Starter tenancy

Policy

1.0. Policy Statement and Scope

Papworth Trust is committed to developing sustainable communities and reducing failed tenancies. This policy sets out how this will be achieved through the implementation of a starter tenancy scheme.

The starter tenancy scheme will apply to all new tenants within general needs and independent living (supported) accommodation.

The starter tenancy scheme will not apply to tenants in supported or specialised supported housing or any accommodation which is time-limited, e.g. transition schemes.

2.0. Aims

The aims of the starter tenancy scheme are:

- a) To enable Papworth Trust to deal effectively with tenancy breaches
- b) To enable Papworth Trust to intervene at the earliest opportunity in the event of a tenancy breach
- c) To encourage tenancy sustainment and reduce failing tenancies
- d) To enable the Papworth Trust to fulfil its obligations to tenants adversely affected by the behaviour of other tenants.

3.0. Definition

3.1. A Starter tenancy is effectively an assured shorthold tenancy for a period of 12 months unless an action occurs that results in the tenancy either being extended or brought to an end. 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.

- 3.2. Starter tenancies are not assured 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 covert 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.
- 3.3. 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 starter tenancy agreement.

4.0. Starter Tenancy Agreement

- 4.1. Starter tenants will require additional information setting out the specific rights and responsibilities of starter tenants
- 4.2. 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

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

5.0. Rights of Starter Tenants

- 5.1. 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.
- 5.2. Starter tenants will be eligible to apply for a transfer in accordance with the Papworth Trust allocations 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.

6.0. Decision to Serve Notice on a Starter Tenancy

- 6.1. Any recommendation to extend a probationary period or commence action 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).
- 6.2. Each case will be considered individually
- 6.3. Approval of an extension to the probationary period will only be granted where:
 - a) 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
- 6.4. Approval of the service of notice to commence action for possession will only be granted where:
 - a) All appropriate steps have been taken to give the tenant reasonable opportunity to resolve the issue(s) and the issue(s) remain; or
 - b) the breach of tenancy is so serious so as to justify immediate action to terminate the tenancy
 - c) A proportionality assessment has indicated the it is a legitimate and proportionate course of action to take and consideration has been given to \$15 Equality Act 2010

7.0. Ending a Starter Tenancy

- 7.1. 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.
- 7.2. 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.
- 7.3. Starter tenancies will not terminate unless there is an order of the court ending the tenancy.
- 7.4. Following service of a notice, the tenant has the right to appeal to review the decision. Appeals will be judged on an individual basis in accordance with the appeals procedure at clause 8.
- 7.5. If the review upholds the original decision, possession proceedings may commence upon expiry of the notice.

- 7.6. In these circumstances the court, having satisfied itself that the notice and review procedures have been followed correctly, 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.
- 7.7. The exception to clause 7.6 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.
- 7.8. 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.

8.0. Reviewing a Decision to End a Starter Tenancy

- 8.1. A request for a review of the decision to seek an order for possession under a starter tenancy must be made in writing before the end of the period of 14 days, beginning with the day on which the notice under section 21(1) and (4) is served.
- 8.2. Upon a written request being duly made to it, the Papworth Trust shall review its decision.
- 8.3. Right to a hearing
 - 8.3.1. The review shall not be by way of oral hearing unless the tenant informs Papworth Trust that they wish to have such a hearing before the end of the time permitted at 8.1 above.
- 8.4. The review shall be carried out by a person who was not involved in the original decision to apply for an order for possession and who has had no prior involvement in the case.
- 8.5. The review shall be carried out by a person with greater seniority to the person who originally made the decision.

- 8.6. Review without a hearing
 - 8.6.1. The tenant may make representations in writing in connection with the review.
 - 8.6.2. The tenant will be advised as to a deadline for submitting representation, which will not be less than 7 days from the request for a review.
- 8.7. Review by way of a hearing
 - 8.7.1. If there is to be a review by way of oral hearing the tenant has the right to:
 - a) be heard and to be accompanied and may be represented by another person whether that person is professionally qualified or not, and for the purposes of the proceedings any representative shall have the rights and powers which the tenant has
 - b) call persons to give evidence
 - c) put questions to any person who gives evidence at the hearing; and
 - d) make representations in writing
 - 8.7.2. The tenant notice of the date/time and location of the hearing which shall not be less than 7 days after receipt of the request for a hearing. If the tenant has not been given such notice, the hearing may only proceed with the consent of the tenant or his representative.
 - 8.7.3. The landlord shall also provide the tenant with copies of all evidence (in chronological order) not less than 7 days after receipt of the request for a hearing. Any personal details of data subjects should be removed unless permission to disclose their details has been obtained. The tenant and the person carrying out the review should receive exactly the same documentation.

- 8.7.4. If any person shall fail to appear at the hearing, notice having been given to them in accordance with 8.7.2 above, the person conducting the review may, having regard to all the circumstances including any explanation offered for the absence, proceed with the hearing notwithstanding their absence, or give such directions with a view to the conduct of the further review as that person may think proper.
- 8.7.5. Any application to postpone a hearing may be granted at the discretion of Papworth Trust
- 8.7.6. A hearing may be adjourned by the person hearing the review at any time during the hearing on the application of the tenant, their representative, or at the discretion of the person hearing the review.
- 8.7.7. If a hearing is adjourned part-heard and after the adjournment the person or persons hearing the review differ from those at the first hearing, proceedings shall be by way of a complete rehearing of the case.
- 8.8. The starter tenant will be notified of the decision in writing within 14 days of the review hearing. If the decision of the review is to uphold the original decision, they will also be notified of the reasons for the decision.
- 8.9. As far as possible, the review shall be carried out and the starter tenant notified before the date specified in the notice of proceedings as the date after which possession proceedings may be commenced.

9.0. Expiry of Notice

9.1. 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 within 7 days.

10.0. Extending a Starter tenancy

- 10.1. 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 on the tenant, where possible, at least 8 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.
- 10.2. 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.
- 10.3. The tenant has a right to request a review of the decision to extend the probationary period.
- 10.4. A request to review this decision must be made writing within 14 days of the notice of extension being served on the starter tenant.
- 10.5. On a request being duly made, a review of the decision in accordance with the review procedure set out at section 8.0 above in relation to ending a starter tenancy.
- 10.6. As far as possible, the review shall be carried out and the starter tenant notified before the original expiry date of the probation period

11.0. Security of Tenure

11.1. 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.

12.0. Requirement to provide Prescribed Information

- 12.1. 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:
 - a) Regulation 2 requires the tenant be provided with an energy performance certificate and a gas safety certificate before occupation.
 - b) Regulation 3 requires the tenants be provided with a copy of the Department for Communities and Local Governments booklet entitled "How to Rent: the checklist for renting in England" which can be found by following this link https://www.gov.uk//government/publications/how-to-rent

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

- 13.1. 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).
- 13.2. A decision to seek possession in this way will be at the sole discretion of Papworth Trust.

14.0. Regulatory and Legal considerations

- 14.1. This policy complies with all statutory, regulatory and legal requirements, in particular:
 - The Tenancy Standard in the HCA's Regulatory Framework
 - Housing Act 1988 (as amended)
 - The Localism Act 2011.
 - The Assured Shorthold Tenancy Notices and Prescribed Requirements (England) Regulations 2015

15.0. Version tracker

Version number	Date	Comments/Reason for issue
1.0	Sept 2017	New policy

16.0. Document Control

Author Business Manager, Housing

Approvers Regional Operations Manager, Tenant Scrutiny Panel

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If you have any feedback or want to suggest corrections to this policy, please contact the Business Manager Housing on 01480 357200.

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