

Beginning and Ending Licences & Tenancies Policy

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Approved by: **Director of Governance and Compliance**

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1. Purpose

- 1.1. To ensure that St Mungo's:
- Complies with legal and regulatory requirements and standards on granting licences and tenancies.
 - Grants the correct type of tenure, and the new client/tenant understand their rights and responsibilities surrounding their licence or tenancy.
 - Provides staff with clear guidance on how to grant a licence or tenancy.
 - Supports new clients and tenants to ensure they experience a smooth transition into their accommodation.

2. Scope

- 2.1. The Beginning and Ending Licences & Tenancies policy is for services and projects where accommodation is provided and a client is granted a licence agreement (either excluded or non-excluded) or an assured shorthold tenancy.

3. Diversity implications

- 3.1. St Mungo's is committed to combating unfair discrimination on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation (the nine protected characteristics).
- 3.2. It is important that we ensure our services remain accessible to as many clients as possible.
- 3.3. St Mungo's will offer support and guidance to clients to understand their rights and responsibilities in relation to their tenure, either by support from staff or St Mungo's referring them to an advocacy service or Language Line if language is a barrier in understanding rights as a licensee or tenant.
- St Mungo's is committed to empowering clients to move towards a more independent environment as soon as it is possible and safe to do so.

4. Types of licences and tenancies

- 4.1. Licences are the main type of agreement issued to clients at St Mungo's. Licences are issued where a client does not have exclusive possession of a property, they are used for shared accommodation. The type of licence will depend on the purpose of the accommodation. Rights and responsibilities are outlined in the licence agreements. St Mungo's uses both non-excluded and excluded licences.
- 4.2. [Excluded licences](#) are excluded from the Protection from Eviction Act 1977 and do not require a court order for the occupant to be evicted. St Mungo's, in most cases, will use excluded licences.
- 4.3. In order to grant an excluded licence, the licence must meet the definition of an "excluded licence" as set out in Section 3A of the Protection from Eviction Act 1977. This includes the following categories of excluded occupier:
- people sharing accommodation with a resident landlord
 - former trespassers granted temporary rights to occupy
 - people renting holiday lets
 - people occupying accommodation rent free
 - asylum seekers in UKVI accommodation
 - licensees in public sector hostels
 - people with no right to rent where the Home Office has served notice.
- 4.4. [Non-excluded licences](#) are covered by the Protection from Eviction Act 1977 which means the occupant can only be evicted by court order. Clients with non-excluded licences must **not** be evicted without first obtaining a possession order.
- 4.5. [Assured Shorthold Tenancies \(AST's\)](#) were introduced by the Housing Act 1988 and amended by the Housing Act 1996 and the Localism Act 2011. They are a form of assured tenancy, with less security of tenure than an Assured Tenancy.
- a) Security of tenure means that a tenant has added layers of protection enshrined in law, usually under an Act of Parliament, that a landlord cannot avoid or remove from a tenant. In this instance, the Housing Act 1988 created Assured Tenancies and gives occupiers under any type of Assured Tenancy a level of statutory protection – also known as security of tenure.
- b) The key difference between Fully Assured tenancies and AST's is that a landlord can currently* use Section 21 Housing Act 1988 to determine an AST, and this requires no fault on the part of the tenant. This means a landlord can end an AST for any reason they want without a breach of tenancy having taken place. As a social landlord however, the landlord must always be able to prove they are acting proportionately when deciding to use Section 21 Housing Act 1988.

*The Renters Reform Bill 2024 will bring significant changes to the termination of residential tenancies. The current proposed changes are as follows:-

- Section 21 "no fault evictions" will be abolished.
- New and amended mandatory and discretionary grounds of possession will be added to Schedule 2 of the Housing Act 1988.

- c) Tenancies provide greater security than Licence agreements. They are used where a tenant has exclusive use of the property and requires some basic tenancy rights.
- 4.6. Tenancies can be periodic, meaning they continue indefinitely until one party takes a step to end the agreement. Alternatively, they can be granted for a fixed term. Fixed term tenancies commit each party to the obligations in that agreement for a fixed period and only in extremely limited circumstances can that tenancy be brought to an end early.
- 4.7. St Mungo's has used two types of AST's:
- a) [Periodic AST's](#) are indefinite which means they do not have a specified end date. Instead, the tenancy runs on a periodic basis, for example from week to week or from month to month. The period is set by how often rent is paid, which is usually weekly at St Mungo's but can also be monthly. This agreement will run indefinitely until terminated by either party.
 - b) [Fixed term AST's](#) are granted for a fixed length of time, e.g., two years. At the end of this period, a notice in writing must be issued to the tenant to let them know whether St Mungo's will grant an agreement for a further fixed term, or if the tenancy is to end.
 - c) If no action is taken at the end of a fixed term tenancy, the tenancy will automatically become a statutory periodic AST - see a) above.
- 4.8. Some Mungo's services have issued fixed term ASTs if this was required due to the nature of the support or service contract. Unless specified in the service contract, St Mungo's have used periodic ASTs rather than fixed term ASTs as they provide greater flexibility to support people into more secure accommodation.
- 4.9. Due to the anticipated change in law St Mungo's is no longer issuing fixed term ASTs.
- 4.10. Usually, the type of accommodation agreement used in a service will be defined in the service contract. If not, the type of agreement used should be agreed with the commissioner of the service and should be the type which best suits the aims of the service.
- 4.11. The Renter's Rights Bill 2024 will bring significant changes to residential tenancies. The current proposed changes are as follows:-
- No more fixed-term contracts: All tenancies will become periodic by default.
 - Maximum monthly rental period : All periodic tenancies must be monthly or 28 days or less (e.g. weekly). Any period greater than monthly will be conferred to monthly by default.
 - Two months' notice from tenants: Tenants must give two months' notice to leave the property unless a lesser time has been agreed upon.
 - Existing tenancies at the start of the act will convert to periodic at commencement.
- 4.12. **Joint Tenancies**
- a) Joint nominations are sometimes received from a referring agency or local authority,
 - b) St Mungo's will not, unless agreed at the nomination stage by the Local Authority, grant joint tenancies to non-partners such as friends or relatives.
 - c) St Mungo's, depending on the circumstances, generally only offers joint tenancies to married couples and civil partners.
 - d) A joint tenancy gives:

- Each tenant the right to occupy the property.
 - Each tenant is jointly responsible for the whole tenancy.
 - Either tenant can end the tenancy – except if under a fixed term tenancy with no provision for either party to end it early during the fixed term period. Once the fixed term expires, either tenant can then end the tenancy.
- e) In cases of domestic abuse or relationship breakdown where one tenant ends the tenancy, the tenancy may be offered to the remaining tenant and may require a court order to be made by the court pursuant to the Children Act 2004 or Matrimonial Causes Act 1981. The court order must be followed.

5. Minors

Due to the nature of the services and properties that St Mungo's provide, it would be highly unlikely that a licence or tenancy would be offered to someone under the age of 18. In the event a person under the age of 18 is referred to St Mungo's staff must consider carefully the implications of lettings and seek legal advice as a person under 18 cannot legally hold a tenancy and any tenancy agreement would have to be held by a person under a legal Trust for them until they reach 18. Under no circumstances should St Mungo's ever agree to hold a tenancy on Trust for a minor.

6. Right to Rent

Please refer to [Supporting Non-UK Nationals B35](#).

7. Tenancy sustainment

- 7.1. At St Mungo's, we want to support clients/tenants to be able to maintain their tenancies successfully and use the skills developed to move onto more permanent and long term accommodation.
- 7.2. At St Mungo's we want to prevent unnecessary evictions. We attempt to evict tenants as a last resort measure, only when we have explored all reasonable alternative options to tackle breaches of the tenancy or licence agreement. Sometimes where the breach is significant it may be that other options are not viable.
- 7.3. We will always try to work with our clients/tenants to help them find solutions and avoid evictions where possible.
- 7.4. Where evictions cannot be avoided, or if safeguarding concerns are raised or known, we will alert Social Services and other agencies such as relevant outreach services, local authorities and any other services the client/tenant is working with as early as possible, and in line with our Data Protection Policy.
- 7.5. Before we carry out an eviction we will attempt to:
- Provide information and advice about housing options.
 - Refer tenants to the Welfare Rights team where needed.
 - Refer tenants to other agencies such as Citizens Advice Bureau, housing advice services and the homeless persons unit at the local authority.

- 7.6. We will attempt to offer appropriate advice and support to help all our tenants and clients to ensure they meet the conditions of their agreements and therefore remain in their homes until they are ready to move on.
- 7.7. If eviction is unavoidable and St Mungo's have followed all protocols to support the client/tenant with managing their tenure and the client continues to breach their agreement, please refer to [Responding to Challenging Behaviour B17](#) for further guidance.
- 7.8. Remember the Commitment to Refer – staff will refer (to the local authority) where:
- accommodation cannot be provided by St Mungo's.
 - you are an advice service and are aware that someone is or is at risk of homelessness and St Mungo's cannot house them.
 - you are working in a safe space or a hub, assessment, SWEP or advice service.
- Please see supporting document [Commitment to Refer Guidance B01 S1](#) for further information and guidance on this process.

8. Fraud

- 8.1. St Mungo's is committed to preventing and tackling all aspects of social housing fraud in order to make best use of stock.
- 8.2. Social housing fraud and tenure misuse can present in various forms and can occur at any stage during the tenure life cycle – from obtaining a tenancy by deception, through to failing to notify the landlord when the tenant moves out or passes away. In some instances, tenancies may be unlawfully sublet to generate lucrative profits for individuals or organised groups.
- 8.3. The following list is not exhaustive, but demonstrates the most common types of tenancy misuse:
- unlawful subletting
 - non-occupation of the property by tenant as their principal home
 - key selling
 - fraudulently obtaining a social housing tenancy by providing false information.
- 8.4. St Mungo's will use the full range of tools at their disposal to tackle these and all other aspects of social housing fraud. This may not be as relevant in accommodation such as hostels, however it is relevant in self-contained accommodation. This will include:
- ensuring that properties are let to eligible applicants
 - all instances of tenancy misuse are thoroughly investigated and resolved
 - where necessary, taking legal action to recover dwellings where housing fraud has been committed.

9. Recording information to aid monitoring, auditing and controls

- 9.1. St Mungo's will record information about our lets on an ongoing basis. This is to ensure that the requirements of housing laws and legislations, including this policy and procedure, are being complied with.
- 9.2. Not abiding by the law can have legal implications as well as financial and reputational consequences.

9.3. When necessary, monitoring can identify areas where further support may be required so that targeted training and development can be provided.

9.4. The audits and reports can include but may not be limited to the following:

- The number of lets,
- Number of licence / tenancy agreements uploaded onto the Opal,
- The type of agreement granted.
- Number of refusals with reason and source of referral.
- Appeals data.

9.5. These will be automated where possible on Opal, otherwise run at a service level and will be reviewed annually by Regional Heads.

10. Mutual exchange

- Due to St Mungo's nature of tenancies and support offered a Mutual Exchange service is not offered.

11. Associated documents

- Beginning and Ending Licences & Tenancies Procedure B02

Commented [LB1]: Link

12. Relevant procedures and documents

- [Responding to Challenging Behaviour B17](#)
- [Supporting Non-UK Nationals B35.](#)

This policy and procedure was developed in consultation with
Director of Housing Services Regional Heads Service Managers Quality and Continuous Improvement team Head of Health and Safety Head of Repairs Head of Welfare Rights