

Policy Name	Tenancy Management Policy
Version No.	1
Approval Date	8 January 2019
Category	Operational
Classification	Internal

<b>Tenancy Management Policy</b>	
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**Version Control**

Version	Date	Description	Updated By	Approved By
<i>V1</i>	<i>8 January 2019</i>	<i>Tenancy Management Policy</i>	<i>Richard Keeley</i>	<i>ELT</i>

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## 1. Policy Purpose & Aim

The ExtraCare Charitable Trust (ECCT) is committed to delivering our vision – ‘Better Lives for Older People’. Part of this commitment means giving people a long-term stake in their community, and having rights broadly equivalent with leaseholders in terms of security of tenure and exclusive possession. We wish to create communities that are, so far as possible, ‘tenure-blind’ to ensure that all residents have a stake in their community, and are not disadvantaged on the basis of their tenure status.

As a specialist provider of housing and care for older people, the ECCT is committed to ensuring we grant the most secure form of tenure possible to our residents, and – where we do not – the reasons for this are open and transparent, so that prospective tenants are able to make an informed choice and understand our approach to managing such agreements.

The aim of this policy is to make clear our approach to the types of tenancies we will grant; the circumstances in which we will grant a tenancy of a particular type; the circumstances in which we may grant a tenancy for less than five years (and associated appeals process); and our approach to granting succession rights. It also outlines our approach for preventing tenancy fraud, and how we ensure potential tenants have the right to rent.

## 2. Objectives

The objectives of this policy are to:

- Ensure consistency of approach across all ECCT premises;
- Ensure every member of staff and all residents understand ECCT’s approach to tenancy management
- Ensure that, unless there are specific exemptions due to arrangements with partner agencies or under a defined set of circumstances, ECCT grants the most secure form of tenure to residents renting from us
- Meet legislative and regulatory requirements

## 3. Scope of Policy

This policy applies across all ECCT owned locations, and impacts on tenants and prospective tenants. The policy also applies to locations where ECCT are the managing agent carrying out the landlord function. The policy does not apply to ECCT locations where the tenancies are managed by a partner landlord, although it is our expectation that the principles of the policy are adopted by the partner landlord.

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## 4. Responsibilities

### 4.1 Board of Trustees

The Board of Trustees of ECCT has overall governance responsibility for implementation of this policy and will ensure that adequate physical and financial resources are made available to enable ECCT to meet its obligations under this policy and associated procedures.

### 4.2 Operations Committee

The Operations Committee seeks assurance that ECCT activities at locations comply with all legislative and regulatory requirements and that risk in these areas is effectively managed. The Operations Committee shall;

- Keep under review regulatory activity and make recommendations as to any further areas for management action
- Keep under review all tenancy management arrangements and other applicable statutory requirements, and monitor policy and legislative compliance, and;
- Keep abreast of all new legislation that impacts on tenancy management and consider proposals for effective implementation.

### 4.3 Operations Directorate

The Executive Director of Operations (EDO) has strategic responsibility for tenancy management and will oversee the implementation of the Tenancy Management Policy and associated procedures. They will advise the Chief Executive of any failure in the management arrangements.

The Head of Compliance and Improvement (HOCl) is responsible for ensuring that the tenancy management arrangements at ECCT locations detailed in this policy are compliant with regulatory, legislative and best practice requirements. They will inform the EDO and the Operations Committee of any issues of non-compliance.

The Housing & Customer Engagement Manager has responsibility for ensuring compliance with this policy. They will be responsible for reviewing any cases that may require consideration of granting a non-assured tenancy. They will keep an up-to-date record of types of tenancies granted. They will handle any complaints regarding tenancies as per the ECCT Complaints Management Policy. They will inform the HOCl of any issues of non-compliance.

Housing Officers have the day-to-day responsibility to comply with the policy. They will escalate any cases that may require a non-assured tenancy to be granted to the Housing & Customer Engagement Manager for review. They will record all tenancies granted and share these with the Housing & Customer Engagement Manager.

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Staff in locations that facilitate viewings or are otherwise engaged in the sign up process must be aware of this policy and its implementation – specifically, location managers, administrators (within schemes) and housing assistants / housing services support staff.

## 5. Monitoring & Review

The success of the policy is in delivering the aim of ensuring tenancies are let on the most secure form of tenancy (except where there are specific exemptions).

The Housing & Customer Engagement Manager is responsible for ensuring that the appropriate tenancies are granted for the relevant location.

The Housing & Customer Engagement Manager is responsible for ensuring that any appeal in relation to ending of a tenancy is processed in accordance with this Policy.

This policy will be subject to a full review at least every 3 years.

## 6. Risk Management

All ECCT tenancy agreements are approved by the Housing & Customer Engagement Manager prior to issue. This ensures that the correct tenancy is issued and that the details contained within the tenancy is correct. This will reduce the risk of incorrect tenancy agreements being issued.

The Housing & Customer Engagement Manager also approves the service of any notice or other legal action in relation to ending a tenancy, and ensures that any ECCT tenant has the opportunity to appeal against such action. This policy sets the framework for this process.

## 7. Statement of Commitment

This policy helps ECCT to meet the regulatory requirement that Registered Providers have a published Tenancy Policy. There is an expectation that such a Tenancy Policy links to the wider Tenancy Strategy that each Local Authority is required to publish under the Localism Act, 2012. The Localism Act included a range of reforms that included introduction of fixed term tenancies. Under this Act, each Local Authority have a duty to say what types of tenancy agreements they expect housing providers to issue. In addition, the Localism Act made

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changes to local authority’s statutory duties around homelessness (which have subsequently been transferred to the Homelessness Reduction Act, 2017).

In addition it is a requirement of the Regulator of Social Housing (RSH) that all Registered Providers have a Tenancy Policy, under the Tenancy Standard:

*“Registered providers shall issue tenancies or terms of occupation which are compatible with the purpose of the accommodation, the needs of individual households, the sustainability of the community, and the efficient use of their housing stock.”*

### **Granting of Tenancy**

In each of the local authority areas we work, of the published Tenancy Strategies available, each strategy without exception creates an expectation that housing for older people will be let on Assured Tenancies, under the Housing Act 1996.

ECCT’s Tenancy Management Policy is to grant an Assured Tenancy to our tenants in all locations where we are the owner / manager. Therefore, we do not let on fixed term, probationary or other form of temporary tenancy in locations that we own and manage, with the following – very limited – exceptions:

1. We will consider granting an Assured Shorthold Tenancy in a situation where a potential purchaser of an ECCT leasehold property has an urgent need to move into the leasehold property, but is not able to purchase it immediately as they are awaiting the sale of their current home. In these circumstances ECCT will consider whether granting an Assured Shorthold Tenancy for a period of 6 months to allow the potential purchaser time to sell their existing property, offers a reasonable solution. After 6 months, if the sale of the ECCT leasehold property has not completed, ECCT reserve the right to consider ending the Assured Shorthold Tenancy, and the potential purchaser must be advised of this possibility from the outset.
2. In circumstances where we are may – through a referral arrangement with a local authority – be requested to house someone with significant identified risk factors, and it is agreed through the referral process by all relevant agencies that an ECCT owned location is appropriate – ECCT may grant a Probationary Tenancy if this is appropriate in order to manage the identified risk. Such circumstances would be considered to be very exceptional and would require the approval of the Executive Leadership Team.
3. In a case where a potential tenant has a limited right to remain due to their immigration status, or that status is pending a review by the Home Office, we will consider whether granting an Assured Shorthold tenancy would be appropriate, based on the individual circumstances. The decision to grant an Assured Shorthold Tenancy in this circumstance will require the approval of the Executive Leadership Team.

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In situations where we seek to bring to an end any form of ECCT temporary tenancy, we will ensure that the tenant affected has a formal right of appeal against such action. This may not result in the action ceasing, but the appeals process will ensure that all relevant information will be considered to assess whether such action is reasonable and proportionate. This appeal will be for the Housing & Customer Engagement Manager to consider, in conjunction with the Location Manager and Regional Operations Manager, and treated in line with our Complaints Management Policy.

In locations that ECCT do not own exclusively, and manage in partnership with partner landlords/other agencies, the tenancy or occupancy agreement may be subject to the particular management and/or funding arrangements with such partners. The expectation is that all agreements used by partner agencies will be Assured Tenancies. However, in the following specific circumstances, people moving in to an ECCT location will retain their existing rights granted with the partner agency:

1. At Bournville Gardens Village in Birmingham, existing secure tenants of the Bournville Village Trust who moving as a result of a transfer will retain their Secure Tenancy status
2. At The Wixams Village in Bedford, existing licensees of the Harpur Trust transferring will retain their licence status with the Harpur Trust

In locations where ExtraCare are the managing agent, the ending of any tenancy or other occupancy agreements are the responsibility of the partner landlord, and any appeals in this regard will be directed to the partner landlord or agency.

### **Mutual Exchanges**

We will process any request for a mutual exchange in accordance with current legal guidance. We will not refuse a mutual exchange on the basis that under-occupation may occur (we will allow a single person to exchange into a two-bedroom property, subject to being able to afford the larger property. We will refuse a mutual exchange if the incoming person does not meet the basic criteria of occupation (to be at least 55 years old). We will refuse a mutual exchange request if the incoming (our outgoing) tenant is in current arrears with rent or other charges, or has been served with a notice or injunction for a breach of tenancy conditions.

The incoming tenant will take on the existing ExtraCare Assured Tenancy by assignment of the original tenancy agreement.

We will not grant mutual exchanges to less secure forms of occupancy agreements (Assured Shorthold / Licence).

We will pay the registration fee for HomeSwapper for any ExtraCare tenant wishing to seek a mutual exchange.

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A request for a mutual exchange for a tenant of a Partner Landlord will be processed by the Partner Landlord, according to their policy.

### **Succession Rights**

We will only grant one right of succession. This would be to the partner of a deceased tenant who meets the basic eligibility criteria (be over 55 years of age) and who has lived in the property for 12 months or more (and can evidence this to be the case).

We will not grant rights to succession to people who do not fulfil this criteria.

Tenants of Partner Landlords will be covered by the Partner Landlord's policy on succession.

### **Adding / Removing Tenants**

We will treat any request from an existing tenant to add someone to their tenancy agreement in line with our Lettings Policy. This means we will assess whether the person meets our eligibility criteria, and we will carry out an assessment of their housing, care needs and ability to afford the property as a result of the potential change in circumstances.

We reserve the right to refuse adding a person to the tenancy agreement as per the criteria in the Lettings Policy.

We will require both / all tenants on the tenancy agreement to give their consent in writing for one person to be removed from the tenancy agreement. If this is not possible then the tenant(s) should seek legal advice from a solicitor.

If we agree to adding or removing someone from the tenancy agreement we will do this through a variation to the existing agreement, retaining the existing tenancy start date and original agreement. We will not grant a new tenancy in these circumstances.

### **Tenancy Fraud**

We will take also reasonable steps to ensure that we process applications for rental properties are who they say they are and are eligible to rent the property. We will check their passport, birth certificate or other relevant documentation to check their age. We will carry out affordability assessments to assess their income details and savings. We will carry out a face-to-face assessment to establish whether they have alternative accommodation that or other options to meet their housing needs.

If a tenancy is granted and we subsequently have evidence that fraudulent information has been provided, we reserve the right to take steps to re-possess the property.

If we suspect tenancy fraud by a tenant of a partner landlord, we shall refer this to the partner landlord for investigation and action.

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## Right to Rent

Where we receive a nomination or referral from the local authority for a rental property, we will assume that the local authority have carries out their statutory duty to ensure the person has a right to rent.

Where we process an application for a rental property from our own waiting list or through a direct application, we will follow the relevant Home Office Guidance:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/573057/6\\_1193\\_HO\\_NH\\_Right-to-Rent-Guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/573057/6_1193_HO_NH_Right-to-Rent-Guidance.pdf)

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## 8. Information and Training

The staff indicated as being the responsible staff (in section 4. Responsibilities – above) will be trained by the Housing & Customer Engagement Manager. All other staff will be made aware of the Policy.

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## 9. Other Relevant ECCT Policies & Documents

<b>General</b>	<ul style="list-style-type: none"> <li>• Lettings Policy</li> <li>• Complaints Policy</li> <li>• ExtraCare Assured Tenancy Agreement</li> <li>• ExtraCare Assured Shorthold Tenancy Agreement</li> </ul>
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## 10. Relevant Legislative & Regulatory Requirements

Legislation	Regulation	Guidance
Housing Act, 1996	Regulator of Social Housing – Consumer Standards; Tenancy Standard	Home Office – Right to Rent Document Checks: A User Guide (2016)
Localism Act, 2012		
Homelessness Reduction Act, 2017		