

Starter Tenancy

Policy

1. Purpose and scope

It is the Papworth Trust vision that disabled people are seen for who they are. The Trust recognises that a suitable and affordable home is a key factor in our customers achieving independence and in order to provide equality and choice to our customers there must be a robust policy for ensuring that new tenancies are managed appropriately to assist in the development of sustainable communities that our customers and other residents wish to live.

This policy sets out how this will be achieved through the Trust's starter tenancy scheme.

The starter tenancy policy will apply to all new tenants within general needs and independent living accommodation.

This policy will not apply to Tenants in supported or specialised supported housing or any accommodation where a person's occupation is time-limited, e.g. transition schemes.

Furthermore the scheme will not apply to the following:

- Papworth Trust tenants that already hold an assured or secure tenancy;
- Any letting in properties that are being considered for disposal.
- Shared ownership or leasehold accommodation.

2. Aims

This policy aims to:

- To enable Papworth Trust to deal effectively with tenancy breaches
- To enable Papworth Trust to intervene at the earliest opportunity in the event of a tenancy breach
- To promote tenancy sustainment and reduce failing tenancies by ensuring that tenants are encouraged to develop the right skills to enable them to sustain a tenancy

- To enable the Papworth Trust to fulfil its obligations to tenants adversely affected by the behaviour of other tenants.

3. Starter Tenancies

A Starter tenancy is effectively an assured shorthold tenancy for a period of 12 months. This is the probationary period and begins at the start of the tenancy and normally ends on the anniversary of that date unless action has been commenced to either end the tenancy or extend the probationary period.

Starter tenancies are not assured (there is an explicit end date) and therefore the courts do not have discretion on whether or not to grant possession when using the accelerated possession procedure. When the probationary period comes to an end, the tenancy will automatically convert to the appropriate longer term tenancy, unless:

- a) Proceedings for possession have been begun against the tenant; or
- b) Papworth Trust has served a notice under Section 21(1) and (4) of the Housing Act 1988 (as amended) that the landlord requires possession, in which case the tenancy will continue as a starter tenancy until:
 - i) two months from the expiry of the notice (if no proceedings are issued within that time);
 - ii) the day after any proceedings are determined (if no possession order is made); or
 - iii) the tenancy is ended by a court order for possession;
- c) The probationary period is extended by service of a notice of extension.

A starter tenancy will generally convert to a fixed term assured shorthold tenancy, however in certain circumstances a starter tenancy may convert to an assured tenancy. The tenancy being granted upon successful completion of the probationary period will be stated on the tenancy agreement

Starter tenants will require additional information setting out the specific rights and responsibilities of starter tenants

This is an opportunity to set out clearly the terms and conditions of the tenancy, including rental charges and responsibilities of payment and the behaviour expected of a tenant

Tenants will be issued with a combined tenancy agreement, to avoid the need to issue a new agreement at the end of the probationary period, in the form of:

- A six-year fixed term assured shorthold tenancy, with an inclusive 12 month probationary period; or
- A starter tenancy with a 12 month probationary period that can convert to a full assured tenancy

4. Rights of Starter Tenants

The rights provided by a starter tenancy are similar but not the same and to a lesser degree than assured or fixed term assured shorthold tenancies.

Starter tenants will be eligible to apply for a management transfer in accordance with the Papworth Trust lettings policy. If a transfer occurs within the probationary period, the time spent in the first property will count towards the fulfilment of the 12 month probationary period in the second property.

Starter tenants have no right to a mutual exchange with a tenant with another social housing provider.

Starter tenants have no statutory right to make tenant alterations or improvements.

5. Review of Starter Tenancies

During the probationary period it will be necessary to review the tenancy to determine whether it is appropriate to allow the tenancy to convert to a longer term.

Tenants will be expected to engage fully in the review and it is a condition of their starter tenancy to do so.

Any recommendation to end the tenancy by notice must include a detailed report for consideration. The report will detail the issues that have led to the recommendation and all the actions taken to resolve or to attempt to resolve the particular problem(s).

Any recommendation to extend a probationary period or commence action to end the tenancy by notice must include a report for consideration. The report will detail the issues that have led to the recommendation and all the actions taken to resolve or to attempt to resolve the particular problem(s).

Each case will be considered individually

Approval of an extension to the probationary period will only be granted where:

- There is evidence of a breach of tenancy but the issue may not be serious enough to warrant possession action and more time is needed to enable the tenant to resolve the issue or for further investigation to take place, or
- Allegations or suspicions of breach of tenancy are held against the tenant, which are unconfirmed, and more time is needed to fully investigate the allegations or suspicions of breach of tenancy

Approval of the service of notice to commence action for possession will only be granted where:

- All appropriate steps have been taken to give the tenant reasonable opportunity to resolve the issue(s) and the issue(s) remain
- A proportionality assessment has indicated it is a legitimate and proportionate course of action to take and consideration has been given to s15 Equality Act 2010

Circumstances where Papworth Trust may commence action for possession may include but will not be restricted to:

- non-payment of rent
- serious anti-social behaviour
- poor condition of the property or repeated refused access to the property;
- The tenant no longer requires the accommodation or their needs would be better suited to a different type of housing or tenancy (e.g. due to care and support needs);
- Tenancy fraud has been identified
- The tenant has not engaged in the review process;
- The tenant or a member of their household has come into legal ownership of another residential property or Papworth Trust has become aware that the tenant owns another property

Where action is being taken in respect of rent arrears only, consideration needs to be given if it is appropriate to follow the accelerated possession procedure as rent arrears are not recoverable via this route.

To commence action to end a starter tenancy because of breach of the terms, it is necessary for a notice under section 21(1) and (4) of the Housing Act 1988 (as amended) to be served on the tenant.

Starter tenancies will not terminate unless there is an order of the court ending the tenancy.

Following service of a notice, the tenant has the right to request a review the decision. Reviews will be heard in accordance with the review of decisions policy.

If a review is requested and this upholds the original decision, possession proceedings may commence upon expiry of the notice. If the tenant remains in the property after the expiry of the notice served under section 21(1) and (4), accelerated possession proceedings should be commenced with the courts within 7 days, which may include a court hearing.

In these circumstances, having satisfied itself that the notice and review procedures have been followed correctly, the court must grant possession. The only power available to the court, in exceptional cases, will be to postpone the date for giving up possession for up to 6 weeks.

The exception to the above is where the tenant raises a proportionality defence. In such cases, it will then be at the discretion of the Judge to determine whether the case can be dealt with summarily in consideration of a proportionality assessment, or whether further directions will be given as to the management of the case.

On the date on which the tenant is to give up possession under a court order the starter tenancy ends and the eviction can escalate.

6. Extending a Starter tenancy

The probationary period of a starter tenancy may be extended by up to 6 months if both of the following conditions are met in relation to the starter tenancy:

- a) A notice of extension is served on the tenant, where possible, at least 4 weeks before the original expiry date of the probation period
- b) Either the tenant has not requested a review of the decision to extend the trial period within 14 days beginning with the day on which the notice of extension is served or if they have, the decision of the review was to uphold the original decision to extend the probationary period.

A notice of extension is a notice stating that it has been determined that the period for which the tenancy is to be a starter tenancy should be extended by up to 6 months and must set out the reasons for this decision.

The tenant has a right to request a review of the decision to extend the probationary period. Any review will be heard in accordance with the review of decisions policy.

As far as possible, the review shall be carried out and the starter tenant notified before the original expiry date of the probation period

7. Security of Tenure

If the tenant (or at least one of them if dealing with joint tenants) is no longer living at the property as their only or principal home then they will have lost their security of tenure. In such circumstances it would be appropriate to serve a Notice to Quit.

8. Requirement to provide Prescribed Information

Under a starter tenancy, in accordance with The Assured Shorthold Tenancy Notices and Prescribed Requirements (England) Regulations 2015, Papworth Trust must provide the tenant with the information below:

Regulation 2 requires the tenant be provided with an energy performance certificate and a gas safety certificate before occupation.

9. Seeking possession other than by way of the Accelerated Possession Procedure

In appropriate circumstances possession of a starter tenancy can be sought on one or more of the grounds contained in Schedule 2 of the Housing Act 1988 (as amended).

A decision to seek possession in this way will be at the sole discretion of Papworth Trust.

10. Review

Any decision to serve a notice or extend a probationary period will be subject to review upon request.

All reviews will be undertaken in accordance with the Review of Decisions Policy.

11. Regulatory and Legal considerations

This policy complies with all statutory, regulatory and legal requirements, in particular:

- The Tenancy Standard in the RSHs Regulatory Framework
- Housing Act 1988 (as amended)
- The Localism Act 2011.
- The Assured Shorthold Tenancy Notices and Prescribed Requirements (England) Regulations 2015

12. Service Standards

The following service standards apply:

- A comprehensive and transparent tenancy review in the first year
- Advice and signposting to alternative housing options if applicable
- Review of a decision where requested

Document control

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13. Version tracker

Version number	Date	Comments/Reason for issue
1.0	20.09.2017	New policy
2.0	01.09.2020	Periodic review – formatting changes and removal of review process (separate policy)