

ASSIGNMENT, SUCCESSION AND MUTUAL EXCHANGE POLICY

1. STATEMENT OF INTENT

- 1.1. Subject to any prohibitions contained within the terms of the tenancy agreement EastendHomes assured tenants have the right to transfer their tenancy to another person. This process is referred to as an assignment.
- 1.2 EastendHomes will comply with all relevant legislation and regulatory guidance in relation to assignments and particularly the Housing Acts 1985 and 1988 and will consider applications for assignment in the following circumstances:
 - 1.2.1 Tenants who wish to carry out a Mutual Exchange
 - 1.2.2 Upon the death of a tenant where there is a lawful successor to the tenancy
 - 1.2.3 A joint 'outgoing' tenant wishes to relinquish his/her rights under the joint tenancy so that the joint 'remaining' tenant becomes the sole tenant of the property
 - 1.2.4 An assignment where a Court has made a property adjustment order in Matrimonial or other proceedings
 - 1.2.5 An assignment to a person qualified to succeed.
- 1.3 Under Section 15(1) (a) of the Housing Act 1988 it is an implied term of every assignment that the tenant will not assign the tenancy without Landlord consent. Therefore EEH will deal with all applications for assignment promptly, fairly and efficiently. Where an assignment is decided by the Court, EEH will act in accordance with the Court's determination. Where a tenant wishing to assign their tenancy to a potential successor makes an application, EEH will investigate to confirm the circumstances of the potential successor, and determine whether the assignment is allowed within the terms of the appropriate tenancy agreement.
- 1.4 EastendHomes will assess mutual exchange applications in accordance with the Housing Act 1985 s.92 and subsequent legislation.
- 1.5 EEH is committed to promoting mutual exchanges. It will assist tenants looking for alternative accommodation by way of exchange both within its own stock and with tenants of other landlords. In accordance with the Tenancy Standard of the Regulatory Framework set by the Homes & Communities Agency, EastendHomes will offer our tenants access to at least one online mutual exchange service at no cost.
- 1.6 When an application for assignment is agreed by EEH, the necessary administrative changes will be made within a week of the assignment being

agreed. Where applications for assignment are refused, EEH will inform the tenant in writing of the decision with reasons within five working days.

2. DETAIL

Mutual Exchanges

- 2.1 EastendHomes is committed to promoting the option of mutual exchange and actively assists tenants seeking to exchange homes, both within our housing stock or that of other Social Housing Providers. We undertake to:
 - 2.1.1 Make available and maintain a register of tenants wishing to exchange home.
 - 2.1.2 Make provision to set up an exclusive exchange list for EastendHomes tenants.
 - 2.1.3 Make available at no cost to our tenants access to at least one online mutual exchange scheme.
- 2.2 EEH will ensure that information about the right to exchange, and procedures for seeking exchange partners and applying for EEH's consent to exchange will be available to tenants. The availability of mutual exchanges will be publicised as appropriate.
- 2.3 Information for tenants relating to mutual exchanges will include any effect this may have on tenants' rights including any implications for their legal ability to buy their home, and their status as a successor.
- 2.4 In assessing mutual exchange applications, EEH will adopt the criteria set out in the Housing Act 1985, and will not withhold consent unless one or more of the Grounds set out in Schedule 3 of that Act applies. Assessments will be made in accordance with s.92 of the 1985 Housing Act. They are
 - 2.4.1 That either tenant is moving to a home that is inadequate for their needs, e.g. on health grounds, or that it would be too small.
 - 2.4.2 That either tenant is moving to a home that is substantially too large for their requirements. EastendHomes will usually approve an exchange to a home that has one bedroom in excess of housing need, but no bigger.
 - 2.4.3 If there is a suspended or outright possession order made by the court in respect of any of the tenancies involved; or if possession proceedings have begun because of rent arrears or anti-social behaviour.
 - 2.4.4 That any of the properties are adapted, sheltered, warden-controlled and/or the exchanging tenant(s) are ineligible or do not meet housing need assessment requirement criteria.
 - 2.4.5 That the accommodation is tied.
 - 2.4.6 The proposed occupation would conflict with EastendHomes aims and

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charitable status.

2.4.7 One party has paid money to the other party to induce the exchange.

2.4.8 That either tenant has a starter tenancy.

2.5 EastendHomes will consider all mutual exchange applications and provide a decision within the required 42 day deadline.

2.6 EastendHomes will always subscribe to at least one national scheme which facilitates exchanges within the UK. This service will be offered without charge to our tenants.

2.7 EastendHomes will follow the Tower Hamlets Housing Forum Mutual Exchange Charter, as adopted and agreed by member organisations.

Matrimonial or Other Proceedings

2.8 Where the Court has ordered that a tenancy be assigned as a result of matrimonial or other proceedings, EEH will effect the assignment decreed by the Court.

2.9 The assignee will be provided with information relating to the tenancy and receive a copy of the tenancy conditions.

3. Succession to a Tenancy

3.1 Following the death of a joint tenant, the surviving tenant becomes the sole tenant by survivorship. This applies even where the surviving tenant is not resident in the home and precedes any other claim of succession. Succession by survivorship counts as one act of succession to a tenancy,

3.2 Succession rights were varied by the Localism Act 2011 which means that for any tenancy granted after 1st April 2012, the statutory succession right is limited to the spouse or partner of the tenant, living with them at their time of death.

3.3 Upon completion of any introductory period, EEH tenants will have assured tenancies. With this type of tenancy, statutory succession rights are limited to one succession right to a husband/wife or partner of the tenant unless specifically varied by contract. However, EEH has included a contractual term which allows for succession to family members and/or a qualifying carer.

3.4 A further contractual term is also included providing for a second succession. Where tenants have transferred to EastendHomes as part of a stock transfer, and have signed on the original tenancy agreement, the rights to a second succession are expanded to include the grant of a new tenancy. Where a new tenancy is required to provide the second succession, the application will be referred to the housing management panel of the local authority's waiting list, where applicable.

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- 3.5 At the time of stock transfer of former local authority properties to EastendHomes, any successions that have already taken place under the former secure tenancy will **not** count for the purpose of future successions where the tenant has signed an assured tenancy agreement.
- 3.6 For assessment of any succession rights, EastendHomes will review the terms of the tenancy agreement to determine what contractual rights apply and identify if all of the other qualifying criteria have been met.
- 3.7 Except for a succession by a spouse or partner, where a succession would result in a potential successor under-occupying the accommodation, or the property has been adapted for a person with special needs, the successor may be made a reasonable offer of alternative accommodation.

If an alternative offer of accommodation is to be made, then a Notice of Seeking Possession will be served no earlier than 6 months and no later than 12 months after the death of the tenant. The successor will be registered on the same local authority's waiting list and an offer of suitable alternative accommodation will be made as soon as possible. Assistance will be given, where appropriate, to support the successor in making bids for alternative accommodation.

- 3.8 Where the succession would result in the household of the potential successor under-occupying the accommodation by just one bedroom or the potential successor is aged 60 or over and has been resident in the property for at least 12 months, the successor will be allowed to remain in the accommodation.

Assignment to a Potential Successor

- 3.9 Where an application is made by a tenant to assign their tenancy to a potential successor, EEH will obtain full details from the tenant, including information about their length of continuous residence and the reasons for the application. As the assignment is to a potential successor, EastendHomes will satisfy itself that any family member has lived at the property for the requisite previous twelve months.
- 3.10 When an application for assignment is refused the tenant will be informed within five working days in writing with the reasons for the refusal.

4. Localism Act 2011

Assured Tenancies

- 4.1 The Localism Act 2011 has, with effect from 1 April 2012, amended section 17 of the Housing Act 1988 to allow RPs to include express provisions in their tenancy agreements granting additional succession rights to assured periodic tenancies. EastendHomes has included a second statutory right of succession within terms of a revised tenancy agreement. This right of succession will therefore now be vested entirely in the tenancy agreement.

4.2 EastendHomes' tenancy strategy is to only offer assured periodic tenancies (following completion of a starter tenancy in some cases). The introduction of fixed-term tenancies by some RPs means that for tenants considering a mutual exchange there can be a disparity in security of tenure if an assured tenant wishes to exchange with a fixed-term tenant. EastendHomes response to such situations will be:

- i) Ensure that any EastendHomes tenant considering such an exchange is aware of the consequences for their rights and security of tenure upon completion
- ii) In keeping with the EastendHomes tenancy strategy any incoming tenant will be offered an assured periodic tenancy irrespective of their previous tenancy type