

Tenure policy – version 8.1

Date approved for use: 21st October 2020

Scope

- 1.1 This policy is a Dimensions policy only as it applies to Dimensions' tenancies and licences. For properties managed on behalf of other Landlords, their tenure policy will apply.
- 1.2 This policy covers the type of tenure to be used in all housing where Dimensions owns the property or has a lease.
- 1.3 All our employees should follow this policy. However, it is most relevant to Regional Housing Advisers, responsible for the issue of all occupancy agreements and tenancy packs, and managers in registered care homes.
- 1.4 This policy also sets out our approach to parts of our tenancy management service for the benefit of people we support, house, and other stakeholders.
- 1.5 To go straight to the policy content click on the linked section title below:

Section

<u>Forms of tenure</u>	Page 3
<u>Mental capacity and tenancies</u>	Page 5
<u>Sign up procedure in Dimensions homes</u>	Page 6
<u>When tenancies should be signed</u>	Page 6
<u>Other documents</u>	Page 6
<u>Training and guidance</u>	Page 7

Policy statement

- 2.1 Dimensions aims to give the most secure form of tenure possible. As with all Dimensions policies, our approach to tenure takes into account the needs of households who are vulnerable by reason of age, disability or illness through the provision of tenancies which provide the highest level of achievable stability.

- 2.2 Assured tenancies will be the main form of tenure used in permanent accommodation which is owned by Dimensions, except registered care homes. Assured tenancies can be used in both shared and one person services.
- 2.3 Assured shorthold tenancies should be used in all leased properties, properties on a company let from a private landlord or schemes with a fixed length of stay.
- 2.4 Assured shorthold tenancies can also be used for trial periods for new tenants with the agreement of the Housing & Contracts Manager. This should be explained on sign-up and reviewed after 3 months.
- 2.5 Licences should be used in registered care homes for new occupants. Current occupants may have different tenancies which are still valid.
- 2.6 New Era (a former housing association that now makes up part of the Dimensions Group) licences and tenancies are still valid but tenants should have a letter to explain the name change.
- 2.7 If Dimensions manages the property for another housing association, Regional Housing Advisers will contact them to obtain the agreement to be used.

The impact of not implementing this policy

- 3.1 If colleagues do not follow the guidance in this policy, they could issue the wrong agreement which could mean legal problems if someone needs to be asked to leave.
- 3.2 It could mean the tenant may not have their rights protected.
- 3.3 It may also get us in trouble with our regulators and others:
 - Local authorities or other commissioners
 - the Regulator of Social Housing (RSH)
 - the Information Commissioner's Office (ICO)
 - other registered providers if we provide housing management via a management agreement and their tenure policy is not used
 - freeholders if we lease the property.

Policy content

Forms of tenure

4.1 Assured Tenancy

This is the most secure form of tenancy agreement and will usually be given if the property is owned by Dimensions, or used on a very long lease so that the tenant can stay as long as they wish (as long as they keep to the rules in the agreement).

A room in a shared house with shared living room, kitchen and bathrooms can have an assured tenancy. Ownership of the property should be checked and understood before the tenancy is granted.

4.2 Assured Shorthold Tenancies.

This tenancy is for short stay or for fixed term (or fixed time) tenancies, like a lease from a private landlord. A six month tenancy will be given and, after the six months end, it will carry on as a 'periodic' tenancy, which means it carries on until it is ended. Assured shorthold tenancies can also be used when it is a rule of the lease or nominations agreement. A nominations agreement is an agreement between the landlord and the local authority as to how the property must be used.

The other use is for a six month trial to see if the housing and support is suitable. This will be reviewed after three months and then an assured tenancy will be issued after six months if everyone agrees. Dimensions does not use 'probationary' tenancies, contingent upon behaviour or compliance with the tenancy agreement, in its supported living homes.

Assured shorthold tenancies should be used for all leased properties and company let agreements.

Before a fixed term tenancy ends, Regional Housing Advisers will provide notice in writing to the tenant and their Support Worker stating either that they propose to grant another tenancy on the expiry of the existing fixed term or that they propose to end the tenancy.

4.3 Licences

Licences are used for new lettings in registered care homes.

Licences are used where there is a need to go in and out of peoples' rooms to provide care and support without the person agreeing, and where there may

be a need for people to change rooms. Good practice is to always ask to go in and respect the privacy of the person supported.

A former policy allowed tenancies in registered care homes, and these are still valid.

Licences cannot be used in supported living, except if the Head of Housing Services has agreed this in writing.

4.4 Equitable tenancies

These are for tenants who are 16 or 17 who need social services or a guardian to sign. When the tenant turns 18 they can sign the normal tenancy agreement. This is because in law an under 18 year old cannot have a tenancy.

4.5 Appeals and complaints

Tenants, or prospective tenants, may appeal against - or complain about - the length of a fixed term tenancy they have been offered or the type of tenancy they have been offered, and against a decision not to grant another tenancy on the expiry of the fixed term. Appeals and complaints may be made using the [Concerns, complaints and compliments policy](#).

4.6 Sustaining tenancies

Dimensions colleagues will make sure that the home continues to be occupied by the tenant they let the home to in accordance with the requirements of their tenancy agreement, for the duration of the tenancy. Support Workers and Regional Housing Advisers will take all necessary steps in their respective roles to support tenants to sustain their tenancy and prevent unnecessary evictions (see [Eviction policy](#)).

4.7 Tenancies following temporary moves or 'decants'

Dimensions will grant tenants who have moved into alternative accommodation during any redevelopment or other works a tenancy with no less security of tenure on their return to settled accommodation.

4.8 Joint tenancies, succession and assignment

All Dimensions' tenanted accommodation is supported living and so assignment of a tenancy to another will not be permitted.

Applications for joint tenancies will be considered for married couples, civil partners and partners (including same-sex partners) but it is acknowledged that these will be uncommon.

In the rare event that a joint tenancy exists and one of the tenants dies, succession will not automatically apply as the accommodation is designated as supported living. If the accommodation is not suitable for, or cannot be allocated to, the surviving tenant, advice and guidance – which will include assistance to find alternative accommodation with appropriate security of tenure – will be given.

Mental capacity and tenancies

- 5.1 The Mental Capacity Act code of practice 2005 says capacity should not make any difference to the type of tenancy offered, even if the tenant cannot understand everything about it.
- 5.2 If there is already a court of protection deputy or someone else who can legally sign the tenancy, then they can sign instead of the tenant. Family members, advocates, or benefit/finance appointees cannot sign a tenancy.
- 5.3 If there is no legal appointee and the tenant does not have the capacity to sign and understand a tenancy, then a best interests meeting should be held. This meeting will decide if the best choice is for them to move in and record who will apply to the court of protection to sign the tenancy.
- 5.4 If applying to a court of protection would mean long delays in moving in, the tenancy can be signed by Dimensions, but the tenant signature left blank. Keep a note that the application has been made and a copy of the best interests meeting with the tenancy.
- 5.5 Before 2016 Dimensions allowed tenancies unsigned by the tenant; these may stay like that but please contact your housing advisor if you need further information, and remember that people's mental capacity can change over time.
- 5.6 Even if the tenant is not signing the agreement, the tenancy should still be explained as much as possible, using the pictorial tenancy or by watching the visual tenancy on YouTube.
- 5.7 Links for visual tenancies are:
 - for [shared assured tenancy](#)
 - for [self-contained assured shorthold tenancy](#)
 - for [private rented assured shorthold tenancy](#).

5.8 Ask your regional housing advisor if you need a pictorial tenancy.

Sign up procedure in Dimensions homes

- 6.1 In Dimensions Supported Living homes, the Regional Housing Adviser will explain and sign the tenancy agreement with the tenant or their appointee before they move in.
- 6.2 In Dimensions' Registered Care Homes the Locality Manager or Team Leader will sign up a licence with the person supported or their Appointee. The Housing and Contracts manager will provide the licence agreement and any sign up pack.
- 6.3 The Regional Housing Adviser (responsible for sign-up) will add the current rent and service charge to the agreement. Any changes in the charges will be sent in a letter usually in April. No other changes can be made to the tenancy without consultation with the tenant or appointee.
- 6.4 The furniture appendix will also be filled in with the tenant or appointee and signed by them. The furniture appendix shows what is provided and what belongs to the tenant.
- 6.5 In self-contained flats (for one person) and all Assured Shorthold Tenancies, a copy of the Gas Safety certificate and Energy Performance Certificate will be attached to the tenancy or licence agreement. The tenant or appointee should sign to say they have received them.
- 6.6 Two copies of the agreement must be signed and dated, with the move in date on page one. Tenancies normally start on a Monday. The tenant will keep one copy and the other in the house or office. A scanned copy will be kept on housing shared drive.

When tenancies should be signed

- 7.1 Before the new tenant moves in the agreement will be explained to the tenant and anyone else they want to involve.
- 7.2 The agreement must be signed before the tenant moves in.

Other documents

- 8.1 A CORE form must be filled in for all new social housing lettings and returned to the Regional Housing Adviser, if they are not doing the sign up.

- 8.2 A privacy statement will be given with the tenancy and a pictorial version is available.

Training and guidance

- 9.1 If you need any advice contact your Regional Local Housing Advisor or Housing and Contracts Manager.

Relevant legislation, guidance & related policies & templates

Legislation

- 10.1 Housing Act 1996
- 10.2 Mental Capacity Act 2015
- 10.3 Regulator of Social Housing 'Tenancy' Standard

Guidance

- 11.1 NHF briefing on new tenure arrangements (National Housing Federation, June 2012)
- 11.2 CIH the practical implications of tenure reform (Chartered Institute of Housing, May 2012)
- 11.3 HM Courts and Tribunal service briefings on Application of Court of protection in relation to tenancy agreements (March 2012)
- 11.4 The Mental Capacity Act 2005 Code of Practice (Department of Constitutional Affairs, 2007)
- 11.5 Deprivation of liberty safeguards Code of Practice to supplement the main Mental Capacity Act Code of Practice (Ministry of Justice, 2008)

Group policies

- 12.1 Confidentiality
- 12.2 Data handling and protection
- 12.3 Acceptable use of technology
- 12.4 Mental capacity and DOLS
- 12.5 Policy development and consultation
- 12.6 Eviction
- 12.7 Anti-social behaviour and harassment

- 12.8 Rent and service charge setting
- 12.9 Rent arrears
- 12.10 Tenant involvement and empowerment

Related procedures, decision flowcharts, forms and so on

- 13.1 [appendix I - You and your house - easy read booklet](#)

Equality statement

- 14.1 This policy promotes equality, diversity and human rights by directing employees to:
 - help empower people we support to make decisions for themselves
 - respect those decisions whatever the person's race, age, gender, ethnicity, religion, disability, sexual orientation or whether or not they are married.
 - act only in a person's best interests when either making a decision on their behalf or being consulted by a decision-maker
 - take the least restrictive option when making that decision.
- 14.2 We promote equality, diversity and human rights by treating all people we support and employ equally and fairly whatever their:
 - age
 - disability
 - gender reassignment
 - marriage and civil partnership
 - pregnancy and maternity
 - race
 - religion or belief
 - sex
 - sexual orientation
- 14.3 The equality impact analysis (EIA) is in the intranet's Document library. You can link to it from here: [Tenure policy - version 8 – initial equality impact analysis](#).

Data protection statement

- 15.1 This policy involves handling personal data. So when you carry out any procedures this policy describes, you should also think about what our Data handling and protection policy says.
- 15.2 Our Data handling and protection policy is our promise to handle personal data correctly under the Data Protection Act 2018 and the General Data Protection Regulation (GDPR). It tells you how to keep that promise. It balances everyone's rights to data privacy with the work we do.

Review

- 15.1 We will review this policy three years from its original publication. But if changes in legislation, regulation or best practice mean we need to, we will review sooner.
- 15.2 If the changes are big, we will equality impact analyse (EIA) the policy again and send out to consultation in line with our policy development and consultation policy.
- 15.3 For smaller changes, we will update this same version. We will record this in the version control section below.

Glossary

- 16.1 Not all these words appear in this policy. But you may find other people use them when talking about tenancies.

Term	Definition
Assured Shorthold Tenancy (see Tenancy Agreement below)	This is an agreement used for housing for a fixed time or not permanent housing. This will be explained when you sign.
Assured Tenancy	This is the most secure form of agreement and lasts as long as you want if you keep to the rules in the tenancy.

Term	Definition
Court appointed deputy (sometimes shortened to deputy)	This is a person the court of protection appoints to act and make decisions on behalf of a person who lacks the capacity to make those decisions for themselves.
Court of Protection (CoP)	<p>This court specialises in mental capacity. Among other things, it:</p> <ul style="list-style-type: none"> ● can decide whether a person has capacity to make a particular decision for themselves ● appoints deputies ● decides whether a person can be deprived of their liberty under the mental capacity act.
CORE form	COntinuous REcording of Data. This is information collected by the Government on all new social lettings about the tenant and the property and rent. The information recorded is anonymous and does not have a name on it.
Licence agreement	This is a shorter agreement with less security for use in registered care homes. You can be asked to change rooms or be asked to leave without going to Court.
Mental capacity (sometimes shortened to capacity)	This is a person's ability to make a particular decision at a particular time.
Mental Capacity Act (MCA or the Act)	This is a legal framework designed to empower people to make decisions for themselves and to protect people who cannot because they lack the capacity. It puts the person at the centre of any decision-making process.
Mental capacity assessment	The process of making a judgement about a person's ability to make a particular decision.
Periodic tenancy	This means an agreement with no date to end. It carries on until ended by the tenant or the housing provider.
Regulator of Social Housing	This is the organisation that makes sure social housing providers meet the rules set by the government.

Term	Definition
Tenancy agreement	A tenancy tell you the rules and responsibilities for living in a rented room or house and what your rights are.

People & groups involved in writing & approving this policy

Policy owner:	Chris Woodhead, Group Director of Housing and Business Development
Policy author/reviewer:	Carolyn Greenhalgh, Head of Housing Management
People & groups consulted:	Diversity Matters; National Colleague Forum Policy Subgroup; Altair Ltd

Version control

Version number	Approved date:	Communication date:	Summary of minor changes
8	25th June 2019	9 th August 2019	
8.1	21 st October 2020	21 st October 2020	Minor format change to latest style. Update of regulators (ICO). Update of relevant policies. Update Owner/Author. Additions to Section 4 – ‘Forms of tenure’

Next review due: August 2022