

# The Wrekin Housing Group

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## Tenancy Change Policy

Policy No. 2019/018

### 1. Introduction / Context

- 1.1 This Policy explains The Wrekin Housing Groups approach to dealing with tenancy change requests, and temporary moves in line with the Housing, Localism Act and additional legislative requirements.
- 1.2 There are a number of ways in which a tenancy can be changed wholly or partly, from one party to another through an **assignment, a succession or by way of an exchange**.
- 1.3 When applications are received from tenants for either the assignment or exchange of their tenancy, or a relative due to the death of a tenant The Group in seeking to meet housing demand and making best use for stock, may consider the appropriateness and suitability of the current home.
- 1.4 Where the property is not suitable The Group may consider asking them to move. In all cases, The Group is committed to providing a quality service to all its tenants and will deal with all requests in a fair, reasonable and consistent manner.
- 1.5 This Policy also includes guidance to tenants who are affected by the need to move home for a period of time due to the need for essential repairs or permanently where the property forms part of a redevelopment programme.

### 2. Scope

- 2.1 Succession - The tenancy agreement details rights of succession following the death of a tenant.

**Definition:** Succession of a tenancy will only apply on the death of a tenant and there must be a 'qualified person' to succeed who has lived in the same property as their main home for at least 12 months immediately before, and at the time of, the tenant's death. Who will qualify to succeed will be dependent on whether the tenancy was joint or sole and the type and the terms of the tenancy agreement. Succession is the transfer of tenancy rights and not property rights.

**Policy Statement:** The Group will respond promptly when information is received from relatives or external agencies that a tenant has died and will contact those persons who reside at the property or their next of kin.

Where the issue of succession arises, the Group will offer support and advice, to the remaining tenant and / or their family, on their right to succeed.

The Group will ensure that the legal rights of persons qualifying to succeed to a tenancy are protected and acted upon, providing advice and support in a sensitive, non-intrusive but clear way.

Ensuring that *non-qualifying* persons are treated in a sympathetic way the Group will provide advice on rehousing options. This may include referring occupants to the appropriate local authorities housing needs section, ensuring they seek advice on their rights under Homeless and other legislation.

The Group will ensure that the procedures for dealing with issues such as the appropriateness of “more suitable alternative accommodation” and tolerated levels of under-occupation are consistent with the Groups overall housing management priorities and policies.

## 2.2 Assignment and Mutual Exchange

**Definition:** An assignment is where a person is assigned or takes over all the rights and responsibilities of the tenancy which are passed from the original tenant to a new tenant.

There are three ways an assignment can take place:-

2.2.1 Mutual Exchange: The term mutual exchange (MX) describes the ability of 2 (or more) tenants in the public housing sector to move house by swapping their homes. Who would have the right to MX is dependent on the type of tenancy they have with the Group.

2.2.2 A Court Order: By direction of a Judge under matrimonial proceedings.

2.2.3 Assignment to a would be successor: This assignment of a tenancy can only take place if the new tenant would have the right to succeed to the tenancy should the tenant have died. This is dependent on the type of tenancy you have with the Group.

When considering requests for permission for assignment, the Group will consider the following:

- Who will be residing in the property following the assignment?
- Will the property be of a suitable size and type for the person / people residing there? If the property is not of a suitable size and type, the person / people should be advised about applying for a suitable property in accordance with the Allocations Policy for the relevant local authority.
- Has the tenant who is leaving the property secured alternative settled accommodation or received appropriate advice regarding this?
- There should be no rent arrears or other serious tenancy breaches.

**Policy Statement:** The Group will provide an easy to understand process for tenants enabling them to exercise the right to assign or exchange their tenancy in accordance with their tenancy agreement.

The Group will notify all joint tenants if a request for assignment is being refused and the reason(s) why.

Where a court has ordered that the tenancy be assigned as a result of matrimonial proceedings, the Group will carry out the assignment in accordance with the court order.

The Group will support tenants to exchange their home when it is no longer suitable for their needs seeking to meet housing demand and making best use of stock

**Consent to Mutually Exchange** - We will treat applications fairly and consistently and in accordance with the criteria set out in Section 158 of the Localism Act 2011 (if applicable). We will give consent to exchange to Group tenants who have an assured or a fixed term tenancy agreement of 2 or more years. How we complete exchanges will be dependent on the type of tenancy each party has. This may be a surrender of the existing tenancy and new tenancy of the new property or assignment of the rights and responsibilities.

The Group will only refuse an application for a mutual exchange in the following circumstances:

- Either tenant has an Introductory or demoted tenancy (shorthold tenancy) Either tenant is under Notice of Seeking Possession or legal proceedings have begun following Notice;
- Either property is specifically designed or adapted to help a disabled person or has other special features or the new tenant does not need this assistance.
- Either property is too large or too small for either tenant. We will apply the same rules for exchange as for successions when taking into account under-occupation;
- Any other reason contained in Schedule 3 of the Housing Act 1985 or Schedule 14 of the Localism Act 2011.

If the Group decides to refuse the application we will do so within 20 working days of receipt of the application.

Should a mutual exchange be approved, any costs incurred by the Group in relation to damage or repairs that are not the responsibility of the Group, will be charged to the exchanging tenants.

At any time up to the signing of the deed of assignment (the document that transfers the rights in the tenancy agreement to another person) or new tenancy agreement, the application to mutually exchange or assign may be withdrawn on the written notice of at least one of the parties involved. If any additional costs are incurred by the Group will still be charged to the tenant.

If a customer believes we have not adhered to the relevant rules set out in the Housing and Localism Act for refusing consent, they will have the right to appeal against our decision.

## 2.3 Temporary Move due to Essential Repairs or Redevelopment (Decant)

**Definition:** Decants may take 2 forms:

- Temporary Decant – where tenants move out for a period of time, to enable essential repairs or improvements to be made. Once the works are complete the tenant will move back into their original home;
- Permanent Decant – where tenants are moved permanently into suitable alternative accommodation. This is where the property is to be demolished or redeveloped. If new properties are to be built on the same site tenants may be given the option to move back to the redeveloped site where the accommodation is appropriate.

Specific details of the terms agreed will be unique for each site.

**Policy Statement:** The Group will provide suitable and reasonable alternative accommodation for a temporary or permanent move and work with the tenant to meet their requirements and preferences. Where a tenant is moved on a temporary decant this will be under a contractual tenancy. If it is a permanent decant it will be dealt with by a surrender of tenancy and new tenancy at the new property. We recognise that moving can be stressful or upsetting for residents. We are committed to making the move as easy as possible, keeping residents informed on the progress of work in their home.

### Power to decant

If tenants refuse the offer of decanted properties and this refusal affects the health and safety of the tenant and family and or delays the start of major repairs, improvement / demolition or re-development, the Group can instigate legal powers to decant tenants under the grounds set out in the relevant Housing Act.

Emergency decants - this policy does not apply to the decanting of tenants in an emergency such as fire or flood. Where an unexpected event has caused a property to become uninhabitable and there are health and safety risks if the tenant remains in the property, the Group will liaise with the relevant local authority to fulfil any duty they may have to re-house this tenant. If this is not possible the Group will try and find temporary alternative accommodation within our existing stock.

In all circumstances above, the Group at all times will give housing advice to ensure tenants are fully informed of the effect on their tenancy; including the impact of fixed term tenancies; any change in rents and any implications on the tenants preserved right to buy, right to acquire or other rights.

## 3. Statutory Duties

This Tenancy Change Policy operates in the context of the following legislation:

- Section 158 of the Localism Act 2011;
- Schedule 3 of the Housing Act 1985; and
- Schedule 14 of the Localism Act 2011.

In addition to the legislative requirements, this policy will ensure compliance with the consumer regulatory standards and the Wrekin Tenants Charter.

#### **4. Roles and Responsibilities**

##### **4.1 The Wrekin Housing Group Board**

The Group Board has overall responsibility for ensuring the Group is compliant with its statutory, regulatory and legal requirements and meets its stakeholders' needs.

##### **4.2 The Group Chief Executive**

The Group Chief Executive will be responsible for ensuring that this policy is applied consistently across the Group and that there is a management structure with delegated responsibilities for the implementation of this policy.

##### **4.3 Head of Housing**

The Head of Housing will be responsible for developing and reviewing the policy.

##### **4.4 Delegated duties are given to those named in the Tenancy Change Procedures.**

#### **5. Provision of the policy**

##### **5.1 Full details of how this Policy is implemented are detailed in the Tenancy Change Procedures.**

<b>Policy category</b>	Housing Management
<b>Approved by</b> <b>Date</b>	Executive Management Group X July 2019
<b>Implementation date</b>	July 2019
<b>Review date</b>	March 2021
<b>Expiry date</b>	July 2021