridge Head of Housing and Neighbourhoods**
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