

# Tenancy Policy

November 2024

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## 1. Version control

Date	Details	Updated by
November 2024	V1	
February 2025	V2	Anita Merritt

## 2. Overview

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Torbay Council acknowledges its role in meeting housing need. We are committed to letting our properties in a fair, transparent and efficient way, in line with our Lettings Policy. We will meet all statutory and legal requirements that are applicable to us as a landlord.

Torbay Council is a social landlord with its own housing stock; therefore, we are required to have a Tenancy Policy.

Torbay Council will review this policy every three years, however; we may carry out a review earlier than this if legislative, regulatory, or other strategic changes which would have an impact on any element of this policy.

All TorVista Homes tenants on an Assured tenancy will be transitioned to a Secure tenancy, following the transfer of their home ownership to Torbay Council, and on completion of an Introductory Tenancy, where applicable.

As well as addressing issues regarding tenancy and tenure type, this Tenancy Policy also sets out how Torbay Council deals with applications for succession following the change in law brought about by Localism Act 2011.

## 3. Policy Statement

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This policy aims to ensure that:

- Sustain communities where people want to live
- Prevent homelessness
- Meet the requirements set out by the regulator
- Households can be moved from properties which are no longer suitable for their needs
- Tenants will be helped to sustain their tenancies, but where problems occur, particularly at the start of the tenancy, action can be taken quickly to either change the behaviour, or, failing that, the tenancy can be ended and the property offered to someone else
- Tenancy fraud is identified and tackled
- Work with our local authority partners in delivery of their strategic objectives

## 4. Tenancy type

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In line with our Lettings Policy, Torbay Council offers tenancies that meet statutory and legal requirements.

No one will be offered a tenancy that is any less secure than that which they already hold.

We will grant secure tenancies to existing social housing tenants who are transferring or moving from another organisation that offers fixed term or Assured tenancies.

All new tenants who have not held a social housing general needs tenancy directly before signing a tenancy agreement with us will be offered a 12-month Introductory Tenancy (with the ability to extend for a further 6 months).

We will review all Introductory Tenancies in advance of the end date to consider if a Secure Tenancy should be offered. Torbay Council will give notice of this decision in writing explaining the basis for this decision. If the starter tenancy has been satisfactorily maintained, it will automatically convert to a Secure Tenancy.

We will consider:

- How the tenant has conducted the tenancy. We are committed to raising issues of concern directly with tenants in a timely manner; therefore, the tenant will be aware of any breaches that we will be taking into account
- Whether there is any under occupation or overcrowding
- If there are any special features or adaptations in the property and whether anyone living in the property requires these; and
- Any significant changes in the household's financial circumstances.

We would not normally convert to a Secure Tenancy at the end of the starter period if:

- There has been a serious breach of the existing tenancy – the tenant will have been alerted to this at the time that the breach occurred.
- We have identified and substantiated any tenancy fraud.
- The review highlights issues which would justify not offering a further tenancy.
- The tenant has not engaged with the review process (the exception would be if we are aware that the tenant is vulnerable or aware of other valid reasons).

If Torbay Council decide not to convert an introductory tenancy, the tenant has a right to ask for a review of this decision. The tenant should make their request in writing within 14 days of being informed of the decision. We can accept requests for reviews from support and advocacy bodies provided they can provide written authority from the tenant confirming their instructions. The request must set out why they feel the decision is not justified.

A relevant manager not involved in the original decision to extend or end the tenancy will review the decision to check:

- Any information provided by the tenant
- Any evidence to support the original decision is adequate
- That the starter tenancy/probationary period review procedure has been correctly followed
- That the decision is proportionate, taking into account the needs of the individual, the needs of the community and any perceived risk to Torbay Council.

If we are giving a tenant notice, we will:

- Explain the reasons why.
- Serve the relevant notice
- Offer general advice and signpost them to other relevant agencies including the Housing Options team at Torbay Council.
- The tenant will have the right to appeal via our complaint's procedure.

Non-secure Tenancies - Tenants housed under the Next Steps Accommodation Programme (NSAP) criteria will have a non-secure tenancy. These tenancies do not have the same security of tenure or rights as secure tenants.

Temporary Accommodation - This Policy does not apply to accommodation provided by the Council to meet its duties to homeless households. Temporary Accommodation is exempt from the Protection from Eviction Act and occupants do not have the same legal rights as those occupying a property as a tenant.

## 5. Succession

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In certain circumstances, tenants may have the right to assign their tenancy to another person who would be entitled to succeed on a tenant's death. This request must be put in writing and comply with the conditions of the tenancy agreement.

There can only be one assignment by law and that can only be made to a person who would qualify as a successor to the tenancy.

People entitled to succeed:

- If you are a joint tenant and you die, then the tenancy may continue in the name of the remaining tenant.
- If you are not a joint tenant and you die, the tenancy may pass to your wife, husband, civil partner or partner provided he or she lived with you in your home as their principal or only home at the time of your death.
- If you are not a joint tenant and you do not have a wife, husband, civil partner or partner who lived with you in your home as their principal or only home immediately prior to your death, the tenancy may pass to a member of your family who lived with you in your home (as their principal or only home) for at least 12 months prior to your death.

## 6. Mutual Exchange

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Torbay Council recognises that tenants may want to move for a variety of reasons, including under occupation, overcrowding, for work, access to services or to be nearer family or support networks. We will provide general advice / facilitate access to Mutual Exchange services and signpost tenants to other agencies who can offer support with Housing Options. Introductory tenancies do not qualify for Mutual Exchanges.

Mutual Exchange is where one or more social tenant legally swaps their tenancy with another social tenant. The person transferring the tenancy is the 'assignor' and the tenancy is transferred to the 'assignee'.

The assignment means the assignee becomes the tenant of Torbay Council under the same tenancy agreement.

Under the Localism Act if at least one of the tenants has a secure tenancy which began before April 2012 and at least one of the tenants is on a flexible tenancy, then such exchanges must be done by surrender and granting of new tenancies.

In these circumstances, we will grant the tenant whose secure tenancy predated April 2012 a secure tenancy. This will ensure that existing tenants (before April 2012) retain similar security of tenure to that of their original tenancy.

As a landlord we can still refuse an exchange of this nature (Schedule 3 of the Housing Act 1985). We have 42 days to make that decision.

## 7. Assignments

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Requests for assignments will be considered in line with current legislation which sets out when a secure tenancy can be assigned. The three circumstances are:

- i) Assignment by way of mutual exchange
- ii) Assignment following an order of the Court made in certain Matrimonial, Civil Partnership or Children Act Proceedings.
- iii) Assignment to a potential successor to the tenancy following the death of the tenant.

## 8. Direct Matches

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All allocations will be made through the choice-based lettings scheme – Devon Home Choice. This operates independently from Torbay Council.

In exceptional circumstances, Torbay Council has the discretion to allocate our own stock outside of the Devon Home Choice policy.

The Next Steps Accommodation Programme (NSAP) - these properties are let via direct referrals from the relevant agencies.

## 9. Vulnerable tenants

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Vulnerable tenants are those that are:

- At risk of being harmed, physically, mentally and/or emotionally
- Need support or protection because of their age, disability or other characteristics
- Risk of neglect or abuse

Torbay Council will ensure that these tenants are not affected in a negative way by this policy by:

- Communicating with them in an appropriate way
- Where necessary provide information in a different format
- Where permission is in place we will liaise with friends or family or other advocates

- Where we need to take tenancy action we carry out a proportionality assessment because the behaviour could be linked to a vulnerability
- Where we have permission we will refer that tenant on for further support
- Where we have permission we will liaise with other agencies, unless the risk negates the need of consent under our Safeguarding Policy

## 10. Tenancy Fraud

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As part of our lettings process Torbay Council will check identification and this is to be held on the tenant's personal electronic file.

If a tenant has fraudulently obtained the property (based on misinformation) we will take action to end the tenancy.

Our tenancy agreement will set out the requirement for the tenant to live in the property as their only or principal home and their obligations and the restrictions in terms of subletting and assignment.

During routine visits to our properties, we do check who is occupying the premises.

Where appropriate and in accordance with the law we will cooperate with other agencies where tenancy fraud is suspected.

## 11. Regulatory code and legal framework

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In observing this policy, Torbay Council will comply with all the legal and regulatory expectations outlined in the Regulator of Social Housing's Tenancy Standard.

## 12. Review

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The Director of Regeneration will review this policy every three years unless there are any changes to legislation in the meantime.

## 13. Equality and Diversity Statement

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Torbay Council is committed to promoting equality and inclusion and to ensuring that our communities thrive. We complete equality impact assessments (EIAs) to help us understand the possible impacts that our decision may have on different groups. This toolkit guides you through the different stages of the equality impact assessment process to help ensure that your EIA is meaningful and robust.

The Equality Act 2010 provides legal protection from discrimination across nine 'protected characteristics' which are: age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, pregnancy and maternity and marriage and civil partnerships.

Under the Act, the Council is subject to the Public Sector Equality Duty (PSED) which means that we must take steps to actively promote equality. The PSED requires public authorities to have due regard to the need to:

Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.

Advance equality of opportunity between people who share a protected characteristic and those who do not, and

Foster good relations between people who share a protected characteristic and those who do not.

The PSED requires us to give 'due regard' to equality when making decisions and delivering services. This is to ensure our actions actively promote equality and do not directly or indirectly adversely affect people with protected characteristics.

## Equality Impact Assessment

The Council has a public sector duty under the Equality Act 2010 to have ‘due regard’ to equality and to advancing equality of opportunity between those persons who share a relevant protected characteristic and persons who do not share it. The Act also seeks to eliminate discrimination, harassment and victimisation and promote cohesion. It is important that you carefully and thoroughly consider the different potential impacts that the decision being taken may have on people who share protected characteristics.

It is not enough to state that a proposal will affect everyone equally. There should be thorough consideration as to whether particular groups or individuals are more likely to be affected than others by the proposals and decision. Please complete the table below. If you consider there to be no positive or negative impacts state ‘there is no differential impact’.

Protected characteristics under the Equality Act and groups with increased vulnerability	Data and insight	Equality considerations (including any adverse impacts)	Mitigation activities	Responsible department and timeframe for implementing mitigation activities
Age	<p>18 per cent of Torbay residents are under 18 years old.</p> <p>55 per cent of Torbay residents are aged between 18 to 64 years old.</p> <p>27 per cent of Torbay residents are aged 65 and older.</p>	<p>Torbay Council has signed up for advertising our units of social housing via Devon Home Choice, the choice-based lettings scheme for Devon. We do not keep a ‘housing list’. We work in line with the legal and operational requirements of Devon Home Choice, and they operate independently from Torbay Council.</p> <p>Any age restrictions on properties advertised on Devon Home Choice will be clearly indicated and filtered meaning those in the inappropriate age bracket will</p>	<p>Work in line with Devon Home Choice procedures and policies when it comes to shortlisting successful applicants</p> <p>Devon Home Choice Policy v12.6 22nd November 2024.pdf</p>	Pride in Place



		not be able to bid on age restricted properties. Presently Torbay Council operate no age restricted properties.		
Carers	At the time of the 2021 census there were 14,900 unpaid carers in Torbay. 5,185 of these provided 50 hours or more of care.	There is no differential impact anticipated.	Not Applicable.	Not Applicable
Disability	In the 2021 Census, 23.8% of Torbay residents answered that their day-to-day activities were limited a little or a lot by a physical or mental health condition or illness.	<p>Torbay Council's housing stock may not be suitably adapted (e.g., top floor flat with no lift) and there are legal reasons that the accommodation cannot be adapted (a communal stairwell is not suitable for a stairlift for example, as it is at risk of limiting or blocking residents escape route) for persons with a disability affecting their mobility.</p> <p>Torbay Council's housing stock may also not be suitable for those with disabilities affecting sensory function. In these instances, Torbay Council will work with Occupational Health to investigate if adaptations can be made.</p>	Where possible work with Adult Services and Occupational Therapy upon customer securing a successful bid on Devon Home Choice to discuss possible adaptations to social housing before an offer is made or refused.	<p>Pride in Place</p> <p>Adult Services</p> <p>Occupational Therapy</p>

		<p>Torbay Council has signed up for advertising our units of social housing via Devon Home Choice, the choice-based lettings scheme for Devon. We do not keep a 'housing list'. We work in line with the legal and operational requirements of Devon Home Choice, and they operate independently from Torbay Council.</p> <p>In line with Devon Home Choice policies, shortlisting will be made to those bidding, in order of preference in need of that adaptation (e.g., Step Free Access or Wet Room, stair lift).</p>		
Gender reassignment	In the 2021 Census, 0.4% of Torbay's community answered that their gender identity was not the same as their sex registered at birth. This proportion is similar to the Southwest and is lower than England.	There is no differential impact anticipated.	Not Applicable	Not Applicable
Marriage and civil partnership	Of those Torbay residents aged 16 and over at the time of 2021 Census, 44.2% of people were married or in a registered civil partnership.	There is no differential impact anticipated.	Not Applicable	Not Applicable

Pregnancy and maternity	Over the period 2010 to 2021, the rate of live births (as a proportion of females aged 15 to 44) has been slightly but significantly higher in Torbay (average of 63.7 per 1,000) than England (60.2) and the South West (58.4). There has been a notable fall in the numbers of live births since the middle of the last decade across all geographical areas.	There is no differential impact anticipated.	Not Applicable	Not Applicable
Race	In the 2021 Census, 96.1% of Torbay residents described their ethnicity as white. This is a higher proportion than the South West and England. Black, Asian and minority ethnic individuals are more likely to live in areas of Torbay classified as being amongst the 20% most deprived areas in England.	There is no differential impact anticipated.	Not Applicable	Not Applicable
Religion and belief	64.8% of Torbay residents who stated that they have a religion in the 2021 census.	There is no differential impact anticipated.	Not Applicable	Not Applicable
Sex	51.3% of Torbay's population are female and 48.7% are male	There is no differential impact anticipated.	Not Applicable	Not Applicable

Sexual orientation	In the 2021 Census, 3.4% of those in Torbay aged over 16 identified their sexuality as either Lesbian, Gay, Bisexual or, used another term to describe their sexual orientation.	There is no differential impact anticipated.	Not Applicable	Not Applicable
Armed Forces Community	In 2021, 3.8% of residents in England reported that they had previously served in the UK armed forces. In Torbay, 5.9 per cent of the population have previously served in the UK armed forces.	There is no differential impact anticipated.	Not Applicable	Not Applicable
Additional considerations				
Socio-economic impacts (Including impacts on child poverty and deprivation)		<p>In line with Devon Home Choice guidelines: Some households with rent arrears owed to social or private landlords may be excluded from bidding on Devon Home Choice.</p> <p>Torbay Council require one month's rent in advance from all tenants. In such instances where the tenant is offered a property and</p>	Work with the household to determine whether an arrears payment plan in place and adhered to. This should also be discussed with the current housing provider for verification purposes.	Pride in Place

		has no such funds we will work with the household and signpost them to various departments who may be able to assist with rent in advance or a Discretionary Payment.	Signpost to other council departments such as Housing Options, Welfare Support or Benefits (to be considered for Discretionary Housing payment depending on the circumstances of the arrears/urgency of the move).	
Public Health impacts (Including impacts on the general health of the population of Torbay)		There is no differential impact anticipated.	Not Applicable	Not Applicable
Human Rights impacts		There is no differential impact anticipated.	Not Applicable	Not Applicable
Child Friendly	Torbay Council is a Child Friendly Council and all staff and Councillors are Corporate Parents and have a responsibility towards cared for and care experienced children and young people.	<p>Torbay Council takes its responsibility towards care experienced children and young people seriously.</p> <p>Torbay Council also understand that care experienced young people moving into their own social housing accommodation may be at greater risk of abuse or exploitation.</p>	Torbay Council will ensure there is support available for care experienced young people coming into their homes. They will ensure there is a plan in place for support and ongoing guidance.	<p>Pride in Place</p> <p>Children's Services</p> <p>Young Devon</p>