

# Left In Occupation Policy

**Lead Director:** Executive Director of Communities and Regeneration

**Reference:** POL 85

**Committee Review:** Customer Committee

**SMT / Board Approval:** 22<sup>nd</sup> January 2026

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## **1. Introduction and Aim**

- 1.1 This Policy outlines Cobalt Housing's approach to managing cases where individuals remain in a property without legal occupancy rights, including those who do not qualify for succession. It sets out criteria for granting tenancies, legal considerations and how decisions will be made fairly and transparently.
- 1.2 The aim of the Left in Occupation Policy is to set out Cobalt's approach towards anyone left in occupation of one of its properties without a legal right of occupation. This may include occupiers who do not qualify for the right to succeed.

## **2. Policy Statement**

- 2.1 Cobalt manages approximately six thousand properties. There may be some cases where individuals are left in occupation of a property and have no legal right of occupation. These cases should be dealt with in accordance with this Left in Occupation Policy.

## **3. Definitions**

- 3.1 A Left in Occupation case involves someone who has been allowed into the property with the consent of the tenant and remains in the property after the tenant has left or died and is not eligible to succeed under the Right to Succession.

## **4. Legal and Regulatory Requirements**

- 4.1 Decisions in Left in Occupation cases are open to challenge by occupiers by judicial review in the High Court and / or in defence of possession proceedings in the County Court. It is essential that all housing officers involved in the case consider each case on its own merits, record all evidence, their decisions, and the reasons for their decisions on file. All decisions must be confirmed in writing to the occupier. A use and occupation charge will be in place whilst investigations are ongoing.
- 4.2 Once the existing tenancy has been properly terminated either through a formal signed termination or following a 'Notice to Quit,' the occupier becomes a trespasser. Possession proceedings can be issued against the occupier.
- 4.3 This Policy aims to provide discretion to award tenancies outside of succession rules and to offer guidance to the decision maker which supports the organisation, resident, and local community.
- 4.4 Through this Policy the organisation can demonstrate its commitment to the local community and its residents by offering up accommodation outside of its statutory duties, preventing homelessness and maintaining thriving communities where people feel valued.

## **5. Policy Principles**

- 5.1 To be considered under the Left in Occupation Policy, the occupant must satisfy the following criteria:
  - a. To be a member of the tenant's family as defined in the Tenancy Agreement.
  - b. The property must have been the occupant's principal home for a continuous period of at least 12 months immediately prior to the tenant's death or departure. The occupant must be able to demonstrate uninterrupted residence during this time, with the property serving as their only home.

- c. For the purposes of bungalows, in addition to length of residency, the occupant must also satisfy either the age criteria or have a medical condition and there is evidence to suggest they have difficulty climbing stairs or accessing facilities, in accordance with Cobalt's Allocations Policy. As bungalows are a scarce resource, where the occupant qualifies under the Left in Occupation Policy but does not meet the criteria above, they will be eligible to be offered suitable alternative accommodation which meets their requirements.
- d. For the purposes of older persons accommodation, if the person(s) left in occupation do not satisfy the age criteria the tenancy will not be granted but suitable alternative accommodation may be offered to prevent homelessness.
- e. For the purposes of adapted properties, if the property has been adapted to suit the needs of the previous tenant and the person(s) left in occupation does not require those adaptations an offer of suitable alternative accommodation may be granted. This enables Cobalt to make best use of its stock.
- f. If the property has either been adapted to suit the needs of the person(s) left in occupation or is a purpose-built home to suit the needs of a disabled person, then a tenancy may be awarded. In these circumstances the person(s) left in occupation would be awarded a starter tenancy (probationary period) in their own right and will not inherit any rights held by the previous tenant. This let will be recorded as a 'management let' and approved by the assistant director or executive director.
- g. If a minor is left in occupation Cobalt may offer a tenancy if a guarantor is in place until the minor turns 18, when they can legally become responsible. In these circumstances, Cobalt will require the guarantor to sign a deed of trust.

5.2 Cobalt is committed to making fair, evidence-based decisions that balance individual need with responsible stock management when deciding whether to grant a new tenancy. This may include (but not be limited to):

- Occupant's relationship with the tenant.
- Length of occupation.
- Suitability of accommodation.
- Size of accommodation.
- Affordability of accommodation.
- Property demand.
- Housing needs.
- Vulnerabilities.
- Any other relevant factors in Cobalt's Allocations Policy.

5.3 Where Cobalt decides to grant a new tenancy, this will be a starter tenancy (with probationary period).

## **6. When Tenancy Will Not be Granted**

6.1 If a resident is refused a new tenancy after being left in occupation, Cobalt will complete a written outcome report prior to commencing legal proceedings against the occupier(s). Reasons for refusals may include but are not exclusive to:

- Failure to satisfy Cobalt of 12 months' residency.
- Property unsuitable (e.g., due to size / affordability).

- Previous housing history which would exclude them from housing with Cobalt, this will include all forms of tenancy breaches.
- Intentionally creating a housing need to gain advantage, such as moving into the property from a secure home and creating a potentially homeless situation.
- Misrepresentation of either their housing need, housing history, medical requirements, or household composition.
- Failure to pay use and occupation charge.

6.2 Cobalt will ensure that the service we provide in determining the tenancy will be fair and equitable for all our customers. This is regardless of age, disability, gender, race, sexual orientation, marital status, or any factor which may cause a disadvantage.

6.3 We will also ensure that we consider the impact of this Policy with reference to Cobalt’s Equality Diversity and Inclusion Policy and address any issues identified during Cobalt’s equality impact assessment of this Policy.

6.4 This will be achieved by:

- At an early stage in the investigation, determining any disability within the household and considering whether it is appropriate to take a flexible approach in the application of this Policy to promote equality.
- Considering the suitability as to the methods of communication and responding to an individual’s needs as appropriate.
- Ensuring all written correspondence is easy to understand and that any legal notices are fully explained to the occupant. If necessary, with the occupant’s consent, consult with a third party/ relative/carer etc. who may act on behalf of the occupant.
- Providing staff with training to ensure that our employees treat all people equally and are fully aware of the left in occupation procedure.
- Monitoring and reviewing this ‘Left in Occupation Policy and Procedure’ to ensure that it is working in practice and take any necessary actions to avoid discrimination.
- Specifically look at the housing need of an individual who is left in occupation to consider any factors / personal circumstances e.g. age, disability, which may influence the final decision.

## 7. Risk Management

7.1 The key risk associated with non-delivery of this Policy is:

Risk Register Ref:	Risk Description:
<b>FV10 – Poor management of empty homes and tenancy turnover</b>	<ul style="list-style-type: none"> <li>• Poor management of empty homes results in poor relet times, void costs and rent losses which increase beyond the levels assumed in the approved Business Plan. Note Left in Occupation will be recorded as a back-to-back with no relet time or void rent loss.</li> <li>• Increase number of residents within the local authority area requiring support from the local authority.</li> </ul>
Risk Consequences:	Management and Mitigation:
<ul style="list-style-type: none"> <li>• Failure to follow our Left in Occupation could increase our tenancy turnover.</li> </ul>	<ul style="list-style-type: none"> <li>• Making use of this Policy allows non qualifying successors to remain in the property and continue to contribute to the Cobalt community.</li> </ul>

## Key Risk Indicators and Control Limits

- 7.2 To ensure minimum rent loss, all cases should be determined and resolved without delay within the specified performance standard. We will also conduct a Pre-Tenancy Risk Assessment to review the individual's financial ability to meet the requirements of the tenancy. Assistance will be offered to look at either priority debt management or benefit maximisation should a tenancy be granted.
- 7.3 The Left in Occupation Policy also allows Cobalt to prevent voids and losses associated with that process, in appropriate circumstances.
- 7.4 As new tenancies are created, back-to-back lets are recorded, which has a positive impact upon performance.
- 7.5 A full survey will be undertaken of the property to ensure the condition of property meets the decent homes standard and repairs scheduled as appropriate, including gas and electrical safety testing. A formal sign-up will take place, and the new tenant will be awarded a starter tenancy and provided with all the documents needed to create a tenancy.

## 8. Regulatory and Legislative Compliance

- 8.1 In implementing and delivering this Policy, Cobalt will comply with its legal and regulatory obligations, including but not limited to:
- Human Rights Act 1998
  - Equality Act 2010
  - Data Protection Act 2018
  - Homelessness Act 2002
  - Anti-social Behaviour, Crime and Policing Act 2014
  - The Regulator of Social Housing's Tenancy Standard

## 9. Links to Other Key Documents

- Access to Housing Policy
- Tenancy Policy

## 10. Governance of this Policy

<b>Equality Diversity and Inclusion (EDI)</b>	An Equality Impact Assessment (EQIA) was completed in January 2025.
<b>Financial and Links to VfM</b>	The pre tenancy process detailed in this Policy aims to ensure that new customers can afford their home and that their income is maximised, this should reduce incidences of rent arrears accruing.
<b>Privacy and Data Protection</b>	Data will be stored on our housing management system and will be subject to normal protocols in managing data
<b>Health and Safety</b>	Usual checks would be made before an allocation was made which could impact on the wider community.
<b>Development and Consultation</b>	This Policy has been reviewed in conjunction with key teams involved in the implementation of the Policy. Our Tenant Consultative Panel (TCP) have been consulted on changes.

## 11. Definitions

- **Tenant** – person(s) in legal contract/relationship with the landlord.
- **Successor** – person(s) who determined by law can succeed the tenancy.
- **Succession** – the act of succeeding the tenancy.
- **Let in Occupation (LIO)** - person(s) who is unable to meet the legal requirements to succeed the tenancy but is residing at the property when the current tenancy ends.
- **Adapted properties** – properties which are either built for a person with mobility limitations or specially adapted to suit a person’s needs such as but not exclusively level access shower and or stairlift.
- **Back-to-back let** – no void period between one tenancy ending and another commencing.
- **Starter Tenancy** – first year of a new tenancy.
- **Management Let** – approved by director, outside of Property Pool Plus.

