

# ASSIGNMENT POLICY

## 1 STATEMENT ON POLICY

- 1.1 There are limited circumstances that allow a secure tenant to assign their tenancy to another person. Under the council's existing Tenancy Agreement, tenants are required to seek the landlord's permission to assign their tenancy.
- 1.2 Tenants are advised to discuss any applications for assignment with their Housing Officer.
- 1.3 The City Council's Tenancy Agreement outline's tenant's rights to exchange by way of assignment.

## 2 KEY ISSUES FOR POLICY IMPLEMENTATION

- 2.1 Secure tenants (including fixed term secure tenants) can pass on (assign) their tenancy to another person in the following circumstances:
  - By mutual exchange, with the Council's permission
  - Under certain court orders
  - To a person who is eligible for social housing under Cambridge City Council's Lettings Policy
- 2.2 Assignments may only be conducted in the following ways:
  - An assignment in connection with the right to exchange under section 92 of the Housing Act (1985) (does not apply to Introductory Tenancies)
  - An assignment made under certain court orders; Where a court makes a property adjustment order, under sections 23A or 24 of the Matrimonial Causes Act (1973), or under section 17(1) of the Matrimonial and Family Proceedings Act (1984), or under paragraph 1, Schedule 1 to the Children Act (1989)

- An assignment to a person who would qualify to succeed. Please refer to the City Council Succession Policy (2021).
- 2.3 An assignment must be executed before the assignor moves out of the property. If the assignor moves out before the assignment takes place the security of tenure will be lost and a Notice to Quit will be served to bring the tenancy to an end.
- 2.4 The right to assign a secure tenancy to a person who would qualify to succeed to the tenancy if the tenant died immediately before the assignment does not apply to a joint secure tenant who wishes to relinquish their interest in the tenancy to the remaining joint tenant. Please refer to the City Council Tenancy Changes Policy (2019). A joint secure tenancy cannot be assigned to a potential successor. In the event of the death of a joint tenant, the remaining qualified sole tenant will succeed to the tenancy by survivorship, not by statutory succession as defined in the Housing Act 1985.
- 2.5 In the case of an assignment by a secure tenant to a family member (other than an ex-spouse in divorce proceedings) the assignee is automatically a successor by section 88 of the Housing Act 1985 and on the assignee's death no further succession is possible. An assignment to a potential successor counts as a succession therefore there can be no further succession when the assignee tenant dies.
- 2.6 Details of the persons qualified to succeed the tenant are set out in section 87 of the Housing Act 1985 as amended by the Civil Partnerships Act 2004. If an assignment takes place outside the specified circumstances in which assignment is permitted, without the approval of the Council, it will not result in the transfer of the tenancy. The tenancy will no longer be secure, and the assignee will not become a secure tenant. The Council will then be able to terminate the tenancy by service of a notice to quit.

- 2.7 If the City Council refuses a Mutual Exchange assignment it must be on the grounds set out in Schedule 3 of the Housing Act (1985). The City Council must give notice of refusal within 42 days of the tenants' application. Please refer to the City Council Mutual Exchange Policy (2021) for further information.

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