



LEASING POLICY

Status: APPROVED

Policy Lead:	Executive Director Business Support
Owned By:	Executive Director Business Support
Date Approved:	November 2023
Approved By:	BHA Executive Team
Review Date:	November 2026
Regulatory / Legislative Considerations/ References:	
Other Documents to be read in conjunction with this policy:	



Policy Title:	Leasing Policy
Purpose / Aim of policy:	The purpose of this policy is to clearly define the circumstances in which we will lease properties and the type of organisations we will lease to. Colleagues have delegated authority to enter into leasing arrangements in line with this policy but any proposal to lease that falls out with the terms of this policy must be referred to the BHA Board for a decision.
Scope of Policy:	This Policy provides our approach to those properties that are for use either as commercial rental properties, or for the use by community groups where this meets the needs of the wider community.
Definitions :	
Approval Source:	Executive Team
Equality Impact Assessment:	<p>We will ensure that where appropriate all of the needs of the relevant wider community and the use of the property are assessed prior to agreement We will therefore ensure that appropriate selection and assessment criteria are used by the lessee in allocating the properties.</p> <p>We undertake to ensure that equal access to appropriate property types and locations across the range of our stock is given to lessees. Properties made available for leasing should not be confined to one particular area or to less desirable stock</p>
Sustainability Assessment:	There are no major sustainability implications linked to the contents of this policy
Partnership Assessment:	Where we lease property to a key partner to support the delivery of shared objectives, We will undertake an assessment of the outcomes of the partnership prior to approval.
Risk Implications:	There is a potential for reputational risk if a lease is made to an organisation that could potentially bring BHA into disrepute. This would be reviewed at the time of application by any organisation and appropriately accepted/declined.

1. Introduction

As an organisation our aim is to meet our obligations to promote equalities and contribute to meeting the needs of the wider community. One of the ways we can achieve this is by making some of our properties available to organisations working within our communities that are providing a wider community benefit. This could include for example people with support needs, to local authorities where appropriate or to community organisations assisting people to improve their lives. As part of this policy and where possible we will make any surplus non-residential properties available to local businesses and organisations.

Where leasing is found to be the most appropriate option the Board has delegated authority to the Chief Executive and Executive Directors to sign agreements on its behalf.

- a) In line with Performance Standards and good practice Berwickshire Housing Association will only lease properties to a third party on an exceptional basis or if the property is non-residential. Our policy is to provide the most secure form of tenancy compatible with the purpose of the housing or building. Therefore, wherever possible we will provide direct tenancies for individuals. For example, generally when the accommodation is self-contained and long term, we do not consider leasing being appropriate.
- b) When we lease property, we will ensure the lessee uses the appropriate model leases, tenancy, and occupancy agreements currently available.
- c) When we enter into a lease where we need to consider a variation on an existing model tenancy or occupancy agreement, we will seek legal advice to ensure that we are maximising the security of tenure for the individual. This may arise because of the design of the accommodation or the nature of the client group. In the case of commercial property, we will use either a commercial lease or a licence according to the Law of Scotland.

2. Meeting the needs of our Client Groups

To meet our policy objectives, we will generally only lease property for use as temporary accommodation. There will be exceptions however where the accommodation is a person's permanent home. .

2.1 We will lease properties to organisations where it is appropriate due to the client group being housed and the nature of the support being provided, examples of which would be:

- Aid Organisations - Accommodation for use as a refuge.
- Scottish Borders Council - Accommodation for use as temporary accommodation for homeless people.

We will make every effort to safeguard our properties and the people living in them or conducting business from them. In determining an organisation's suitability as a lessee we will consider its track record including its financial

position (consideration of financial viability is relaxed in the case of local authorities).

3. Managing Equalities

Our policy is to ensure fair and open access to our housing and to be responsive to people's individual support needs. We will therefore ensure that appropriate selection and assessment criteria are used by the lessee in allocating the properties.

We undertake to ensure that equal access to appropriate property types and locations across the range of our stock is given to lessees. Properties made available for leasing should not be confined to one particular area or to less desirable stock.

4. Audit Trail

We will maintain a clear audit trail showing that we have;

- a) Examined all other available options in deciding that leasing is the most appropriate arrangement;
- b) Ensured that the lessee has granted the most secure form of tenure compatible with the purpose of the housing;
- c) Demonstrated good reasons for departing from the terms of any model agreements.

This should include where the;

- I. Lease is for longer than three years;
 - II. Appropriate SFHA Model lease is not used;
 - III. Model is used but some clauses are omitted or amended;
 - IV. Appropriate model occupancy or tenancy agreement is not used.
- d) Managed risks, covered costs and taken steps to ensure sustainability where it is a commercial lease.

5. Performance and Review

We will review the management of leased properties regularly by holding liaison meetings with the lessee at least every six months or as appropriate to the project. Where a new lease is developed with a new lessee, meetings may be more frequent to assess and review.

We will report annually to the Board setting out;

- The number of leases
- The organisations we have leased property to;
- The expiry date for the lease;
- Any management issues relating to the conduct of the lease (this should include estate management issues, complaints made and received, financial issues and repairs) and;
- Whether we have renewed leases.

6. Commercial Leases

Where our non-residential properties can be leased we will provide these to local businesses and organisations. All leases will be undertaken on a commercial basis and subject to the relevant lease agreements. The terms of the lease shall be reviewed with the lessee but shall not exceed ten years and will be for a minimum of three years subject to Board approval.

Any lease undertaken will be subject to the same level of review and appraisal as outlined in section five above.

7. Review and updates to this Policy

We will review and update this Policy every 3 years.