

<b>Title:</b>	<b>Mutual Exchange Policy</b>
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## 1. Introduction

- 1.1. Mutual exchange refers to the legal right of secure, assured and fixed-term (over two years) tenants to swap their tenancies.
- 1.2. This policy outlines WPH's approach to Mutual Exchanges and is supported by the following tenancy management procedures:
  - Mutual exchange procedure

## 2. Aims of this Policy

- 2.1. This policy outlines:
  - Our approach to mutual exchange
  - Which tenancies have the right to a mutual exchange
  - The type of tenancies we will grant to tenants following an exchange
  - How we will manage applications
  - The circumstances under which we will give/ withhold consent an exchange

## 3. Scope

- 3.1. This policy outlines WPH's approach to mutual exchanges for all eligible social housing tenants.
- 3.2. The policy does not apply to tenants in Market Rent or Intermediate Rent properties, tenants on starter tenancies, shared owners, or leaseholders.

## 4. Key Terms and Definitions

- 4.1. A mutual exchange is where two or more social housing tenants swap homes by exchanging tenancies with each other. Mutual exchanges can take place between

tenants of the same or different landlords but can only be carried out where both landlords give written consent to the exchange. Tenants take on the full rights and obligations of their 'new' tenancy, including the rent. Not all tenants are eligible for mutual exchange and there are certain circumstances in which a landlord may refuse an exchange.

- 4.2 Assignment is the transfer of a tenancy from one person to another. When a tenancy is assigned, the rights and responsibilities of the tenancy are transferred from the original tenant to the new tenant. If a tenancy is assigned during a mutual exchange, the tenants take on each other's tenancies.
- 4.3 Surrender and re-grant is another method of exchanging tenancies, where both tenants surrender their current tenancies and are awarded new tenancies, not necessarily on the same conditions.

## **5. Our Approach**

- 5.1. Under the Housing Act 1985, secure tenants have a right to exchange their home with another social housing tenant (a mutual exchange) if they have their landlord's consent, we have extended this offer to assured tenancies and those on a fixed term tenancy (lasting more than two years).
- 5.2. Starter tenants do not have the right to mutually exchange their home.
- 5.3. Mutual exchanges will be offered to tenants in line with our Mutual Exchange Procedure. In line with WPH's commitment to providing women only accommodation, mutual exchanges will only be permitted between female tenants. In the event that a male tenant applies for a mutual exchange into WPH stock, this will not be permitted.
- 5.4. We will consider applications for mutual exchange between our tenants or with tenants of another social housing provider. Exchanges can be two way or may involve multiple swaps in a chain. There are no limits to the number of times a tenant may exchange, and tenants can apply to exchange again at any time after swapping homes.
- 5.5. Mutual exchanges will only be approved if the incoming tenant meets our normal lettings requirements as outlined in the Allocations and Lettings Procedure. This includes affordability and suitability e.g. the exchange would not lead to overcrowding or under occupation and the incoming tenant does not have rent arrears or possession proceedings or a Notice of Seeking Possession is in force for rent arrears or anti-social behaviour.
- 5.6. In line with our Allocations and Lettings Policy and Procedure we will provide literature on mutual exchanges and access to an online mutual exchange facility.
- 5.7. Suitable references must have been received from the current landlord.
- 5.8. Repairs identified during the pre-mutual exchange inspection as the outgoing resident's responsibility will be agreed with WPH and must be carried out by the tenant to our satisfaction prior to the exchange going ahead. Repairs identified as our responsibility must be logged by the building surveyor and carried out in the

usual way. We will also complete gas and electrical checks. We will not carry out any additional redecoration or improvements and the incoming tenant must accept the property in its current condition at the time of the exchange.

- 5.9. Outgoing Women's Pioneer tenants must have a clear rent account at the time of the Mutual Exchange.
- 5.10. We must grant or refuse the exchange within 42 days of receiving the applications from all parties. We will provide a written decision.
- 5.11. We advise any parties involved in the exchange that they must not give or receive money or any other incentive as part of an exchange and that we can take possession action if they do so.
- 5.12. We do not pay an incentive for downsizing for those exchanging to a smaller home or provide a removal expenses allowance.
- 5.13. If a mutual exchange takes place without WPH's prior written consent, and WPH would not have approved the exchange retrospectively, legal proceedings may be initiated against the occupant. This may include issuing a Notice of Seeking Possession

## **6. Qualifying Tenants for Mutual Exchange**

6.1. WPH tenants qualify for mutual exchanges if their tenancy gives them a statutory or contractual right to exchange. The right to assign a tenancy is given to secure tenants by statute and to assured tenants by contract, but only for the purposes of an exchange. This includes tenants on an:

- Assured tenancy
- Secure tenancy
- Fixed Term tenancy (Over two years)

6.2 Tenants on the above tenancies have a statutory or contractual right to exchange with another secure, assured or fixed term (over two years) tenant whose landlord is:

- A local authority
- A registered housing association or housing trust

## **7. Tenancies Granted Following a Mutual Exchange**

7.1 Tenancies that will be granted are outlined below:

WPH Tenancy Type	Applicant Tenancy Type	New WPH tenancy to be Granted
Secure/Assured	Assured / Secure	Security of tenure maintained
Assured/Secure	Fixed Term (over two years)	Applicant will gain an assured WPH tenancy. WPH tenant to check with other housing provider if they will be able to keep their security of tenure.
Fixed Term (over two Years)	Assured/Secure	Incoming tenant will be granted an assured tenancy.
Starter / Fixed Term (under two years)	N/A	Unable to Exchange

## 8. Grounds for Refusing Consent to a Mutual Exchange

- 8.1 We may rely on any of the statutory grounds stated in schedule 3 of the Housing Act 1985 to refuse an exchange for tenants that hold a secure tenancy.
- 8.2 We may rely on any of the statutory grounds stated in schedule 14 of the Localism Act 2011 to refuse an exchange in cases where a tenant holds a fixed term or assured tenancy.
- 8.3 We will withhold consent where the home requires major adaptations to meet the needs of the proposed incoming tenant or their household.
- 8.4 We will refuse any exchange that would result in a WPH property becoming under-occupied or over occupied by more than one bedroom.
- 8.5 We will refuse an exchange where we have reason to believe that any tenant has offered or sought a financial incentive as a condition of the exchange
- 8.6 We will refuse an exchange where there are significant safeguarding concerns or members of the public are put at risk
- 8.7 We will refuse an exchange where it would result in the WPH tenancy being given to a male, in line with our charitable objectives.
- 8.8 We may rely on any other reasonable grounds to withhold our consent where allowing the exchange would put us in breach of any covenant, restriction or planning obligation.
- 8.9 We may grant consent on condition that any rent arrears are cleared, or any breach of tenancy is rectified (where there are exceptional circumstances). We will write to the

tenant setting out the conditions. If these conditions are not met, we will refuse the exchange.

## 9. Responsibilities

- 9.1 We will subscribe to an internet based mutual exchange service which allows tenants to register their interest in a mutual exchange and find suitable exchange properties. We will publicise the availability of this service on our website and through resident publications
- 9.2 We will give notice of our decision to approve or decline an application to exchange within 42 calendar days of receiving a completed application. Reasons for not giving consent are set out in legislation, as is the 42-day requirement. Our decision will be given in writing and will state the reasons for withholding consent where an application is declined.
- 9.3 We will ensure our property has valid gas and electrical certificates before approving the exchange and will arrange for the necessary checks to obtain them. We won't allow the mutual exchange to proceed until any required works have been completed and the valid gas and electrical certificates are obtained.
- 9.4 We will inspect the condition of the property to identify any repairs that may be needed and any damage or alterations that have been made. We notify both the outgoing and incoming tenant of any repairs that they will be responsible for or that need to be carried out after the move takes place
- 9.5 We will maintain responsibility for any landlord repair obligations, and will complete any repairs that are our responsibility when they are reported to us, before the exchange takes place, unless the surveyor advises in their report that the repairs can be carried out once the new tenant has moved in.
- 9.6 We will require the outgoing tenant to repair any damage, neglect or alterations that they, their household or their visitors have made to the property and to complete any repairs that we consider to be their responsibility. These should be completed before the exchange
- 9.7 We may carry out repairs that are not our responsibility in exceptional circumstances; for example, where there is a health and safety risk and will do so in line with our Recharge Policy.
- 9.8 Following a mutual exchange, we will continue to meet all of our repair and maintenance obligations for the property in line with the law and the tenancy agreement. Tenants' responsibilities.
- 9.9 Tenants are responsible for finding an exchange partner, and for making an application to us when they have found someone they want to exchange with.
- 9.10 Tenants must not move until they have received written confirmation from each landlord and signed the necessary paperwork to complete the exchange. If tenants move without our consent and without signing the required legal documents, we will treat the occupants as unauthorised occupiers in line with our Lodgers, Subletting and Unauthorised Occupants Policy and may seek possession of our property.

- 9.11 Once an exchange has been approved, both tenants must give us seven days' notice of the preferred exchange date to allow time to prepare the necessary documents.
- 9.12 Mutual exchanges are carried out either by assignment or surrender and re-grant of Tenancies. This is determined by the tenancy that each of the exchange partners have. We will always advise our tenants of the type of tenancy they will receive in the exchange when we approve their application.
- 9.13 We will grant tenants that have held an assured or secure tenancy (also known As protected lifetime tenancy) since 12 April 2012, a tenancy with no less security when they move to a WPH home.
- 9.14 Where an exchange takes place between an assured shorthold fixed term tenant and an assured periodic or secure tenant, the exchange will be by way of surrender and re-grant. This means that each tenant will surrender their existing tenancy and be granted the new appropriate tenancy. In all other cases, the exchange will take place by way of assignment.
- 9.15 The right to exchange by assignment can be enforced against the landlord by the tenant. One landlord cannot enforce the right against another landlord. If the other landlord refuses to assign the tenancy without good reason, WPH has no direct recourse.

## **10. Legislation and relevant WPH Policies and Procedures**

10.1 Key legislation and regulation relevant to this policy include:

- The Housing Act 1985/2004
- Localism Act 2011
- Regulatory Framework for Social Housing in England (Tenancy Standard)
- Landlord and Tenant Act 1985
- Equality Act 2010

10.2 In addition, there are other WPH policies and obligations that influence this policy, they include:

- Allocations Policy
- Rent Arrears Policy
- Anti-Social Behaviour Policy
- Safeguarding Policy
- Responsive Repairs Policy
- Gas Safety Policy
- Electrical Safety Policy

## **11. Equality, diversity and inclusion**

- 11.1 The Equality Act of 2010 makes it unlawful to discriminate against anyone on grounds of age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership, pregnancy and maternity. Women's Pioneer supports its principles and is committed to the values of equality of opportunity and non-discrimination.