

Policy

Title: **Assignment and Mutual Exchange**

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Introduction

Halton Housing Trust (the Trust) is committed to providing an efficient and effective service to its customers, which includes acknowledgement of the rights provided within their tenancy agreement and provision of advice on them, whilst also satisfying housing need and aspiration through offering choice in housing location.

This policy covers the 3 ways in which tenancies can be 'taken over' via Assignment or Mutual Exchange, namely:-

- an assignment to a potential successor;
- an assignment where a Court has made an Adjustment Order in matrimonial proceedings;
- an assignment by way of mutual exchange with another Trust customer or with a customer of another landlord such as a local authority or another housing association.

Staff will have due regard to the Trust's Diversity and Customer Care policies when implementing this policy.

Aims / Objectives

The Trust will deal with all applications for assignment and mutual exchange sensitively, fairly, promptly and efficiently, and in accordance with relevant legislation. Each application will be considered on an individual basis to take account of the needs and requirements of the customers and the Trust.

Customers' rights concerning assignment and mutual exchange are detailed in the Trust's tenancy agreement and these rights will be explained thoroughly when customers sign up for Trust properties.

Scope

All requests for assignment and mutual exchange under this procedure will be dealt with by Housing Services staff.

Policy Statement

The Trust will deal with all applications for assignment and mutual exchange sensitively, fairly, promptly and efficiently, and in accordance with relevant legislation.

Each application will be considered on an individual basis to take account of the needs and requirements of the customers and the Trust.

Customers' rights concerning assignment and mutual exchange are detailed in the Trust's tenancy agreement and these rights will be explained thoroughly when customers sign up for Trust properties.

An assignment is where a potential successor takes over the tenancy of an existing customer including the tenancy agreement and terms of tenancy. Written consent to the assignment request will be needed from the Trust and the assignment will be carried out by a Deed of Assignment supplied by the Trust.

The Trust will consider applications for assignments in the following circumstances:-

- 1) an assignment to a potential successor;
- 2) an assignment where a Court has made a property adjustment order in matrimonial proceedings;
- 3) an assignment by way of mutual exchange with another Trust tenant or with a tenant of another landlord such as a local authority or another housing association.

The Trust will consider applications from 'transferred' customers (those customers who were customers of Halton Borough Council on completion of transfer and were signed up to the Trust's tenancy agreement for transferring customers) and assured customers (those customers who became customers of the Trust after the date of transfer). The only exception to this will be:-

- Assured shorthold - 'Starter' - customers will not normally have the right to exchange in the first 12 months of their tenancy. However, in exceptional circumstances the Trust may exercise discretion if the circumstances support such a move.

Matrimonial Cases

Where a Court has decided the tenancy is to be assigned because of matrimonial proceedings the Trust will carry out the assignment as set out in the court order.

Mutual Exchanges

The Trust is committed to promoting mutual exchanges and will participate in the HomeSwapper Scheme.

The Trust will ensure that information about the customers' right to exchange, procedures for seeking exchange partners and applying for consent is available to all customers through its Customer Handbook. The Trust promotes customers to exchange through an on-line registration process to a national exchange scheme (HomeSwapper) and will cover the cost of the registration for current customers only. Assistance will be provided to those customers who do not have access to a computer.

The Trust will require all parties to a proposed mutual exchange to complete an application form.

The Trust will not unreasonably refuse a request for an exchange. However, any exchange carried out without the Trust's written consent and the completion of a

Deed of Assignment will be in breach of the Trust's tenancy agreement and will be regarded as unlawful. As a result, the customers concerned would be at risk of possession proceedings.

The Trust will not normally refuse an application for exchange unless:-

- either customer is under Notice of Seeking Possession, or legal proceedings have begun following notice;
- either property is specifically designed to help a disabled person or has other special features and the new customer does not need these facilities;
- either property is significantly too large or too small for either customer and their household.

The Trust may also make approval conditional where, for example:

- either customer is in rent arrears but no legal action has been taken— in which case the customer will be asked to clear the arrears before the exchange can go ahead;
- either customer is required to carry out work which is their responsibility.

All decisions made by the Trust will be confirmed in writing.

Any requests to the Trust to exchange properties must be made on application forms completed by all parties. A decision will be issued in writing within 42 days and may contain conditions. If the exchange is refused reasons will be provided as well as details of the appeals procedure.

On receipt of a mutual exchange application a housing officer will visit any Trust customer involved in the proposed exchange to carry out a general inspection of the property which may identify works to be carried out by the customers or the Trust prior to approval of the exchange. If all parties are Trust customers, reports will be passed to the Assistant Area Manager for consideration. If one of the parties is the customer of a different landlord, a tenancy reference concerning the Trust's customer will be sent to this landlord requesting a similar reference in respect of their customer and their views on the proposed exchange.

Consideration for approval in this instance will take place once the respective tenancy references have been exchanged. Consent from both the Trust and the other landlord will be required for the exchange to be approved.

The Trust will not meet any costs resulting from the exchange other than repairs resulting from fair wear and tear. Such repairs will be carried out in accordance with priorities set by the Trust and once the exchange has taken place. Any fittings installed at the outgoing customers expense and which the Trust has accepted responsibility for must be left or the originals replaced. The properties involved in the exchange are accepted in their present condition.

All parties must sign the necessary documentation and move into the properties on the date contained in the approval letter.

The Trust will arrange for gas and electric checks at each of the properties and assess any related works necessary on or as soon after the date for the move contained in the approval letter.

Any customer transferring from a different landlord will receive a post exchange visit from a housing officer within 28 days of moving into the Trust property.

If either of the customers who are requesting an exchange were successors at the properties they are moving from, then they will remain successors at the new property they have exchanged into.

Assignment to a Potential Successor

Under section 4.14 of the Trust's tenancy agreement for customers who transferred from Halton BC, a right to assign to a qualifying successor applies. This states that:

"You have the right to assign your tenancy to a person who would qualify to succeed to the tenancy upon your death. An example is where you move into residential care accommodation leaving a member of your family (as defined in section 4.5.5 above) entitled to succeed as tenant (subject to section 4.5 above)."

Hence, in certain circumstances, the Trust may consider requests from a current customer for their tenancy to be assigned to someone living with them who is a potential successor. Requests for assignments to a potential successor should be made by customer in writing. On receipt of the request the Trust will interview the prospective successor and make a formal report to the relevant Assistant Area Manager.

The qualifying criteria will be the same as those stated in the Trust's Succession Policy and are covered in the following text.

The spouse of the tenant (i.e. husband or wife) or common law partner (including same sex partner) if they were living at the property for the previous 12 months will automatically be able to succeed to the tenancy.

A family member may also be assigned to the tenancy if they can prove that they were living at the property for 12 months during the last 12 months with the tenant. Family members can include parent, son, daughter, brother, sister, aunt, uncle, grandparent, grandchild, nephew or niece whether by blood, marriage or adoption.

The following are potential successors :-

- the successor of a transferring tenant (whether they are a spouse, partner or same sex partner);
- any other member of the family of a transferring tenant;
- a spouse, partner or same sex partner of an assured tenant,
- any other member of the family of an assured tenant.

A Court can transfer the tenancy to a spouse, child, or guardian for the benefit of the child. In this case, the Trust's consent is not required and the assignment will take place from the date ordered by the Court in the property adjustment order. The tenancy name will be changed to the assigned customer and a copy of the Court

order will be kept on the house file. The assigned customer will be provided with information relating to the tenancy and a copy of the tenancy conditions. The Trust requires that it be notified within one month of the date of the Court decision in order that the tenancy records can be amended.

Responsibility

Overall responsibility for the proper implementation of this procedure will lie with the Director of Housing Service, but the operational management will lie with the Area Managers and the Assistant Area Managers.

Service Standards

On receipt of an application for assignment or mutual exchange a written acknowledgement will be sent within 3 working days.

An interview will be arranged to discuss the assignment request within 10 working days following receipt of the application and will take place at the customer's home.

A formal decision will generally be made within 42 days of receipt of the application, subject to all necessary documents being received from the applicant.

Performance Measures / Monitoring

As all applications for assignment and mutual exchange are considered and processed under statutory requirements, it is not felt necessary to benchmark the Trust's performance in this area with any other organisation.

Consultation arrangements

Assignment and mutual exchange are a legal right for all assured tenancies, and this procedure has been referred and checked by our legal representatives.

Benchmark Analysis

As all applications for assignment and mutual exchange are considered and processed under statutory requirements, it is not felt necessary to benchmark the Trust's performance in this area with any other organisation.

Regulatory and/or Legal Compliance

Assignment and mutual exchanges regulations are set out in the Housing Act 1986.

KLOEs affected

There is no impact on the KLOE's as the criteria is set by legislation.

Diversity Considerations

All applications will be dealt with in line with the Trust's Diversity policy. An Equality Impact Assessment was carried out in December 2010, which did not identify any diversity issues.

Links to Strategies, Procedures and Associated Documents

Diversity Policy
Housing Need and Access to Housing Policy
Customer Care Policy
Customer Involvement Policy
Assignment and Mutual Exchange Procedures
Customer Handbook

Business Impact

There is no impact on the Trust's business plan