



Arawak Walton Housing Association

Tenancy Management Policy

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1. Successions

1.1. Background

1.1.1. This section of the policy applies to all tenants of Arawak Walton Housing Association (AWHA).

1.1.2. Succession occurs when a sole tenant dies and an eligible partner or qualifying member their family takes over the tenancy, or when a joint tenant dies and the surviving partner succeeds to the tenancy, known at law as 'survivorship'.

1.1.3. Secure and assured tenants have different statutory and contractual succession rights.

1.1.4. It is our policy to grant only a single succession unless exceptional circumstances or non-standard tenancy agreement terms apply.

1.1.5. AWHA aims to provide a fair and efficient service when processing requests for successions by:

- dealing sensitively with individuals at a time of grief and loss
- meeting our statutory and contractual obligations
- making the most efficient use of available housing stock

1.1.6. AWHA undertakes to treat all tenants equally and within the requirements of the Equality Act 2010 to consider their partnership status fairly.

1.1.7. AWHA may in exceptional circumstances grant a new tenancy to someone who was living with the tenant at the time of their death where we are not required to by law or by the tenancy agreement.

1.1.8. If a property has been made more accessible for an individual still living in the property, it may be necessary when it may not normally be so, to allow the individual to remain a tenant.

1.1.9. If a property has been adapted for a specific need this may change the decision about the best use of the stock.

1.1.10. Any decision to grant a new tenancy to somebody who does not otherwise have a succession right shall be made at the sole discretion of the Association and must have the prior written approval of the Housing Services Manager or Communal Services Manager and the Operations Director.

1.2. Legal

1.2.1. The Association will follow the statutory regime for successions as set out in the Housing Act legislation and as amended by the Localism Act 2011.

1.3. Making best use of our stock

1.3.1. In some circumstances we may oppose the succession of a tenancy to make best use of our stock and in such cases, we will make a reasonable offer of alternative accommodation, taking into consideration the needs of the person in terms of location and suitability of property.

1.3.2. Where the successor is unwilling to agree to a move voluntarily, we may seek to enforce a move through the courts.

1.4. Service Standards

1.4.1. Tenants can expect that all requests for succession will be dealt with as sensitively and compassionately as possible, with appropriate advice and information provided by our staff to ensure that there is a smooth tenancy transition.

1.5. Monitoring

1.5.1. We record all applications for succession and note the reasons for refusal or approval on the database. This applies to discretionary successions as well.

1.5.2. We monitor our performance, including diversity monitoring against our tenant service standards.

2. Mutual Exchange & Assignment

2.1. Background

- 2.1.1. AWHHA tenants can swap their homes with one another by way of a Mutual Exchange.
- 2.1.2. A Mutual Exchange occurs when two or more tenants agree to exchange property with the approval of AWHHA and any other registered provider or local authority involved.
- 2.1.3. AWHHA recognises that for many tenants Mutual Exchange represents the only way to satisfy their housing need, given the increasing pressure on housing lists for social housing in all sectors. AWHHA will provide this facility to its tenants.
- 2.1.4. For this reason, we encourage any tenant wanting to move to other housing, but who does not have a high priority on the transfer list to try to mutually exchange with another tenant, subject to certain conditions and qualifications.
- 2.1.5. AWHHA also subscribes to the Homeswapper service and promotes its use by its tenants.
- 2.1.6. Consent to a mutual exchange may be refused or given with conditions if an AWHHA tenant wishing to mutually exchange is in arrears of rent. In such cases, authorisation to proceed with a mutual will require the prior written permission of the Housing Services Manager or Communal Services Manager, and it may be necessary for a payment plan to be put in place.
- 2.1.7. Exchanges may not be permitted if a property has been adapted for a tenant or a member of the family for disability needs.
- 2.1.8. Another way for people to change the tenant of the property is by assigning it to them. AWHHA allows tenants to assign their tenancy to another person if the tenant or the other person obtains a court order requiring that we do so, for example in the case of a relationship breakdown where the tenant no longer occupies the property, but the family remains.
- 2.1.9. Assignment also describes the process through which a partner is added as a joint tenant, for which a court order is not required.

2.2. Legal

- 2.2.1. AWHHA will operate in line with current regulation and consider all applications to assign a tenancy by way of mutual exchange in accordance with Schedule 3 of the Housing Act 1985, and having regard to Schedule 15 of the Housing Act 1988 and all other relevant legislation.

3. Abandonment & Surrender

3.1. Background

3.1.1. AWWHA's objective is to bring properties back into use as quickly as possible whilst minimising the risk of any unlawful eviction under the Protection from Eviction Act 1977.

3.2. Legal

3.2.1. An assured or secure tenancy can only be legally terminated by one of the following:

- A Court Order
- A valid Notice to Quit (NTQ)
- A legal Surrender

3.2.2. A tenant's security of tenure may be put at risk if they fail to occupy the property as their only or principal home. However, case law confirms that we must be sure that despite the tenant's absence from the property, they do not have the intention to return, and that this intention is "enduring" (Hammersmith & Fulham v Clarke C. of A. 2000). Ultimate judgement on whether a tenant has an 'enduring' intention to return will be made at Manager or Director level.

3.2.3. Surrender by operation of Law

3.2.4. This can occur if the tenant - or either tenant in the case of a joint tenancy - performs some unequivocal act of Surrender, such as returning the keys or serving a valid NTQ.

4. Tenancy Type

4.1. Background

- 4.1.1. AWhA aim to offer new tenants the most secure and long-term tenancy available whilst ensuring the most appropriate and efficient use of the property (for example when it is known from the outset that the tenant will require the property for a short period).
- 4.1.2. Where it is a specific condition of grant funding, a tenancy will be granted that has a fixed term.

4.2. Tenancy Agreements

- 4.2.1. All new tenancies granted by AWhA (with the exceptions below) will be 12 month assured shorthold tenancies that upon successful completion of the 12 months of the tenancy will revert to a Assured Periodic tenancy with no fixed period.
- 4.2.2. Where funding has been secured which requires a fixed term tenancy to be used, the tenancy will be an Assured Tenancy fixed for a term of 5 years (inclusive of the 12-month introductory period).
- 4.2.3. The tenancy will be granted on the basis of the household's needs and 6 months prior to the end of the fixed term the Housing Officer will audit the tenancy to ascertain whether these needs have changed.
- 4.2.4. If the tenant/s would still qualify for the house as per the AWhA's Allocations & Lettings Policy, they will be issued with a further Assured Tenancy fixed for 5 years.
- 4.2.5. If the tenant/s would no longer qualify for the property as per the Allocations Lettings policy the tenancy will not be renewed.
- 4.2.6. Where an existing tenant/s transfer or mutually exchange their property, they will be granted a tenancy no less secure than the one they presently enjoy.

4.3. Joint Tenancies

- 4.3.1. Where the application for accommodation includes more than one adult it is AWhA's policy to offer a joint tenancy. For example, to couples (married or in a Civil Partnership or as cohabiting partners) parents and children, siblings and flat sharers. This applies from tenancy inception only; retrospective additions to a tenancy are limited to partners (see 'Assignment').
- 4.3.2. Where both parties want the tenancy created in one name only, the excluded party will be advised of their loss of rights.

4.4. Regulation

4.4.1. Section 2 of the Regulator of Social Housing's Tenancy Standard requires all registered providers to "publish clear and accessible policies which outline their approach to tenancy management".

4.4.2. In addition, there is a requirement to include a position with regards to fixed term tenancies and the management of fixed term tenancies.

4.4.3. Related Policies: Allocations and Lettings Policy

5. Tenancy Fraud

5.1. Background

5.1.1. Social housing is a valuable national asset that provides security and stability to people in housing need. Tenants who benefit from social housing have an obligation to act within the terms of their tenancy agreements and will be subject to severe penalties should they commit fraud. AWhA has a duty to make best use of public resources and ensure its housing stock is properly managed. As an organisation, we are committed to tackling tenancy fraud.

5.1.2. Definitions

5.1.3. AWhA define tenancy fraud as:

- Unauthorised Subletting
- Non-occupation
- Key Selling
- Fraudulently Obtaining Social Housing
- Wrongly Claimed Succession
- Unauthorised Exchange and Assignment

5.2. Regulation

5.2.1. The Regulator of Social Housing's Regulatory Framework for Social Housing, April 2015, states;

“Registered providers shall publish clear and accessible policies which outline their approach to tenancy management, including interventions to sustain tenancies and prevent unnecessary evictions, and tackling tenancy fraud.”

5.3. Partnership

5.3.1. Our objectives have been developed to complement those of Manchester City Council's Housing Benefit Department and Manchester Move, the city-wide housing allocations system. We will work with local Councils and the Strategic Housing Providers Forum to achieve a key strategic objective of tackling benefit fraud and meeting genuine housing need.

5.4. Awareness

5.4.1. We recognise that a raised awareness of tenancy fraud amongst colleagues and tenants is important in the overall strategy to prevent and tackle fraud.

5.4.2. We will raise awareness of our proactive tenancy audit approach amongst existing tenants, the newsletter and via other publicity opportunities. New

tenants will receive advice on reporting and not committing tenancy fraud as part of their Starter Tenancy visits within the first year.

5.5. Service Standards

5.5.1. The Housing Services Team will carry out an audit of our homes targeted to those tenancies which have higher risk.

5.5.2. All AWhA employees, whatever their main departmental function, who undertake home visits, have a duty to report suspected tenancy fraud.

5.5.3. Tenant's passports (or other photographic ID where a passport cannot be provided) will be copied and held on file.

5.5.4. Starter tenancies will receive visits within the first year in accordance with this Policy. These visits will be used to verify the tenancy and obviate the need for other tenancy audit visits within the first year of tenancy.

5.6. Tenancy Fraud Detection

5.6.1. We will respond to reports of tenancy fraud in a timely and effective manner. We will treat each report of tenancy fraud seriously and where appropriate provide feedback to the originator of the report. We will take effective action to seek to recover possession of properties that have been misused through the civil court, and address perpetrators of tenancy fraud in accordance with the legal remedies available.

5.7. Partnership and Data Sharing

5.7.1. There may be occasions when it is necessary to share tenants' information between the partners of the Manchester Strategic Housing Providers Forum. AWhA's Officers will ensure that any data sharing takes place within the legal restrictions of General Data Protection Regulation 2018. Permission to share data will be authorised by the Housing Services Manager or Communal Services Manager, or in their absence the Operations Director.

5.8. Linked Policies: Fraud Management Policy

6. Decants

6.1. Background

6.1.1. As part of AWWHA's commitment, it is important that we maintain our properties to meet legal requirements, to assist in sustaining communities and for good tenant service. In certain circumstances this may require the decanting of the tenant into temporary accommodation whilst the work is on-going.

6.1.2. This Policy aims to ensure our legal obligations in relation to the tenancy agreement and health & safety are met.

6.2. Key Objectives

- To ensure that work is carried out promptly and efficiently
- To minimise disruption to the tenant
- To ensure the tenant is properly compensated for any losses
- To minimise the length of the decant period
- To minimise the risk of claims against AWWHA
- To ensure the tenant is full informed and supported
- To ensure the tenant is treated fairly and with reasonable adjustment where appropriate

6.3. Definitions

6.3.1. The definition of decant is to rehouse tenants while their homes are being rebuilt, refurbished, or undergoing remedial work.

6.3.2. Factors which determine whether a decant is required will include:

- The nature of the works
- The likely period of disruption
- The individual needs of the tenant
- Health & Safety
- Equality, Diversity, and Inclusion considerations

6.4. Service Standards

6.4.1. One of the most important things to remember during the decant process, is good and accessible communication and clear information for the tenants affected by the works. This may require translation or interpretation assistance or support from a professional support agency.

6.5. Linked Policies: Repairs & Maintenance Policy

7. Publicity

7.1. AWHHA publicises the Tenancy Management Policy to tenants and staff in a number of ways:

- Tenant Handbook
- Tenant Newsletter
- Policy Briefings and Training

8. Equality, Diversity & Inclusion

- 8.1. AWHHA is committed to equality, diversity and inclusion and will not unlawfully discriminate. We will recognise and consider tenant's protected characteristics of the Equality Act 2010 including: Race, Sex, Gender Reassignment, Disability, Sexual Orientation, Religion or Belief, Age, Marriage and Civil Partnership and Pregnancy and Maternity Explicitly.
- 8.2. As part of this undertaking, we give equal standing to tenants who are married, civil partners, or gay, lesbian, or heterosexual common-law partners, except where this approach is overridden by the law.
- 8.3. We will be sensitive to individual diverse needs and will tailor our services and approach accordingly.
- 8.4. AWHHA will take note in particular, where a tenant may have learning disabilities or mental health issues or vulnerabilities which may make them susceptible to coercion and intimidation regarding the status of their tenancy.
- 8.5. All tenants will have access to this document upon request.
- 8.6. This document can be translated or provided upon request in alternative formats including plain language, Braille, large print and audio where resources allow.
- 8.7. Equality, diversity and inclusion training is mandatory for all staff.
- 8.8. Linked Policies: Equality & Diversity Policy, Equality, Diversity & Inclusion Strategy