

Women's Pioneer Housing Assignment Policy & Procedure

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1. Introduction

1.1. This policy outlines the circumstances under which tenants may assign their tenancy to someone else. It aims to ensure that assignments take place in accordance with the relevant legislation and that the contractual rights and obligations of the tenancy agreement are adhered to.

1.2. WPH's approach to assignment and is supported by the following tenancy management procedures:

- Starter tenancy procedure
- Succession procedure
- Mutual exchange procedure
- ASB policy and procedures

2. Purpose of this document

2.1. This policy outlines the approach to assignment requests for general needs and sheltered housing and applies to assured tenancies only.¹

3. What is an assignment?

3.1. An assignment is a transfer of the tenancy during the lifetime of the tenant.

3.2. Succession is a different process, whereby the tenancy is transferred upon the death of the tenant. (See Succession Policy).

¹ For leasehold and market rent see Leaseholder Management Policy and WPH Homes Tenancy Management Policy respectively.

- 3.3. Under an assignment the person who transfers the tenancy (i.e. person A) is called the assignor' and the person to whom the tenancy is transferred (i.e. person B) is called the 'assignee'. The effect is that the Assignee becomes the tenant of the landlord, under the same agreement. Assignment must be done by way of Deed of Assignment.
- 4. What is the legal basis for assignment?**
- 4.1. Section 15 of the Housing Act 1988, prohibits assignment for assured (non shorthold) tenancies unless there is an express contractual agreement by the landlord to allow assignment.
- 4.2. Where there is an agreement by the landlord that the tenant can assign with permission, then permission will not be unreasonably withheld.
- 4.3. You are not allowed to assign or pass on the tenancy except in the following circumstances:
- a) By way of mutual exchange with a tenant of another Local Authority or Housing Association; or
 - b) If ordered to do so by the court in matrimonial proceedings or in accordance with Schedule 1 of the Children's Act 1989; or
 - c) To a person who would be qualified to succeed to the tenancy (such qualification being determined by the provisions of Section C of this Tenancy Agreement below) in the event of your dying.
- 4.4. In the situation (a) and (c) you must obtain our previous written consent to the assignment; this consent will not be unreasonably refused. In situation (b) we must be notified of the change and the details of the new tenant.
- 4.5. This means Women's Pioneer must consider assignments by:
- Mutual exchange (see Mutual Exchange Policy)
 - Assignment to an eligible successor (see Succession Policy)
 - Assignment by Court order e.g. Property Adjustment Order
- 5. Can there be an assignment?**
- 5.1. The right to assign or mutually exchange a tenancy, as detailed above, only applies to assured tenants. Starter tenancies do not have this right.
- 5.2. The Tenants on temporary licences (including those housed under Part 7 Housing Act 1996 (as amended) duties e.g. homelessness of the Local Housing authority), starter tenants have no right to assign.

5.3. A tenancy can only be assigned to a person eligible to succeed the tenancy once, so once it has been assigned, it cannot be assigned again, nor can there be a later succession. However, this does not limit assignment by mutual exchange, or court order.

6. Sole tenants

6.1. A sole tenant could request to assign their tenancy to someone who would have the right to succeed to their tenancy on the event of their death.

7. Grounds for Refusing an Assignment

7.1. There are no statutory grounds for refusal. If the proposed assignee qualifies for succession, they will become the tenant at a later stage and so Women's Pioneer would need to be satisfied that there is a need for the tenancy to be assigned now. The following are examples of where an assignment can be refused;

- Where the individual is a starter tenant or a licensee.
- Where there is a possession order in force against the tenancy.
- Where there is a valid NOSP served for any breach of tenancy conditions.
- Where there are rent arrears.
- Where the person who would be assigned the tenancy is evidenced to have committed ASB, harassment or domestic abuse against the tenant.
- Where the tenant sublets part of their home or takes in a lodger; without our previous written consent.
- Where the assignment will result in under occupation.
- Where the property is a specialised/adapted unit and the proposed assignee does not meet the criteria for this particular type of property. In such circumstances the officer will need to arrange for an assessment of the Assignor's needs to be carried out.

8. Assignment & Mutual Exchanges- (see Mutual Exchange Policy)

8.1. A mutual exchange can be completed by way of deed of assignment or surrender and re-grant of the tenancy. Please see mutual exchange policy.