



Assignment and mutual exchange policy

1. Purpose and scope

This policy sets out when we will grant or refuse tenants the right to assign their tenancy by way of a mutual exchange or a direct assignment.

2. Underpinning principles

Tenants do not have a statutory right to assign their tenancy; in fact, the Housing Act 1988, s15 contains a general prohibition on tenants not to assign their tenancy without the landlord's consent.

The following legislation is of particular relevance to this policy.

- Civil Partnership Act 2004 – Schedule 5, Part 2
- Family Law Act 1996 – Schedule 7
- Housing Act 1985 - s92 and Schedule 3
- Housing Act 1988, s15
- Localism Act 2011, s158 and Schedule 14
- The Transfer of Tenancies and Right to Acquire (Exclusion) Regulations 2012

We must also comply with the Regulator of Social Housing Tenancy Standard 2012.

We are also contractually bound by the obligations relating to assignment contained in our tenancy agreements.

3. Policy details

There are two situations where an assignment can take place. These are:

- mutual exchange – where two or more tenants want to exchange properties.
- direct assignment – where a tenant wants to transfer their tenancy to someone else or wants to add or remove someone from their tenancy.



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Mutual exchange

We are committed to supporting requests from tenants to exchange accommodation in order to promote choice and greater mobility. To assist in this process we pay a subscription fee for our tenants to use Homeswapper, an internet based national home swap service for social housing tenants.

Tenants who are not allowed to mutually exchange their tenancies include those with:

- starter tenancies
- periodic assured shorthold tenancies
- demoted tenancies
- fixed term tenancies of less than 2 years in length.

Conditions attached to consent

We may grant consent for a mutual exchange on condition that any tenancy breaches are rectified. Tenants must accept the decorative condition of the property they are moving into.

However, we remain responsible for our landlord obligations under the Landlord and Tenant Act 1985, s11 as well as those listed in our tenancy agreements. We are therefore responsible for rectifying any defects caused by the previous tenant although they will be recharged accordingly.

Mutual exchange without consent

If tenants carry out a mutual exchange without permission the exchange will be unlawful, and they will have will:

- (i) have no legal interest in the property and therefore no security of tenure
- (ii) remain liable for the tenancy obligations on their previous home.

In such cases we have a number of options and these are set out in the mutual exchange procedure.



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Grounds for refusing a mutual exchange

The grounds for refusing a mutual exchange can be found in the tenancy agreement and in this policy (see appendix 1).

Direct Assignment

The direct assignment element of this policy applies to our tenancies but not to those managed by us on behalf of other social landlords, where reference should be made to the contractual terms of those tenancies. If a tenancy can be assigned but only with our consent it must not be unreasonably withheld.

Grounds for refusing a direct assignment

The tenancy agreement will normally say when a tenancy can be assigned as opposed to when it cannot. The issues we will consider in deciding whether to refuse permission for an assignment are listed in Appendix 2.

Appeals

If the tenant is not happy with the decision not to allow them to assign their tenancy, they should be advised to follow our compliments and complaints procedure.

4. Signposting

- Children Act 1989
- Data Protection Act 2018
- Immigration Act 2014
- Immigration Act 2016
- Matrimonial Causes Act 1973
- Town and Country Planning Act 1990 – s106
- Welfare Reform Act 2012
- UK General Data Protection Regulation (UK GDPR)
- Assignment procedure
- Data Protection Policy
- Mutual exchange procedure
- Right to Rent guidance

Policy Review Date – 27 July 2025

Appendix 1

Grounds specific to this policy for refusing a mutual exchange

- (i) Any debts are owed to Selwood Housing by the existing tenant(s) or the incoming tenant(s).
- (ii) An unsatisfactory landlord reference.
- (iii) The property the tenant would be moving into is unaffordable for them.
- (iv) The condition of the property is unacceptable.
- (v) The tenant has not completed any necessary remedial work.
- (vi) The property has been adapted for use by a disabled person, and the proposed assignee is not disabled or is disabled but will not make use of the adaptations.
- (vii) The assignment will not make best use of the property, e.g. because of its size, suitability or nature.
- (viii) If the property the tenant will be moving into will be under occupied by more than 1 bedroom.
- (ix) If the exchange were to proceed it would place us in breach of a legal obligation such as the Right to Rent, or planning conditions associated with s106 Agreements or Rural Exception Sites.
- (x) If the exchange were to proceed it could place any of the tenants involved in the exchange, members of their family, the public or our staff or contractors at risk of serious harm.
- (xi) The necessary electrical and gas safety (if applicable) inspections, and other safety inspections (if relevant), have not been completed or are unsatisfactory.
- (xii) The tenant or a member of their household has caused anti-social behaviour, has been involved in unlawful or immoral activity, or has been responsible for a significant breach of tenancy, even where no court order, injunction or legal notice has been served on them.
- (xiii) We have previously taken legal action against the tenant.
- (xiv) Where we have reason to believe that one of the tenants involved in the exchange does not intend to live in the property they are moving into.

- (xv) Where one of the tenants has pets and there are restrictions on keeping animals in the property they want to move into.

Appendix 2

Grounds specific to this policy for refusing a direct assignment

- (i) The assignee is under 18 years of age and does not have a person who can hold the tenancy in trust for them and also act as a guarantor.
- (ii) The tenant(s) wants to assign their tenancy to a family member (unless exceptional circumstances apply).
- (iii) The assignee has not lived at the property for at least 12 months, unless they are married or in a civil partnership. (This timescale mirrors that of the succession rights of members of a tenant's family as set out in the Housing Act 1985, s87.)
- (iv) If the proposed assignee has an outstanding debt with us.
- (v) If legal proceedings have been commenced against the tenant.
- (vi) We have previously taken legal action against the proposed assignee.
- (vii) The property has been adapted for use by a disabled person and the proposed assignee is not disabled, or is disabled but will not make use of the adaptations.
- (viii) The assignment will not make best use of the property, e.g. because of its size, suitability or nature.
- (ix) The property is unaffordable for the assignee.
- (x) The condition of the property is unacceptable.
- (xi) If the assignment were to proceed it would place us in breach of a legal obligation such as the Right to Rent, or planning conditions associated with s106 Agreements or Rural Exception Sites.
- (xii) If the assignment were to proceed, it could place our tenants, members of their family, the public or our staff or contractors at risk of serious harm.
- (xiii) The proposed assignee or a member of their household has caused anti-social behaviour, has been involved in unlawful or immoral activity, or has been responsible for a significant breach of tenancy, even where no court order, injunction or legal notice has been served on them.
- (xiv) Where we have reason to believe that the assignee does not intend to live in the property.

- (xv) Where the assignee has pets and there are restrictions on keeping animals in the property.



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Decision-making record

Date	Meeting/Minute Reference	Version/ Amendment
30 November 2006	Continuous Improvement & Policy Committee	1
27 November 2009	Andrew Myatt	2
August 2009	Kerri Hargreaves	3
October 2010	Selwood Tenants Voice	4
January 2012	Selwood Tenants Voice and the Executive	5
January 2013	The Executive	6
4 October 2016	Verena Buchanan	7
13 December 2016	Verena Buchanan	8
21 May 2018	Marc Robins	9
19 September 2018	Verena Buchanan	10
8 October 2019	Executive	11
12 March 2020	Verena Buchanan	12
7 December 2020	Executive Appendix 1 amended re restricted lettings criteria issue	13
15 March 2022	Executive Amendments made to Appendix 1 and Appendix 2.	14
26 July 2022	Executive Updated and some minor changes made to the wording.	15
25 January 2023	Verena Buchanan Property size condition moved from the main body of the document to Appendix 1.	16
14 March 2024	Verena Buchanan Additional wording added to section (x) of appendix 1.	17