

Mutual Exchange Policy

| | |
|----------------------------|---|
| Effective from | December 2014 |
| Approved by | Triathlon Homes Policy Panel |
| Planned review date | April 2016 |
| Responsible officer | Head of Operations (Triathlon Homes) (Responsibility for proposing final draft, implementation and review) |
| Author | Policy and Project Officer |

Contents

- | | |
|--|--|
| 1. Introduction | 6. Equality Needs Impact Assessment |
| 2. Policy Statement | 7. Definitions |
| 3. Context | 8. Accessibility of information |
| 4. Method Statement | Appendix 1: Mutual exchange scenarios |
| 5. Monitoring and evaluation policy | |

1. Introduction

- 1.1 This policy sets out how Triathlon Homes will promote social mobility for tenants in its social rented homes through the use of mutual exchange.
- 1.2 Mutual Exchange is an effective way for social housing tenants to move home, while still remaining a social housing tenant. Mutual Exchange allows tenants to swap homes with other Triathlon Homes' tenants. It also allows Triathlon Homes' tenants to 'swap' homes with tenants from Registered Social Landlords and Local Authorities anywhere in the UK.
- 1.3 In addition, this document also provides clear information and guidelines as to when a tenant can legally mutually exchange, the process we will follow and sets out reasons why we may not allow a mutual exchange to proceed.
- 1.4 Triathlon Homes LLP ('Triathlon Homes') is the owner of 1,379 homes within East Village, the first Olympic legacy neighbourhood. It is landlord to the occupiers of these properties of which half are social rented and the other half are shared ownership or intermediate market rented.
- 1.5 Triathlon Homes is a private landlord and not a registered provider but it has appointed a Managing Agent who is a registered provider, to manage the properties on its behalf. Both Triathlon Homes and the Managing Agent are members of the Housing Ombudsman Service.
- 1.6 Triathlon Homes' policies are its own, but are implemented by the Managing Agent on its behalf. Triathlon Homes' policies are required to comply with some of the Regulatory Standards of the Regulator of Social Housing.
- 1.7 Triathlon Homes is committed to building a safe, strong and sustainable community. We understand the aspirations, needs and potential challenges for a new community and we will work with our residents, stakeholders and partners to build strong relationships to make a significant contribution to the success of this exciting new neighbourhood.
- 1.8 Triathlon Homes has developed values to capture the culture and the type of organisation that it is. Triathlon Homes will be:
 - Accessible
 - Flexible
 - Customer friendly
 - Clear and focused.
- 1.9 This document should be read in conjunction with Triathlon Homes Glossary.

2. Policy Statement

- 2.1 Triathlon Homes aims to assist tenants when they wish to move home by maximising their rehousing options. Mutual exchange is one such rehousing option.
- 2.2 This policy applies to all Triathlon Homes Social Rent tenants.
- 2.3 Triathlon Homes will consider requests from its residents to exchange homes with other tenants who hold a social housing tenancy with Triathlon Homes or with another landlord where they are a Registered Social Landlord, another organisation with a similar status to Triathlon Homes, or with a Local Authority.
- 2.4 Triathlon Homes will consider the conduct and suitability of both its own residents and the parties who they are proposing to exchange homes with before giving consent.
- 2.5 The Localism Act 2011 contains a right for assured tenants not on a fixed term, also known as a "lifetime tenancy" (see glossary) to exchange with fixed-term tenants and retain their assured / life time tenancy. Triathlon Homes however is not a registered Social Housing Provider within the terms of the Localism Act and therefore the relevant sections that enable assured/ lifetime tenants to retain this status will not apply to Triathlon Homes' tenants or those moving into Triathlon Homes' properties by way of mutual exchange. To assist understanding of this we set out in appendix 1 the implications of different tenants mutually exchanging where at least one tenant is a Triathlon Homes tenant.
- 2.6 Probationary or Starter tenants cannot exchange, during the initial probationary period, but can once the probationary period is complete and they successfully move onto an assured or fixed term tenancy.
- 2.7 Intermediate Market Rent Tenants are excluded from this policy as they hold assured shorthold tenancies and have neither a statutory right nor a contractual right within their tenancy agreement that permits mutual exchange.

| Which social renting tenants can exchange? | |
|---|---------------------------------|
| Tenancy Type | Right to Mutual Exchange |
| Assured Tenancy (lifetime) | Yes |
| Assured Tenancy Fixed Term | Yes |
| Probationary Tenancy | No |
| Intermediate Market Rent Tenancy | No |
| Leaseholders | No |

- 2.8 Where a fixed term tenancy is within the final twelve months of the fixed term and/or a notice of intent has been served by Triathlon Homes on the tenant advising of our intention not to renew the fixed term, Triathlon Homes will be entitled to reject all requests to undertake a mutual exchange.

2.9 Triathlon Homes will be entitled to reject all requests under this policy, irrespective of the type of tenancy held, where:

- there are arrears of rent; and / or
- there is a breach of tenancy; and / or
- there are outstanding possession proceedings or a court order against the tenancy; and/ or
- the property is deemed to be too large or too small for the incoming tenant (the person the Triathlon Homes is exchanging with); and / or
- the home is unsuitable for the incoming tenant because it is adapted for somebody with a disability and the incoming tenant or members of their household do not have a disability.
- The incoming tenant does not meet Triathlon Homes' lettings and allocation criteria including financial affordability criteria.

2.10 Triathlon Homes will not permit parties to exchange where there has been any financial or material inducement by either party, including but not limited to, the repayment of rent arrears.

3. Context

3.1 Legislative/Good practice and guidance

- Housing Act 1985
- Housing Act 1988
- Housing and Regeneration Act 2008
- Housing and Planning Act 1986
- Schedule 5, Paragraph 7, Housing Act 2004
- Localism Act 2011
- Regulator of Social Housing Tenancy Standard

3.2 Links to other Triathlon Documents

- Anti-Social Behaviour Policy
- Triathlon Homes Tenure and Allocations Policy – Social Rented Homes
- Starter Tenancy Policy
- Aids and Adaptations Policy

4. Method Statement

4.1 Triathlon Homes' Responsibilities

To help us in achieving our stated aim of assisting tenants maximise their re- housing options we will:

- Promote and make information available on mutual exchange to tenants as a method of moving home.

- Provide access to an on-line internet based mutual exchange service. We will assist our tenants by giving them access to an on-line national service called Homeswapper. The tenant can access the national on-line Homeswapper service at: <http://www.homeswapper.co.uk>. Once registered, the tenant can list their home, and look for other homes throughout the UK.
- Ensure that any mutual exchange service we offer or to which we signpost tenants is free to use.
- Follow our mutual exchange procedures with due regard to any statutory timescale that may apply to other landlords in the process and, where practical, to avoid unnecessary delay to tenants involved in mutual exchange.
- Keep tenants and landlords informed of the progress of their mutual exchange.
- Ensure that all property safety checks are undertaken as part of the exchange process.
- Ensure that an Energy Performance Certification inspection is carried out and that a certificate is issued, where required.
- Ensure that all rechargeable repairs are made good by the current tenant before the exchange is approved or, where they are not completed, that the current tenant pays for the repairs that are their responsibility before approval is given.
- Ensure that the new tenant is aware of any improvements (see Home Improvement Policy) that the exiting tenant has made and that they are willing to take responsibility for maintaining them.
- Carry out repairs that are Triathlon Homes' responsibility from the date that the new tenant moves in.
- Follow the Triathlon Homes Aids and Adaptations Policy with regards to incoming tenants who need adaptations to their home.
- Ensure that the proposed incoming tenant's occupation of the property is not contrary to the Triathlon Homes' Lettings Policy this includes under or over occupation and their ability to afford the rent and service charge. Full details are set out in the above mentioned policies.
- Complete all paperwork and update all records involved in mutual exchange procedures.
- Ensure that mutual exchanges are not conducted fraudulently – if we suspect that there is fraudulent activity or tenants have been 'bribed' to exchange we will undertake an independent investigation.
- Explain to both our tenant and the incoming tenant of any change to their security of tenure or other rights should this apply in order that they make an informed decision.

4.2 Tenants Responsibilities

4.2.1 To arrange a mutual exchange the tenant must:

- Find someone who is interested in swapping homes.

- Complete the application form (each tenant needs to complete their own application form) and return this to their respective landlord

4.2.2 The tenants must carry out their responsibilities as set out in section 4.3.1 below before Triathlon Homes grants any mutual exchange.

4.2.3 Before the exchange is agreed we will inspect the tenant's home, confirm the condition and advise both tenants (outgoing and incoming) of their repair responsibilities and liabilities.

4.3 Mutual Exchange Application

To enable a transparent approach we detail below the conditions we set for granting a mutual exchange, the reasons an exchange would be refused or reconsidered and how to appeal should we refuse your mutual exchange application.

4.4 Conditions for granting a mutual exchange

4.4.1 The following conditions must be met before any mutual exchange is granted:

- Any breach of the tenancy agreement terms must be rectified.
- Rent arrears must be paid, except where tenants are downsizing where discretion will be used.
- Any repairs identified at the pre-exchange property inspection must be completed before approval is given. If we need to carry out any repairs that are the tenant's responsibility Triathlon Homes will re-charge the tenant. Any disrepair must be repaired before we will allow the exchange.
- The incoming tenant must be a Local Authority (including Arm's Length Management Organisations and new town tenants), another organisation with a similar status to Triathlon Homes or Housing Association tenant, not a private rented sector tenant.

4.4.2 Where there are joint tenants, both must consent by signing all relevant paperwork, including licence to assign and deeds of assignment (see glossary).

4.4.3 When tenants mutually exchange they take on the rights and responsibilities of the tenant they exchange with. See appendix 1.

4.4.4 Assured "life time tenants" exchanging with another assured "lifetime tenant" will exchange by way of a deed of assignment.

4.4.5 Fixed term tenants from outside of Triathlon Homes, exchanging with fixed term Triathlon Homes' tenants must give up their tenancies and Triathlon Homes will issue a new tenancy, this is known as surrender and re-grant. So long as these tenants have passed a probationary review elsewhere, we will offer a fixed term tenancy of five years. Where Triathlon tenants are exchanging with each other, we will issue new fixed term tenancies for the remainder of their original tenancies.

4.4.6 Where an assured lifetime tenant wishes to exchange with a fixed term tenant they will lose their “lifetime” tenancy status and be granted a new assured fixed term tenancy for a minimum period of five years. The exchange will again be undertaken by way of surrender and re-grant.

4.5 Refusing an exchange

The following are the grounds on which Triathlon Homes can refuse to grant permission for a mutual exchange.

- There is a Possession Order on either home.
- A Notice of Seeking Possession has been served on either tenancy.
- A Notice to vacate the property (s.21 or notice to quit) has been served on either property.
- The tenant or any member of his household has behaved in an anti-social way and/or action including Possession proceedings, injunctions, anti-social behaviour injunctions/orders or a demotion orders against them are in place or are been sought.
- The property is more than one bedroom bigger than is needed by the household wishing to move into it.
- The property is not big enough for the household wishing to move into it.
- The property has special features that make it suitable for occupation by a person with a physical disability who needs it and the tenant/member of the tenant’s household wishing to exchange does not need these special features.
- Where the incoming tenant does not meet the eligibility criteria set out within Triathlon Homes Lettings and Allocations Policy
- Where we consider it reasonable, in the circumstances, to do so.

Where consent to a mutual exchange is refused, we will write to our tenant to explain why and to inform them of their right to appeal the decision (see 4.4 below).

In certain circumstances we may use our discretion to allow an exchange of homes to take place where consent would normally be refused.

4.6 Reconsidering our decision

4.6.1 Depending on the reason for refusing consent to the mutual exchange, we may review this decision and allow the exchange to proceed, if the tenant can show that the following conditions have been met:

- Any breaches of tenancy agreement terms have been rectified.
- Rent arrears have been cleared.
- Any repairs identified at the property inspection are completed and any recharge paid by the departing tenant.
- Joint tenants are now in agreement that the mutual exchange should take place.

4.7 Appeals

- 4.7.1 An unsuccessful applicant will be able to appeal the decision. The request should be made in writing and submitted within 21 days of the applicant being told that their mutual exchange has been declined. Should an applicant need support with lodging an appeal, we will signpost them to an appropriate advocacy agency.
- 4.7.2 The applicant should first contact the Village Manager or officer making the offer to discuss the reasons for our decision. The Officer will have five working days to respond. If the tenant is still unhappy with the decision they can appeal in writing to the Head of Operations Triathlon Homes within 10 working days of the decision. A written response will be given within 10 working days of receipt of the written appeal.

4.8 Exceptions to Policy

The following tenants do not have a statutory or contractual right to mutual exchange. This means that our managing agent will refuse any application for mutual exchange received from holders of the following agreements:

- Starter Tenants (see glossary)
- License holders
- Intermediate Market Rent Tenants
- Leaseholders

5. Monitoring and evaluation policy

- 5.1 This policy will be monitored by the Head of Operations who will review this policy periodically as set out above capturing best practice, customer feedback and legislative changes to inform this review.
- 5.2 The success of this policy will be measured by customer feedback on this process.

6. Equality Needs Impact Assessment

- 6.1 An equality impact assessment of this policy will be undertaken by April 2015.

7. Definitions

Lifetime tenancy – A full Assured Non-Shorthold Tenancy with no fixed term.

Deed of Assignment – Legal document enabling a swap of tenancies to take place.

Starter Tenants - A starter tenancy is a form of probationary tenancy granted to new tenants for an initial 12 month period. For the first 12 months the tenancy is an assured short hold tenancy. After the 12 month period, provided there has been no serious breach of the tenancy agreement, Triathlon Homes would normally convert the tenancy into a full assured tenancy or if a fixed term tenancy the fixed term will continue for a

further 5 years. If a resident breaches the tenancy during this period, it may be extended.

8. Accessibility of information

- 8.1 This policy is available on the Triathlon website. Key information from this policy is available in the Residents Information Pack

Appendix 1: Mutual exchange scenarios

| Tenancy Before Exchange | | Tenancy After Exchange | |
|-------------------------|--|---|---|
| Tenant 1 | Tenant 2 | Tenant 1 | Tenant 2 |
| Assured "Life Time" | Assured "Life Time" | Assured "Life Time" | Assured "Life Time" |
| Assured "Life Time" | Assured Fixed Term | Assured Fixed Term -new 5 year term | Assured Fixed Term –new tenancy for remainder of original term |
| Assured Fixed Term | Assured Fixed Term | Assured Fixed Term - new tenancy for remainder of original term | Assured Fixed Term - new tenancy for remainder of original term |
| Assured "Life Time" | Secure tenancy with another landlord | Secure tenancy with another landlord | Assured "Life Time" with Triathlon Homes |
| Assured Fixed Term | Secure tenancy with another landlord | Assured Fixed Term (term to be determined by new landlord) | Assured Fixed Term -new 5 year term with TH |
| Assured Fixed Term | Assured Fixed term with another landlord | Assured Fixed Term (term to be determined by new landlord) | Assured Fixed Term – new 5 year term with TH |

Policy Controls sheet

| Author | Date | Main changes and why (i.e. change in legislation, change in internal processes) |
|-------------------------------------|-------------|--|
| Customer Services Policy Consultant | May 2021 | New template. |