

# L&Q Assignment Policy

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# 1 Purpose

- 1.1 This policy sets out the circumstances in which a tenancy can be assigned to someone else. It explains how L&Q (we) will manage requests for assigning a tenancy, the rights of tenancy assignment, and the circumstances in which this may take place.

# 2 Scope and Exclusions

- 2.1 This policy applies to:
- L&Q social housing tenants including tenants in sheltered housing schemes (L&Q Living)
- 2.2 This policy does not apply to:
- Other types of tenure (e.g. Intermediate or Market Rent, Rent to Buy)
  - Shared owners or leaseholders
- 2.3 This policy does not deal with applications for succession, this information is covered in our Succession Policy.

# 3 Legislation and Regulation

- 3.1 We always aim to meet our relevant legislative and regulatory obligations. Those relevant to this policy include, but are not limited to:

- **The Consumer Standards**

The Regulator of Social Housing sets consumer standards, which we are expected to meet. Our policies and processes are reviewed in line with such standards. For this policy we draw particular attention to the Tenancy Standard.

- **Localism Act 2011**

The Act details when mutual exchanges can take place between tenants with different types of tenure.

- **Housing Act 1985**

The Act applies to secure tenancies and defines the very limited circumstances in which secure tenants can assign their tenancies.

- **Housing Act 1988**

The Act introduced assured tenancies and assured shorthold tenancies and its accompanying rules for assignment and succession.

- **Matrimonial Causes Act 1973 (s24) / Matrimonial and Family Proceedings Act 1984 (s17(1)) / Children Act 1989 (Schedule 1) / Family Law Act 1996 / Civil Partnerships Act 2004 (Schedules 5 and 7)**

These Acts outline how tenancies can be transferred via court order in cases of relationship breakdown.

- **Immigration Act 2014**

The Act introduced the Right to Rent scheme which provides the criteria to legally rent in England.

## 4 Definitions

- 4.1 Assignment** - When a tenant transfers their tenancy to another person. The right to assign depends on the tenancy type (see section 5).
- 4.2 Assignee** - The person to whom the tenancy is transferred. The Assignee becomes the tenant of the landlord, under the same agreement.
- 4.3 Assignor** - The current tenant who is transferring the tenancy.
- 4.4 Mutual Exchange** - A mutual exchange is where one or more social tenant legally swaps their tenancy with another social tenant (see section 8).
- 4.5 'Would-be' Successor**- A 'would- be' successor is a person who would qualify to succeed the tenancy if the tenant died, such as a spouse, or another family member (see section 7).
- 4.6 Joint Tenancy**- A joint tenancy is where two people or more are given an identical and equal interest in the property and are effectively treated as one single tenant. Joint tenants are jointly and severally liable for all the obligations of the tenancy. This means that both, or a single joint tenant can be held responsible for rent arrears or nuisance even if the breach is committed by the other tenant. This remains the case even if one of the joint tenants no longer lives at the property. If one tenant makes a decision to end the tenancy that applies to both. See section 7.6.

## 5 Right to Assignment

- 5.1** All tenants wishing to assign their tenancy should consult their tenancy agreements first as contractual rights may vary. For example, an exchange may affect the Right to Buy or Right to Acquire.
- 5.2** Residents with secure and protected assured tenancies have the legal right to assign their tenancies, subject to conditions being met, only in the following circumstances:
- By order of the court as part of family law proceedings
  - By assigning the tenancy to a 'would-be' successor
  - Under the right of mutual exchange
- 5.3** Assured tenants must receive written permission from us to assign their tenancy regardless of their circumstance. They have the legal right to assign their tenancies, subject to conditions being met, but only in the following circumstances:
- By order of the court as part of family law proceedings
  - Under the right of mutual exchange
  - Where they have contractual rights in their tenancy to assign the tenancy to a 'would- be' successor
- 5.4** Tenants with assured shorthold and starter tenancies only have the right of assignment by court order. See section 6 for detail on assignment by court order.
- 5.5** All assignment must be by Deed of Assignment and be properly executed by the tenant and assignee, except in the case of a court order where the order itself effects the assignment.
- 5.6** In accordance with the Immigration Act 2014, tenants looking to assign (including mutual exchanges) must be able to prove that the assignee has the right to rent in the UK.
- 5.7** Where there are outstanding arrears, the tenant must clear these before proceeding with their request, unless there are exceptional reasons which we consent to.

## 6 Assignment by Court Order

- 6.1** The court can order tenancy assignment in family law proceedings (under s.23A or s.24 Matrimonial Causes Act 1973, or under s.17(1) Matrimonial and Family Proceedings Act 1984, or under para 1, Schedule 1 Children Act 1989). Tenants do not need to receive our consent to any assignment ordered by the Court, but we must be informed promptly, with a copy of the court order.

- 6.2** A court might order a joint tenancy to change to a sole tenancy or to sign a tenancy over to the person who still lives in the property. In any other circumstance there are no statutory or regulatory requirements for us to accept requests to change tenancies.
- 6.3** The court order will determine the process by which the transfer takes effect, as well as who is responsible for any arrears which remain on the account immediately prior to the transfer.
- 6.4** We will meet with the Assignee to explain the terms of the existing tenancy agreement, check and record the identification of each household member, and any changes to contact information and payment details.

## **7 Assignment to a 'Would-be' Successor**

- 7.1** The tenant may assign the tenancy to a person who would qualify to succeed the tenancy if the tenant died, so long as there has not been previous succession or assignment of that tenancy. Please see our Succession Policy for eligibility to succeed a tenancy.
- 7.2** If the tenancy is assigned, no further statutory succession remains.
- 7.3** Meeting a 'would- be' successor standard does not in itself automatically guarantee that the tenancy can be assigned.
- 7.4** A tenancy cannot be assigned retrospectively. Once the tenant no longer lives at the property, the terms of the tenancy have been broken.

### Joint to Sole Tenants

- 7.5** As a landlord we do not have the right to 'transfer' a tenancy from joint names to a sole name. We cannot just 'remove' a name from an agreement. The joint tenancy will need to be ended, and a sole tenancy created. The new tenancy will normally be the current tenancy type appropriate for the property and in line with our Tenure Policy.
- 7.6** Where joint tenants are experiencing a relationship breakdown and neither party is willing to give up their joint tenancy, they are advised to seek independent legal advice (see also section 6).
- 7.7** Where one joint tenant leaves the property, the tenancy is still in place as long as one of the tenants remains. In this circumstance we will normally expect the remaining tenant to have reached agreement with the departing joint tenant before seeking to end a joint tenancy and request a sole tenancy. If the remaining tenant is unable to show this, they will be advised to seek independent legal advice to obtain a court order to transfer the tenancy to their sole name.

- 7.8** The departing tenant is free to return to the property if there has been no change to the tenancy, but they must not have another tenancy elsewhere. They remain jointly responsible for the tenancy including arrears or other breaches. Where a joint tenant has left the property and the joint tenancy is ended, we will usually have no obligation to rehouse them. Ending their joint tenancy may also affect their homeless status.

## **8 Assignment by Mutual Exchange**

- 8.1** If you want to move home, mutual exchange can be a great way to find a property that you like, in an area you want to move to, that meets your households needs. Once you find a 'match' it can be a very quick process.
- 8.2** Our mutual exchange portal is hosted by Homeswapper. Residents can self-register on the Homeswapper portal and add on their property and the type of property they would like to move to. In addition, some residents may choose to advertise their properties by placing adverts on social media, local newspapers, shop windows, libraries or by speaking with friends and neighbours. If these adverts result in a match, the resident will still be required to register on Homeswapper to progress with their chosen match.
- 8.3** Mutual exchanges are carried out in one of two ways:
- Assignment
  - Surrender and re-grant of tenancies
- 8.4** Where a tenant wishes to assign their tenancy by way of mutual exchange, this requires our written consent.
- 8.5** As per the Localism Act, tenants with secure and assured tenancies predating 2012 can undertake an exchange with someone with a flexible or fixed term tenancy via the process of surrender and re-grant to protect their tenancy status. There must however be at least two years left on the fixed term tenancy.
- 8.6** For Secure and Assured tenancies granted post 2012, mutual exchange will continue to take place via assignment.
- 8.7** Where a Secure or Assured tenant chooses to swap with a tenant on an Affordable Rent their security of tenure will not be protected by the Localism Act. Under these circumstances, they will lose their security of tenure, and the exchange will take place by assignment.
- 8.8** For any other tenant the right to exchange is contractual, so in all cases they must check the tenancy agreement first.
- 8.9** It is illegal for either tenant to charge a fee as part of the tenancy exchange.

**8.10** We can withhold consent to a mutual exchange where there is a ground in law that gives us a basis to do so. This includes:

- Grounds connected with court proceedings
- Grounds connected with the accommodation
- Grounds connected with the landlord

For more detail on the grounds in which a mutual exchange can be refused including reasons related to overcrowding, under occupation and adapted properties, please see Appendix 1 (attached).

**8.11** While we cannot withhold consent for any other reason than the specified grounds, where a tenant is in arrears or has otherwise breached a term of the tenancy, our consent will be given on the condition that the arrears are paid or the breach is remedied, before the assignment can take place.

**8.12** Once initial checks relating to the grounds have been complete, we will complete additional checks to the property, including a property inspection. Once all checks have been completed we can make a decision as to whether the mutual exchange can take place.

**8.13** We have 42 calendar days from receiving a written exchange request to either approve or reject the exchange. The exchange does not need to take place in this timeframe.

**8.14** If the mutual exchange is approved, we will undertake any necessary gas or electrical checks of the property prior to the residents move in date.

## **9 Equality, Diversity and Inclusion**

**9.1** Under the Equality Act 2010 we have a responsibility to have due regard to the need to eliminate discrimination and promote equality of opportunity.

**9.2** We recognise that in some circumstances, residents with a support need may require some assistance to complete an assignment. For more information on how we can support residents and make reasonable adjustments, please refer to our Supporting Residents with Additional Needs Policy.

**9.3** We will consider requests in line with our Safeguarding duties, where someone vulnerable may be at increased risk. For example:

- A persons capacity to agree to an assignment, including signs of coercion
- Domestic Abuse

## 10 Policy controls sheet

**Date of approval:** 25/06/2025

**Approved by:** Director of Housing Management and L&Q Living

**Effective date:** 25/06/25

**Next Review date:** 25/06/28

**Policy owned by:** Director of Housing Management

**Associated documents:** Assignment Standard Operating Procedure, Mutual Exchange Standard Operating Procedure, Succession Policy, Tenancy Changes Guidance

Main change	Key points
Creation of a new Assignment Policy includes assignment by mutual exchange, by court order and to a 'would- be successor'.	<ul style="list-style-type: none"><li>• Combining content that was previously in the Tenancy Changes Policy, and Allocations and Lettings Policy to create a single policy on assignment and mutual exchange</li><li>• Updates to align with a new policy template and formatting</li></ul>
Reviewed by: The Policy Team	

## 11 Appendices

### 11.1 Appendix 1- Mutual Exchange Grounds for Refusal

Schedule 3 of Housing Act 1985	Schedule 14 of the Localism Act 2011	Grounds for refusing consent to the exchange
	Ground 1	When any rent lawfully due from a tenant under one of the existing tenancies has not been paid.
	Ground 2	When an obligation under one of the existing tenancies has been broken or not performed.
Ground 1	Ground 3	A court order for possession or a suspended possession order has been made for either property.
Ground 2	Grounds 4 & 5	The landlord has served a notice of seeking possession and the notice is still in force, or possession proceedings have commenced.
Ground 3	Ground 7	The property is substantially larger than is reasonably needed by the proposed assignee
Ground 4	Ground 8	The property is not reasonably suitable to the needs of the proposed assignee and their household.
Ground 5	Ground 9	The property is part of or close to a building that is held for non- housing purposes, or it is situated in a cemetery and was let in connection with employment with the landlord or with a local authority, a new town corporation, housing action trust, an urban development corporation, or the governors of a grant- aided school.
Ground 6	Ground 10	The landlord is a charity and the proposed assignee's occupation of the property would conflict with the objects of the charity
Ground 7	Ground 11	The property has been substantially adapted for occupation by a physically disabled person, and if the assignment went ahead a physically disabled person would not be living there.
Ground 8	Ground 12	The landlord lets properties to people in difficult circumstances (other than merely financial circumstances) and the proposed assignee would not fulfil this criteria.
Ground 9	Ground 13	The property is let to people with special needs and there is a social service or special facility nearby to the properties to assist people with those special needs, and if the assignment was to go ahead no person with those special needs would be living there.

Ground 10	Ground 14	The dwelling is the subject of a management agreement where the manager is a housing association of which at least half the members are tenants subject to the agreement and at least half of the tenants of the dwellings are members of the association, and also that the proposed assignee is not such a member nor is willing to become one.
Additional ground (Housing Act 2004)	Ground 6	An injunction order under section 153 of the Housing Act 1996 or an anti- social behaviour order or a Demotion Order or a possession order under Ground 2 for secure tenancies or Ground 14 for assured tenancies is in force or an application for one of those is pending either against the tenant, the proposed assignee or a person who resides with either of them.