



## Lettings Services

# Tenure Policy

<b>Regulation and Legislation</b>	<p>This Policy links to:</p> <ul style="list-style-type: none"><li>• The Tenancy Standard of the RSH Regulatory Framework</li><li>• Housing Act 1985, 1988 and 1996</li><li>• Protection from Eviction Act 1977</li><li>• Localism Act 2011</li><li>• Equality Act 2010</li><li>• Human Rights Act 1998</li><li>• Housing and Planning Act 2016</li><li>• Immigration Act 2014 &amp; 2016</li></ul>
<b>Supporting documents</b>	Letting of Homes Policy, Rent Policy, Allocation and Lettings Procedure, Mutual Exchange Procedure, Fixed Term Tenancy Review Policy, Reviewing Tenancies Procedure, Assignment Procedure, Deceased Customer and Succession Procedure
<b>Scope</b>	This Policy sets out the principles around the tenancies we offer to Orbit Customers in our general needs, independent living rented, market rented and intermediate homes.
Reference to “Orbit” means Orbit Group which consists of Orbit Group Limited, Orbit Housing Association Limited, Orbit Homes (2020) Limited, Orbit Treasury Limited and Orbit Capital Limited.	

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## 1. Introduction

- 1.1 This policy sets out for customers, employees, local authorities and supporting agencies the range of occupancy agreements offered by Orbit for each type of housing. It applies to all Orbit rented accommodation including: general needs (social and affordable rent), sheltered, extra care, supported, intermediate and market rented housing.
- 1.1 It ensures that customers receive the correct type of occupancy agreement.

## 2. Policy Statement

2.1 This policy aims to:

- Provide clarity on the circumstances in which we will grant each type of occupancy agreement
- Ensure that we offer tenancies which make the most efficient use of our housing stock and which are compatible with the purpose of the accommodation
- Take into account the needs of individual households and provide vulnerable households and households with children, tenancies that provide a reasonable degree of stability
- Contribute to local authorities' strategic housing function
- Comply with the Regulator of Social Housing's Tenancy Standard and all relevant statutory requirements.

## 3. Policy

3.1 The type of occupancy agreement and the circumstances when we will issue them is detailed in Appendix 1.

3.2 Orbit will let the majority of its properties on an Assured periodic "lifetime" tenancy.

3.3 Orbit no longer issues fixed term tenancies in general needs housing, with the exception of where a property has been identified for redevelopment / disposal.

3.4 Existing general needs fixed term tenants will be offered an Assured "lifetime" tenancy, following satisfactory review of their tenancy in accordance with our Fixed Term Tenancy Review Policy and Reviewing Tenancies Procedure. If the property is identified for redevelopment / disposal, a further fixed term tenancy of the same property may be offered whilst a new home is being identified for the tenant. This would be for a minimum period of two years.

3.5 The circumstances in which an existing fixed term tenant may or may not be granted another Orbit tenancy on the expiry of the fixed term, in the same property, or another property, along with the advice and assistance given to tenants on finding alternative accommodation should a new tenancy not be issued, is detailed in our Fixed Term Tenancy Review Policy and Reviewing Tenancies Procedure.

3.6 In the case of a mutual exchange involving an Orbit fixed term tenant who is not occupying a property identified for redevelopment/disposal, the incoming tenant will be issued an Assured "lifetime" tenancy, on completion of the exchange.

3.7 We will protect the tenure status of existing and new customers in the following way:

- existing Orbit tenants with a Secure Tenancy will be granted a new Secure Tenancy if the new tenancy is granted immediately after the old Secure Tenancy ended in accordance with section 35(4) of the Housing Act 1988

- customers who have consecutively held an Assured Tenancy with Orbit or an Assured Tenancy or Secure Tenancy with another registered provider of social housing since or prior 1 April 2012 will be given an Assured Tenancy
- we will grant existing tenants who have been moved into alternative accommodation during any redevelopment or other works a tenancy agreement with no less security of tenure on their return to settled accommodation.

### **3.8 General Needs Housing**

Tenants will be offered an Assured tenancy unless this policy dictates that an alternative form of tenure be offered.

### **3.9 Sheltered Housing**

Tenants will be offered an Assured tenancy unless this policy dictates that an alternative form of tenure be offered.

### **3.10 Extra Care Housing**

Tenants will be offered an Assured tenancy. unless this policy dictates that an alternative an alternative form of tenure be offered.

### **3.11 Supported Housing**

For supported accommodation intended for use for a limited period while the tenant has support needs met via the accommodation, a periodic Assured Shorthold tenancy will be issued, unless the tenant is entitled to an alternative form of tenure. Where it is short term, specialist accommodation and the occupant does not have exclusive use of the accommodation provided, a licence will be issued, which does not provide security of tenure.

### **3.12 Intermediate Housing**

For intermediate housing e.g. rent to homebuy, London Living Rent we will offer Assured Shorthold fixed term or periodic tenancies for a duration which is in line with the funding requirements of the particular property. Such tenancies require satisfactory credit checks and references to be obtained for the proposed tenant and payment of deposit (held by DPS). Where the product type is intended to assist tenants to purchase, such as shared or outright homeownership, we will expect the tenant to purchase the property or move home at the end of the tenancy period.

### **3.13 Properties subject to redevelopment or disposal**

We may issue fixed term Assured Shorthold tenancies for a minimum period of 2 years. These properties will be identified by the Strategic Asset Management team as part of a whole scheme redevelopment / disposal plan.

### **3.14 Properties used for temporary decants**

Where we move tenants temporarily whilst works are carried out to their homes, we will issue a contractual (non-assured) tenancy which does not provide any security of tenure. The tenant will retain responsibility for their main tenancy and rent and associated charges will be charged at their principal address.

### **3.15 Permanent Decants**

Tenants who are required to move by us and are permanently decanted will maintain their existing security of tenure, unless they currently hold a fixed term tenancy, in which case they will be offered an Assured Tenancy.

### **3.16 Minors (16 and 17 year olds)**

Where we house minors, we will require a guarantor and Trustee. An equitable Assured tenancy will be held in Trust by the Trustee. The equitable tenancy is not the grant of a legal estate to the minor, but is the grant of a tenancy in equity. A new legal Assured Tenancy will be granted to the minor when they reach 18 years of age.

### **3.17 Non residential property**

For properties such as garages we will issue a licence agreement to allow occupation without any security of tenure.

### **3.18 Succession**

Our Deceased Customer and Succession Procedure sets out in detail which tenants have succession rights [including where we will grant discretionary succession rights taking account of the needs of vulnerable household members].

3.19 Only the statutory succession rights will apply to new tenancies. However, existing tenants may have a family member succession right in their tenancy agreement and will be able to exercise that right in accordance with the terms of their tenancy agreement.

3.20 In exceptional circumstances, and where there is no statutory or contractual right to succession, Orbit reserve the right to offer succession on discretionary grounds.

This can include but is not limited to circumstances where the remaining lead occupier would have ordinarily had succession rights, and the property is considered suitably sized. Additional circumstances may include where the property contains significant adaptations required by the remaining lead occupier and the property is also of a suitable size.

In all circumstances, the conduct of the lead occupier will be taken into consideration whilst occupying the property, and further checks will be made regarding the suitability before any decision is made

### **3.21 Exceptional circumstances**

We will comply with any instructions from the county court following legal action e.g. assigning joint tenancies.

3.22 We reserve the right to issue occupancy agreements outside of the principles of this policy where there are grounds to do so. This can only be approved by the Head of Empty Homes and Lettings.

### **3.23 Appeals**

If a resident believes they have not been offered the correct type, or length of occupancy agreement as outlined in this policy or where a resident wants to complain or appeal against a decision not to grant another tenancy on the expiry of a fixed term tenancy, they can appeal for the decision to be reviewed.

- 3.24 The appeal must be in writing (email or letter). All appeals should be made within 14 calendar days of the grant of the tenancy, or decision to end a fixed term tenancy. Appeals will be decided within 14 days and will be reviewed by 2 managers not involved in the original decision.
- 3.25 Rents**  
Orbit ensures rents are set in accordance with its Rent Policy (which will incorporate the Regulatory Framework set by the RSH and requirements of the Rent Standard).
- 3.26 The circumstances when we will grant tenancies on social, affordable, intermediate and market rent terms are set out in our Rent Policy.

## 4. Roles and Responsibilities

### 4.1

Role	Responsibility
Lettings (General Needs)	Issuing of tenure – general needs
Specialist Lettings	Issuing of tenure– sheltered, extra care, intermediate & market rented
Supported Housing	Issuing of tenure – supported housing
Commercial Services	Issuing of tenure – parking spaces
Commercial Property Services	Issuing of tenure (market rented) – Fordham House & St Anne's
Lettings (General Needs & Specialist) – 1 Lead & 1 manager	Applicant appeal of tenure type issued
Tenancy Sustainment – Review Team	Review of fixed term tenancies
Tenancy Sustainment – 2 managers	Applicant appeal of reissue of fixed term tenancy, or ending of fixed term tenancy
SAM	Identification of properties for disposal / regeneration
Tenancy Services - Response	Succession
Customer Relations & Lettings	Decanting of customers
Rent Compliance team	Rent setting

## 5. Performance Controls and Business Risk

- 5.1 Compliance with this policy will be monitored by the Head of Empty Homes & Lettings.
- 5.2 Performance in the delivery of the service will be assessed by:
- rent account audits
  - number of appeals, reasons and decision outcomes
  - review of associated complaints
- 5.3 Performance will be shared through quarterly reporting to Head of Empty Homes & Lettings.
- 5.4 Orbit will carry out a fundamental review of this policy every three years or sooner subject to legal, regulatory changes or if internal changes require it.

## 6. Essential information

- 6.1 All Orbit policies and procedures are developed in line with our approach to the following, data protection statement, equality diversity and inclusion (EDI) approach, complaints policy and our regulatory and legal obligations to ensure we deliver services in a lawful manner and treat people equally and fairly. Orbit's privacy policy can be accessed on our website [www.orbitcustomerhub.org.uk/publications/policies/](http://www.orbitcustomerhub.org.uk/publications/policies/)

<b>EA</b>	Equality Analysis was completed on 07.03.23 and is available to view.
<b>DPIA</b>	A DPIA was approved on 07.03.23 and is available to view.
<b>Consultation</b>	<b>Internal:</b> Income Collection, Tenancy Services, Tenancy Sustainment, Independent Living, Commercial Services, Strategic Asset Management, Property Repairs, Property Charges.
	<b>External:</b> Anthony Collins (Solicitors)
<b>Applies to</b>	Lettings, Tenancy Services, Commercial Services, Strategic Asset Management, Property Charges

## Document control

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Date

Approved by	Orbit Housing Association Board	June 2023
Last review		
Next Review (or sooner if changed)		June 2026

## Revision History

Version Number	Date	Comments / Reason for revision
v1.0	July 2023	Published – to replace previous Tenancy Policy
v1.1	May 2024	3.20 – additional details added to succession

## Appendix 1

<b>Type</b>	<b>Assured (non shorthold) tenancy</b>
<b>Description</b>	<p>These are either weekly or monthly periodic tenancies that have no fixed period of time stated, so are often referred to as a “lifetime” tenancy. The tenancy can only be brought to an end if the tenant/s give notice to end the tenancy, or by Orbit where the terms of the tenancy are breached and a possession order is granted by the courts.</p> <p>Some existing customers who transferred from a local authority under stock transfer arrangements will have an Assured tenancy with preserved rights which give similar rights to their former secure tenancy including the Right to Buy.</p>
<b>When used</b>	<p>Issued to: new tenants:</p> <ul style="list-style-type: none"> <li>• general needs properties</li> <li>• sheltered properties</li> <li>• extra care properties</li> <li>• who can prove they currently and consecutively (i.e. with no breaks) have been social housing tenants since or prior to 1 April 2012</li> </ul> <p>existing tenants:</p> <ul style="list-style-type: none"> <li>• who are moving from another Assured Tenancy within our stock</li> <li>• on an existing fixed term tenancy who have been successful in their fixed term tenancy review.</li> </ul>
	<b>Assured Shorthold tenancy (periodic)</b>
<b>Description</b>	<p>These are weekly or monthly assured shorthold tenancies which can be brought to an end after an initial 6 months by either the customer, or by Orbit by obtaining a possession order granted by the courts. The tenancy can be ended by a possession order granted by the service of a mandatory Section 21 notice. The tenancy does not have an end date and can continue indefinitely.</p>
<b>When used</b>	<p>Issued to:</p> <ul style="list-style-type: none"> <li>• Intermediate rented properties that are not required to be fixed term tenancies</li> <li>• Market rented properties</li> <li>• Supported self-contained properties, where accessing support from the support provider is a condition of the tenancy and the tenant enjoys exclusive possession of the accommodation.</li> <li>• Can be issued to staff leaving tied accommodation, during the period they are securing their own accommodation. This is usually let at a market rent.</li> </ul>
<b>Type</b>	<b>Assured shorthold tenancy (fixed term)</b>
<b>Description</b>	<p>These are Assured tenancies granted for a fixed period which for general needs tenants but not be for a period of less than two years, or 5 years. They can be</p>

	ended by the customer, or where the terms of the tenancy are breached, by Orbit by obtaining a possession order granted by the courts. The tenancy can also be ended by a possession order granted by the service of a mandatory Section 21 notice at the end of the fixed term period.
<b>When used</b>	Issued to: <ul style="list-style-type: none"> <li>• General needs tenants in properties identified for redevelopment / disposal</li> <li>• Intermediate rented properties that are required to be fixed term tenancies</li> </ul>
<b>Type</b>	<b>Secure tenancy</b>
	These are older “lifetime” tenancies granted to Orbit tenants before January 15 <sup>th</sup> 1989. They can be ended by the customer, or Orbit where the terms of the tenancy are breached by obtaining a possession order granted by the courts.
<b>When used</b>	Offered to existing Orbit customers moving within our stock, who have this form of tenure immediately before the grant of the new tenancy in accordance with section 35 of the Housing Act 1988.
<b>Type</b>	<b>Protected licence</b>
<b>Description</b>	An agreement which allows occupation of a room without any security of tenure, but is covered by the Protection from Eviction Act. Licensees do not have exclusive occupation of the accommodation. They can be ended by the customer and Orbit by obtaining a possession order granted by the courts.
<b>When used</b>	Issued to: <ul style="list-style-type: none"> <li>• Independent Living short term supported accommodation that is a room within a shared property.</li> <li>• Where support is being accessed and provided as a condition of the licence, which should be for a maximum of 12 months.</li> </ul>
<b>Type</b>	<b>Excluded licence</b>
<b>Description</b>	An agreement which allows occupation of a room without any security of tenure and is not covered by the Protection of Eviction Act i.e. a court order is not required to gain possession of the room.
<b>When used</b>	Issued to: <ul style="list-style-type: none"> <li>• Independent Living short term supported accommodation that is a room within a shared property, where the licensee does not have exclusive occupation of the accommodation.</li> <li>• Where support is being accessed and provided as a condition of the licence, which should be for a maximum of 12 months.</li> <li>• In all cases the accommodation must be in a hostel as set out in section 622 of the Housing Act 1985 which is: “a building in which is provided, for persons generally or for a class or classes of persons – <ul style="list-style-type: none"> <li>(a) residential accommodation otherwise than in separate and self-contained sets of premises, and</li> <li>(b) either board or facilities for the preparation of food adequate to the needs of those persons, or both”</li> </ul> </li> </ul>

<b>Type</b>	<b>Periodic Contractual Tenancy Agreement</b>
<b>Description</b>	An agreement which is a temporary periodic (runs week to week) contractual tenancy without security of tenure. The tenancy can be ended by the customer, or by Orbit serving a notice to quit.
<b>When used</b>	Issued to: <ul style="list-style-type: none"> <li>• Tenants who need to move to another property temporarily whilst works are carried out to their principal home.</li> </ul>
<b>Type</b>	<b>Equitable Assured Tenancy</b>
<b>Description</b>	<p>An Assured tenancy held in trust for a minor until they are 18 years of age. The tenancy can be brought to an end by the tenant, or where the terms of the tenancy have been breached, by Orbit obtaining a possession order granted by the courts. Any notices served on the tenant must also be served on the Trustee. A guarantor is also required to guarantee payment of the rent. This is often the same person as the Trustee, but does not have to be so.</p> <p>A new legal Assured Tenancy will be granted to the minor when they reach 18 years of age.</p>
<b>When used</b>	Issued to: <ul style="list-style-type: none"> <li>• Minors (16 and 17 year olds).</li> </ul>