

# Operational Policy



<b>Title: Tenancy Policy</b>
<b>Originator: Communities Director</b>
<b>Board Approved Date: ELT Approval Meeting June 2023</b>
<b>Date for Review: June 2026</b>

## 1. Introduction

This policy outlines the various forms of tenure which Magenta Living will offer to applicants for its available homes and the circumstances in which the different forms of occupancy agreement will apply. The policy attempts to strike a balance between the tenant interest in security of tenure and relaxed tenancy terms, the need for Magenta Living to ensure its financial security and protecting the interests of communities.

## 2. Statement of Intent

This policy is intended to ensure Magenta Living meets its statutory and regulatory obligations and delivers excellent services in line with the Magenta Transitional Plan and the 3 Cs of Culture, Customer and Communities. In short, Magenta Living's aim is to meet the needs of new and existing customers by utilising its housing stock in a way that results in the right person being in the right property using the relevant occupancy agreement.

Magenta Living will:

- Ensure that access to its homes is controlled in a transparent way, fair and based on an assessment of an applicant's housing requirements.
- Provide support and assistance in difficult situations which may arise when a household's circumstances mean that they will be unable to sustain a tenancy, for example, due to the implementation of Government policy or change in personal circumstances which may also impact on their financial circumstances

- Provide appropriate tenure types for more innovative housing schemes intended to address the housing needs of particular groups within the broader community to improve the organisation's income
- Ensure that occupancy agreements granting rights and responsibilities to tenants and residents provide the facility to protect the reasonable interests of neighbourhoods and communities so that they remain pleasant and popular places to live
- Effectively assess and monitor the ability of its tenants and residents to pay their rent and sustain their tenancy.

### **3. Policy**

Magenta Living's approach to effectively managing tenancies is intended to provide clear and concise details about the types of tenancy to be offered and how they will be administered. Magenta Living offers a variety of tenure types which will recognise:

- The status of the pre-stock transfer tenants in relation to promises made in the "offer document"
- The type of the housing that is on offer and the particular services which may be provided with that housing
- The risks identified following the pre-assessment of the applicant and/or the capacity of the individual to sign a contract with Magenta Living
- The needs of the individual and/or household whilst ensuring they satisfy the occupancy level of the property
- The age of the applicant.

#### **3.1 Access to Magenta Living Homes**

Applicants for a Magenta Living home will be subject to an assessment of their suitability for social housing in general and/or the individual property currently available. No formal offer of accommodation will be made prior to this assessment being completed. There are three principal elements:

- (I) A financial assessment will consider the household's ability to pay the rent and other housing charges in the longer term.
- (II) An assessment will also consider the household's ability to sustain a tenancy. It is for the prospective tenant and any agency supporting a household member to demonstrate that there is capacity to properly maintain the tenancy and arrange support as appropriate.

- (III) Any known tenancy history with Magenta Living or any other landlord will also form part of the verification checks and will be taken into account in considering suitability for accommodation.

If the organisation is not satisfied that the assessment criteria are met, then no offer of accommodation may be made.

### **3.2 Types of Tenancy**

Magenta living offers the following types of tenancy agreement:

#### **Assured Shorthold Tenancy (with conversion to Assured)**

These tenancies allow for a 'probationary period' of a minimum 12 months, which may be extended to 18 months. At the end of the 'probationary period' this tenancy will convert to an Assured Tenancy, unless Magenta Living has taken steps to end the tenancy. If the organisation has served the appropriate notice to end the tenancy the tenant can request a review. However, the tenancy can only be brought to an end by executing a possession order.

#### **Assured Tenancies**

Assured (periodic) tenancies are provided to meet the routine housing needs of existing and future tenants. Specifically, Assured Tenancies are provided to:

- All current tenants who transferred from Wirral Council in 2005 and who have protected rights
- All tenants who have protected rights from another Registered Provider and transfer to Magenta Living
- Current and future tenants who became, or are becoming, tenants of general or sheltered, extra care or supported housing.

Assured Periodic Tenancy Agreements will be offered at a Social Rent or Affordable Rent, in accordance with Regulatory guidance.

#### **Assured Shorthold Tenancy (Periodic, with no conversion to Assured)**

These tenancies allow for a more flexible approach and could be used for accommodation where each tenant is allocated an individual bedroom (room only) but share the same kitchen and lounge for example. This tenancy would remain an assured shorthold and therefore not convert to an assured tenancy. Such tenancy agreements will be offered for certain specific projects such as where students may share a property or those moving to the area on short term job contracts.

#### **Fixed Term Tenancies**

Fixed term Tenancies will only be used to suit a very particular set of circumstances or business need or where the long-term future of some stock is

uncertain. These tenancies allow for a 'probationary period' of a minimum 12 months, which may be extended to 18 months, after which a fixed term tenancy is offered of up to 5 years. Fixed term tenancies will not be offered in circumstances where the fixed term is perceived as potentially detrimental to the longer-term stability and sustainability of the individual or household. Towards the end of the 'probationary period' there will be a review and, dependent upon the outcome of that review, a new tenancy agreement will be signed. A further fixed term tenancy agreement will not be offered if steps have been taken to end the tenancy or circumstances no longer fulfil the lettings criteria for the property.

Generally, the fixed term period will be for 5 years however in certain circumstances a shorter term may be offered. There are occasions, dependant on the type of property, where a 2-year fixed term tenancy agreement is offered. This type of agreement is usually used in schemes where support is provided such as at Hawthorne Grove, Seacombe.

All fixed term tenancies end on the expiry of the tenancy term unless Magenta Living makes a prior application for possession to the County Court for a breach of tenancy terms. A tenant may seek to end their Fixed Term tenancy by a request to terminate their tenancy. Magenta Living will consider such a request and would not refuse any reasonable request.

The decision to award a fix term tenancy should only be made following endorsement by the Development & Regeneration Group, made up of ELT and SLT members of staff.

### **Tenancies and Occupancy Agreements intended to meet special or particular and specific needs**

Magenta Living is committed to providing accommodation for a broad spectrum of individuals, households and client groups. The approach designed to provide for diversity within the Allocation and Lettings process clearly commits Magenta Living to meeting the specific needs of particular client groups. Therefore, a range of more specialist agreements have been put in place which include:

#### **Agreement for a tenancy (under 18s)**

This Agreement for a Tenancy is intended to be entered into between Magenta Living and a person under 18 years of age (called "the Resident") and is signed in the presence of a parent, guardian, adviser or other recognised supporter, who will, on reaching the age of 18, become an Assured Shorthold Tenant. In effect, the tenancy is held `in trust` until the age of 18 years is reached. These are agreements usually intended to meet the needs of young people such as those leaving the care of the Local Authority or others who need support to maintain their tenancy and who do not have the right to enter into a legally binding agreement.

## **Assured Tenancy Agreements for individuals who do not have Capacity to enter into a contract**

Such agreements will only be offered when an individual has assessed 'capacity issues' and their affairs are being conducted / overseen by others who have obtained the authority of the Court of Protection to sign and guarantee such agreements in the best interests of the individual.

## **Occupancy and Licence Agreements**

Such agreements are intended to meet particular and specific circumstances such as those who need short term alternative accommodation or those who occupy certain types of group home or shared accommodation which may also have carers on site.

The arrangements for the issuing of particular occupancy types will be dependent upon the accommodation type and the services provided.

In some circumstances, Magenta Living may enter into a Management Agreement with specialist organisations to manage the accommodation and provision of housing services. Care will usually be commissioned separately via the local authority through a contractual agreement. Magenta Living do not currently deliver or commission care services. Management Agreements or lease arrangements are put in place in certain set and specific circumstances. For example, with the Local Authority to assist them in satisfying their homelessness duty through the provision, by Magenta Living, of dispersed units. Magenta Living also has an arrangement with other organisations to ensure occupancy of the organisation's less popular homes.

### **3.3 Shared Ownership Schemes**

Shared Ownership agreements will be offered to appropriate applicants where:

- new properties have been developed or existing homes refurbished with the specific intention to provide shared ownership homes
- shared ownership may be an option available at the end of a Fixed Term Tenancy or where a 'rent to buy' scheme is offered with the incentive to staircase towards full ownership
- Magenta Living adopts a new shared ownership product following associated legislation or regulation from the Government.

Successful applicants will purchase a percentage of the property by value and pay a rent for the un-purchased portion becoming a leaseholder. The tenancy

terms provided in such circumstances will reflect the prescribed terms issues by Homes England in their approved lease. The leaseholder will usually have options to increase their share until they own up to one hundred percent of the property or may be restricted to a fixed or maximum percentage of ownership. The particulars of each shared ownership scheme will be determined by the Executive Leadership Team.

### **3.4 Succession Rights, Assignment and Mutual Exchange**

In some of Magenta Living`s existing tenancy agreements there is the provision to grant:

**Assignment** - where a tenant can transfer their tenancy to another party providing certain criteria are met. This will only usually be allowed in circumstances defined by statute and permitted under the terms of the relevant tenancy agreement.

**Succession** – this allows the transfer of tenancy rights to another person when a tenant dies. The right to succeed is a legal right defined in the Housing Act 1988 which depends on a number of factors including the type of tenancy, the terms of the tenancy agreement, whether there has been a previous relevant succession, the relationship of the proposed successor to the deceased tenant and the length of the occupation of the property by the proposed successor. Any such succession right applies to the tenancy, not necessarily the property occupied by the deceased tenant. For example, a close relative may succeed to the tenancy of a 3 / 4 bedroom house, but if results in them under occupying the property they will be expected to move to a smaller property.

**Mutual Exchange** – this is a form of assignment transferring tenancies between two (or more) qualifying tenants. A mutual exchange may take place between two tenants of Magenta Living or between one tenant of the organisation and another landlord only once all landlords formally agree to the mutual exchange.

### **3.1 Appeals**

Prospective tenants or tenants who are unhappy with a decision may appeal and request a review of that decision. The appeal will be carried out by an independent senior manager who has not been involved in the original decision. An appeal will be considered in the following circumstances:

- the refusal of any tenancy (including assignment, succession and mutual exchange applications)
- the type of tenancy being offered
- the intention to end the tenancy during the probationary period or during the fixed term tenancy period
- the length of the fixed term tenancy offered or the refusal to renew a fixed term tenancy,

Anybody requesting an appeal will not ordinarily be considered under the formal Complaints Policy.

#### **4. Implementation**

The policy will be effective from the date of approval and shared with staff on insite.

#### **5. Consultation**

Those involved in the consultation on this policy include:

- Neighbourhood Management Team
- Allocations and Lettings Team
- Specialist Housing Services Team
- Income Team
- Senior Leadership Team
- Executive Leadership Team

#### **6. Equality Analysis**

All people should be treated with dignity and respect regardless of their age, disability, gender reassignment, marriage and civil partnership, race, religion, belief or non belief, sex or sexuality or by association with someone with any of these characteristics or perception of having any of these characteristics.

The Equality Impact Assessment was updated in May 2023 by Clare Moore, Justin Danher and was rated as green.

#### **7. Monitoring Performance**

Lettings and income collection are key performance indicators and are regularly monitored and reported upon. Any housing scheme utilising any Tenancy Agreement other than Assured Periodic will be closely monitored in its early operation.

#### **8. Scheme of Delegation**

Responsible authority for approving this policy is Interim Chief Operating Officer .

The responsible Director for formulating this policy and ensuring its effective implementation is the Communities Director.

#### **9. Policy Review**

This policy will be reviewed in 3 years time, or earlier if:

- Guidance from the Regulator changes
- The Courts interpret various aspects of the tenures that Magenta Living may put in place

- Monitoring indicates the need for a review
- Magenta Living pursues innovative housing schemes and there is a need to routinely monitor the appropriateness of this policy as such initiatives are developed.

## 10. Amendment Log

Date of revision:	Record of amendments:	Reason for revision:
<i>September 2014</i>	<i>Annual Review</i>	<i>See 2013 Policy.</i>
<i>January 2017</i>	<i>Annual Review</i>	
<i>February 2020</i>	<i>Review</i>	<i>All amendments highlighted in red on 2020 version.</i>
<i>May 2023</i>	<i>Policy reviewed and remains up to date in line with Tenancy Standard, further review will be required following Social Housing Regulation Bill and Renters (Reform) Bill.</i>	<i>Minor amendments to wording to reference Transitional Plan, legislation has not changed so policy remains relevant. Appeals process clarified in section 3.5.</i>