



Contents

1. Purpose and scope
2. Definitions
3. Policy statement
4. Monitoring and controls
5. Legislation and regulation
6. Equality, diversity and inclusion
7. Communication and consultation

1. Purpose and scope

- 1.1 This policy sets out how Lewisham Council will administer the rights of assignment for our Secure and Introductory tenants, which includes assignment by mutual exchange. It confirms what those rights are, and what information will be required from anyone seeking to exercise those rights.
- 1.2 This policy applies to secure tenancies issued and managed by London Borough of Lewisham (LBL), and clarifies the circumstances in which it may also be applied to an introductory or demoted tenancy. This policy does not apply to any other type of tenancy or licence issued or managed by Lewisham Council, which may be governed by other law or policy.
- 1.3 This policy should be read in conjunction with the Lewisham Council Succession policy. We will implement this policy through internal procedures for Assignment and Mutual Exchange.

2. Definitions

- 4.1 This explains what we mean when we use the following terms in relation to this policy:
 - Assignment - The transfer of a tenancy and the property it relates to, to another person during the lifetime of the tenant.
 - Assignor - The person who transfers the tenancy.
 - Assignee - The person to whom the tenancy is transferred. The Assignee becomes the tenant of the landlord, under the same agreement.
 - Deed of Assignment - The legal document that is used to assign the tenancy from one person to another.
 - Qualifying Family Member – A person defined by statute or contract who may be entitled to succeed (For more information see our Succession policy).
 - Mutual Exchange – A type of assignment where two or more tenants swap their homes



3. Policy statement

- 3.1 A secure tenancy may be assigned, subject to conditions being met, only under the following circumstances:
- By deed of assignment to a person who would be entitled to succeed to their tenancy on their death
 - By order of the Court
 - Under the right of mutual exchange
- 3.2 It is a condition of our tenancy agreement that a tenant must first obtain our permission in writing before assigning their tenancy. (See 3.8 regarding Court Orders).
- 3.3 Any attempt to assign a secure tenancy outside of the specified circumstances will not transfer a secure tenancy. The assignee will become a tenant, but the tenancy will no longer be secure, and Lewisham Council are able to terminate the tenancy by serving a notice to quit.
- 3.4 Introductory tenancies cannot be assigned except in the circumstances outlined in 3.6 and 3.8 of this policy. Demoted tenancies cannot be assigned except in the circumstances outlined in 3.8 of this policy.
- 3.5 We will always check the tenancy agreement and tenancy history before determining eligibility to assign or succeed. This includes checking whether there has been any prior succession or certain types of assignment which would affect the decision. We will also check documentation provided by the assignee to ensure the applicant is a person who would be entitled to succeed and meets the residential criteria.
- 3.6 A secure tenancy can be assigned to any person who would be qualified to succeed to the tenancy if the tenant had died immediately before the assignment. (See Lewisham Council's Succession policy). If the Assignor intends to move out of the property, the assignment must be completed before they move, and it ceases to be their main or principal home. Failure to do this will result in the secure tenancy status being lost.
- 3.7 An assignment to a potential successor counts as a succession. As such:
- Assignment is not possible if the existing tenant is a successor
 - There can be no further succession when the assignee dies
 - A joint secure tenancy cannot be assigned to anyone else (as the other joint tenant would be due to succeed by survivorship)
- 3.8 Where a court makes a property adjustment order, (under sections 23A or 24 of the Matrimonial Causes Act 1973, under section 17(1) of the Matrimonial and Family Proceedings Act 1984, or under paragraph 1, Schedule 1 to the Children Act 1989), ordering that a sole or joint tenancy be transferred to one party in matrimonial proceedings, it will be necessary to assign the tenancy to give effect to the order. Though the court may order the assignment, our consent must be obtained to carry out the assignment, in line with the terms of the tenancy.

Note: The courts also have powers to transfer tenancies under the Family Law Act 1996. This transfer does not take effect by way of assignment and so is not included in the list of specified circumstances in which assignment is permitted.



- 3.9 We will provide access to a mutual exchange service to those eligible, and without payment of a fee. We will provide support where a resident requires it to be able to access the mutual exchange service we offer.
- 3.10 Where a tenant wishes to assign their tenancy by way of a mutual exchange with one or more party, this requires the written consent of Lewisham Council as well as the other respective landlord(s).
- 3.11 Lewisham Council will withhold consent to a mutual exchange where there is a ground set in law that gives us a basis to do so. This includes:
- Grounds connected with court proceedings
 - Grounds connected with the accommodation
 - Grounds connected with the landlord

While we cannot withhold consent for any other reason than the specified grounds, where a tenant is in arrears or has otherwise breached a term of the tenancy, our consent will be given on the condition that the arrears are paid, or the breach is remedied before the assignment can take place. Where we withhold consent, we will give notice of refusal within 42 days of receiving the application.

- 3.12 We will discuss implications for the exchange with the tenant, and promptly provide information regarding costs. We will also always encourage tenants to seek professional, independent advice before assigning their tenancy, to ensure they fully understand the consequences of doing so.

4. Monitoring and controls

- 4.1 We will implement this policy through our Assignment and Mutual Exchange procedures, and in conjunction with the London Borough of Lewisham's Allocations scheme. We will monitor the implementation to ensure that the policy is applied and administered correctly, including required timeframes.

5. Legislation and regulation

- 5.1 Legislation affecting this policy includes:
- Housing Act 1985
 - Localism Act 2011
 - Matrimonial Causes Act 1973
 - Matrimonial and Family Proceedings Act 1984
 - Children Act 1989
 - Family Law Act 1996
 - Civil Partnership Act 2004
 - Marriage Same Sex Couples Act 2013
 - Children and Families Act 2014
 - Domestic Abuse Act 2021
- 5.2 This policy has been written, and will be administered, in line with contractual requirements set out in our current tenancy agreement.



6. Equality, diversity, and inclusion

- 6.1 As part of the development of this policy, we completed an equality impact assessment, to check that we were able to meet our duties under the Equality Act 2010, and that there was no expectation of impact on any protected characteristics.

7. Communication and consultation

- 7.1 We will acknowledge all correspondence in line with our published timescales. Where we require more information in order to respond to an application, we will request this clearly and promptly, and in line with any legal requirements.
- 7.2 Complaints regarding the application or handling of this policy will be managed in accord with our Housing complaints policy.
- 7.3 This policy will be available through our website. A hard copy can be made available on request.
- 7.4 We will promote the option of mutual exchange, as a realistic option for moving home, and will provide assistance where needed for residents to access the mutual exchange process.

Replaces: Assignment policy 2020 (Lewisham Homes) Minor updates to reflect the return of landlord services previously managed by Lewisham Homes to Lewisham Council	
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