



Assignment, Sub Letting, Lodgers, Joint Tenants &  
Mutual Exchange Policy

Endorsed by Committee	
Next Review Date	

This policy is available in different languages and other formats such as Braille or tape on request.

## **Contents**

1. Introduction
2. Equal Opportunities
3. Scottish Social Housing Charter and Legal Framework
4. Assignment Requests
5. Subletting
6. Lodgers
7. Joint Tenancies
8. Mutual Exchanges
9. Reasons Why Consent May Be Withheld
10. Assessing Applications
11. Complaints And Appeals
12. Data Protection
13. Review

## 1. Introduction

This policy sets out how we will manage requests for Assignations, subletting, lodgers, joint tenancies and mutual exchanges to Williamsburgh Housing Association, as set out in the Housing (Scotland) Act 2001 as amended by the Housing (Scotland) Act 2014 and the Association's Scottish Secure Tenancy Agreement.

There are conditions and qualifying time periods required before these requests can be approved.

## 2. Equal Opportunities

The Association is committed to the principles of equal opportunities and good practice. In this regard, we acknowledge the Scottish Social Housing Charter (2012): 1 - Equalities, which states:

"Every tenant and other customer have their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services".

Accordingly, we shall ensure that specifically in regard to Assignations, subletting, lodgers, joint tenancies and mutual exchanges, all customers are treated equally, irrespective of their sex or marital status, race, disability, age, sexual orientation, language or social origin, or other social attributes, including beliefs or opinions such as religious beliefs or political opinions.

## 3. Scottish Social Housing Charter and Legal Framework

The Association, in preparing this policy and the related procedures has given consideration to and sought compliance with the following:

Scottish Social Housing Charter, as defined by The Scottish Housing Regulator – the regulatory body for housing associations. The relevant Charter Outcome numbers 7, 8, 9 and 11 state:

7, 8 and 9: Housing options

Social landlords work together to ensure that:

"People looking for housing get information that helps them make informed choices and decisions about the range of housing options available to them"

"Tenants and people on housing lists can review their housing options"

Social landlords ensure that:

“People at risk of losing their homes get advice on preventing homelessness”

11: Tenancy sustainment

Social landlords ensure that:

“Tenants get the information they need on how to obtain support to remain in their home; and ensure suitable support is available, including services provided directly by the landlord and by other organisations”.

#### Legal Framework

- The Housing (Scotland) Act 2001
- The Housing (Scotland) Act 2014
- Matrimonial Homes (Family Protection) (Scotland) Act 1981

#### **4. Assignment Requests**

Assignment is the legal term used to describe the voluntary transfer of all your rights and responsibilities under your tenancy to another person. This person is known as an assignee.

The assignee takes over the tenancy and becomes the tenant from an agreed date, and takes over your tenancy rights and responsibilities, including the responsibility to pay rent and any outstanding housing debt.

A Scottish secure tenant is not allowed to assign her/his tenancy without first obtaining Williamsburgh Housing Association's written consent. Such consent cannot be withheld unreasonably.

Assignment involves a transfer of tenancy to another person(s).

If you want to pass your tenancy to another person, the following must apply:

- The person you want to pass it on to must be 16 years old or over.
- They must have filled in and returned a housing application form to us.
- The house must have been their only or main home for at least 12 months before the date you apply to pass on your tenancy. The 12-month period does not start until the Association has been notified that the person is living in the property as their only or principal home.
- If you have a joint tenancy, you must get agreement from the other joint tenants to pass on the tenancy. If you have a husband, wife or civil partner, you must get their agreement to pass on your tenancy.

## **5. Subletting**

Sub-letting is when a tenant rent all or part of their home to another person (the sub-tenant) on a temporary basis.

Tenants wishing to sub-let all, or part of their home must make such an application in writing. The sub-let cannot proceed without our written consent. We will not withhold permission unreasonably. We will provide a standard application form on which a request for permission to sub-let can be made.

The tenant must provide the following information.

- The reason for the sub-let.
- The proposed duration of the sub-let.
- The amount of any deposit and the rent charges relating to the sub-let.
- The full name, date of birth and current address of the proposed sub-tenant.

The tenant must have held the tenancy for that property for at least 12 months prior to the date of application to sub-let. Or, if they were not the tenant throughout that time, the house must have been their only or principal home during those 12 months; and the person who was the tenant at that time must have notified the Association that the person who is now the tenant was living there. The 12-month period does not start until the Association has been notified.

Subject to all conditions being met, permission will be granted for a sub-let for a maximum initial period of 6 months. At the end of the period the tenant must either return to the property or will be permitted to make one further application for a further sub-let period of no more than 6 months.

Tenants who have permission to sub-let must advise the Association of any proposed rent increase from the level initially agreed. The granting of a sub-let does not remove or set aside any of the responsibilities of the tenant regarding the conduct of the tenancy, irrespective of any arrangement the tenant may have with the sub-tenant. The tenant remains responsible for ensuring that the rent is paid and that all other tenancy conditions are adhered to.

Sub-tenants are qualifying occupiers under the terms of the Housing (Scotland) Act 2001, Section 14 (6) and must be party to court proceedings raised against the tenant.

## **6. Lodgers**

Tenants wishing to take in a lodger must make such an application in writing. The lodger cannot move in without our written consent. We will not withhold permission unreasonably. We will provide a standard application form on which a request for permission to take in a lodger can be made.

The tenant must provide the following information:

- The proposed duration of the lodging arrangement.
- The amount of any deposit and the rent charges to be paid by the lodger.
- The full name, date of birth and current address of the proposed lodger.

There are no residency tests for either the tenant or the proposed lodger.

Lodgers are qualifying occupiers under the terms of the Housing (Scotland) Act 2001, Section 14 (6) and must be party to court proceedings raised against the tenant.

## 7. Joint Tenancies

A request to create a joint tenancy is where the tenancy was originally in a sole name, but that sole tenant now wishes to add another person to their tenancy.

The current sole tenant and new intended joint tenant must make such an application in writing. The joint tenancy cannot be created without our written consent. We will not refuse a request for a joint tenancy unreasonably. We will provide a standard application form on which a request for a joint tenancy can be made.

The tenant must provide the following information.

- The full name, date of birth and relationship to the tenant of the proposed joint tenant.

There is a residency test which must be satisfied which is that the person who wishes to become the joint tenant must have been living in the property and using it as their only or principal home for at least 12 months prior to the date of the application to become a joint tenant. Furthermore, Williamsburgh Housing Association must have been informed that the person the current sole tenant wishes to become a joint tenant has moved into the property and have granted permission for that residence. The 12-month qualifying period only starts when the Association has been notified. The residency test applies regardless of the relationship between the tenant and intended joint tenant, and includes spouses, civil partners, and co-habiting partners.

There is no statutory timeframe within which we must respond to requests for a joint tenancy, however, we will respond to requests within one month.

When permission for a joint tenancy is granted, the tenancy does not end and a new tenancy does not begin. Rather the tenancy continues but the tenant changes (from sole names to joint names) from a specified date. No new tenancy agreement is required. The application for a joint tenancy and the Association's letter granting permission is appended to the original tenancy agreement.

The current tenant and new joint tenant will be asked to sign a variation to the original tenancy agreement, confirming that they understand that the tenancy will change from a specified date, and this will also be appended to the original tenancy agreement.

## 8. Mutual Exchanges

A mutual exchange is a swap of properties between two (or occasionally more) social housing tenants. All social housing tenants have a right to apply for a mutual exchange with an identified other party. A mutual exchange can take place between two tenants of Williamsburgh Housing Association, or between a tenant of Williamsburgh Housing Association and a tenant of any other social landlord.

Williamsburgh Housing Association recognises the role that mutual exchanges play in supporting housing mobility, meeting housing need and meeting housing aspirations.

An application for a mutual exchange must be made in writing. A mutual exchange cannot go ahead without our consent, or that of the other landlord. We will not refuse a request for a mutual exchange unreasonably. We will provide a standard application form on which a request for a mutual exchange can be made.

There is no residency test for parties to a mutual exchange.

The Association will respond in writing to requests for a mutual exchange within one month, either approving or refusing permission for the mutual exchange to proceed. If we fail to respond within one month of receipt of an application, then the Association is taken to have consented to the application.

We would not normally give consent for a mutual exchange which would result in a property being underoccupied/overcrowded.

We will seek a landlord reference for any parties to a mutual exchange who are not existing tenants.

If the exchange is approved, the landlord(s) will agree an appropriate date for the mutual exchange in consultation with the exchanging tenants.

Incoming tenants accept the fixtures and fittings of the house as seen.

The incoming tenant signs a new tenancy agreement, and the tenancy of the outgoing tenant is terminated.

In cases of mutual exchanges involving more than two tenancies all the same conditions apply.



## 9. Reasons Why Consent May Be Withheld

We will not give you permission to assign, sublet, take in a lodger, joint tenancy, or carry out a mutual exchange if we have good reasons for refusing, such as the following examples:

- We have served a notice on you to warn you that we may take action to evict you because of your behaviour.
- We have an order to evict you.
- The property would become overcrowded.
- The person who wants to take over the property has been convicted of anti-social behaviour in the last 12 months or has a current anti-social behaviour order.
- Passing on the tenancy would mean that we are not acting in line with our allocations policy.
- If another person's occupancy rights are likely to be affected if we gave you permission to pass on the tenancy.
- Where, in the Association's opinion, the assignation would result in the home being under occupied
- The residency and notification requirement has not been satisfied
- The proposed assignation/exchange would result in specially adapted accommodation (such as wheelchair housing) being occupied by a person who did not require such accommodation
- It appears to the Association that the tenant is to receive a payment for the sub-let, which is other than a reasonable rent or a reasonable and returnable deposit.
- It appears to the Association that the tenant is to receive a payment for the lodging arrangement, which is other than a reasonable rent or a reasonable and returnable deposit.
- The Association proposes to carry out work to the house or building which would affect the accommodation likely to be used by the sub-tenant/lodger or other person who would reside in the house because of the transaction.
- The house is unsuitable for the needs of the tenant's household.
- It appears to the Association that one or other tenant is to receive a payment for the mutual exchange.

## **14. Assessing Applications**

Before we can consider an application, we must receive all the information requested. We may also carry out interviews. When assessing the application, we will also consider the housing need in the area.

When we have all the information required, we will give our decision in writing within one month of getting the application. We will not refuse permission without a good reason, and if we refuse to give permission, we will tell you why and how you can appeal against our decision.

## **11. Complaints and Appeals**

Although we are committed to providing high levels of service, we accept that there may be occasions where you may not be satisfied with the service you have received from us. We value all complaints and use this information to help us improve our services. Our Complaints Policy describes our complaints procedure and how to make a complaint.

If you are not satisfied with the decision made, you can appeal in writing to the housing manager.

## **12. Data Protection**

The Association will store personal information provided securely on both our computer and filing systems. At all times we will act in compliance with the Data Protection Act 1998 and the EU General Data Protection Regulation (GDPR).

## **13. Review**

This policy will be reviewed by the Committee on a 3 yearly basis, to ensure that it responds to any changing circumstances.

This review will take place following the appropriate consultation with tenants as outlined in our Tenant Participation Strategy.

## Appendix 1

### Application to Assign a Scottish Secure Tenancy

Assigning your tenancy is where you pass on your tenancy, including all of your rights and responsibilities, to another person (known as an assignee). If you want to pass on your tenancy, please fill in this form. The person who you want to take over your tenancy must have lived with you for at least 12 months prior to your application. The 12-month period does not start until the Association has been notified that the person is living in the property as their only or principal home. **Please refer to the 'Assigning Your Tenancy' leaflet prior to submitting this application.**

<b>Current Tenancy Details</b>
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Name of Tenant: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Contact Phone Number: \_\_\_\_\_

Tenancy Start Date: \_\_\_\_\_

Household Composition			
Name	Age	Relationship to You	Remaining in Property

Do you have a spouse/civil partner? Yes / No

If yes, has your spouse/civil partner given their permission to assign your tenancy? Yes / No

Are you a joint tenant? Yes / No  
(All joint tenants must sign the application form)

**Property Details**

Property Type:

Tenement Flat  Floor level \_\_\_\_\_

Own Door Flat

Four in a Block  Upper/Lower \_\_\_\_\_

House

Was the house purpose built for someone with a disability or have any adaptations been made? Yes / No

If yes, do you or a member of your family have a disability? Yes / No

Have you made any improvements? Yes / No

Details

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**Reasons for Assignment**

Why do you want to assign your tenancy?

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When do you want to assign your tenancy? Please give a date

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**Intended Forwarding Address**

Name of Tenant: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Postcode: \_\_\_\_\_

Contact Phone Number: \_\_\_\_\_

**Details of Assignee(s)**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Postcode: \_\_\_\_\_

Contact Phone Number: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Relationship to Tenant: \_\_\_\_\_

*Sight of Identification documents will be required, e.g. birth certificate, driving license, passport.*

Is this property your main home? Yes / No

If so, how long have you resided at this property? \_\_\_\_\_

*You are required to provide proof that this has been your main home. Examples of this would be confirmation from the local authority that you are noted as part of the household, your driving license indicating you have changed address, bank statements.*

Details of other people who will be living with the Assignee		
Name	Age	Relationship

Does the Assignee or any person living with the assignee have any medical condition that will require the property to be adapted? Yes / No

If yes, give details

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Does the Assignee have a housing application with Williamsburgh Housing Association? Yes / No

**I confirm that all the above information is correct.**

**I consent to this information being checked and understand that you may seek to obtain further relevant details in relation to my housing circumstances**

**I understand that any information that I provide is covered by the Data Protection Act 1998 and you will not disclose this information to others without my consent.**

**I can confirm that the above information is true. I understand that if the assignation is granted to the person detailed in question 12, that I will have no rights or obligations to the above tenancy.**

Tenants Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Joint Tenants Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Spouse/Civil Partner Signature: \_\_\_\_\_

Date: \_\_\_\_\_

- I can confirm that all my answers on this form are true and that I want to become the tenant of the property detailed in question 1. I confirm that this address has been my main home throughout the 12 months prior to the date of this request.
- I give you my permission to check the information I have given in this form or obtain further relevant details in relation to my housing circumstances.
- I understand that the information provided in this form will be covered by the Data Protection Act 1998 and you will not pass it on to others without my permission.

Proposed Assignee Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## Appendix 2

### Application For Sub Let

Sub-letting is when a tenant rent all or part of their home to another person (the sub-tenant) on a temporary basis. The tenant must have held the tenancy for that property for at least 12 months prior to the date of application to sub-let. Or, if they were not the tenant throughout that time, the house must have been their only or principal home during those 12 months; and the person who was the tenant at that time must have notified the Association that the person who is now the tenant was living there. The 12-month period does not start until the Association has been notified.

<b>Current Tenancy Details</b>
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Name of Tenant: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Contact Phone Number: \_\_\_\_\_

Tenancy Start Date: \_\_\_\_\_

Household Composition			
Name	Age	Relationship to You	Remaining in Property

Do you have a spouse/civil partner? Yes / No

If yes, has your spouse/civil partner given their permission to sublet the property? Yes / No

Are you a joint tenant? Yes / No  
(All joint tenants must sign the application form)



**Property Details**

Property Type:

Tenement Flat  Floor level \_\_\_\_\_

Own Door Flat

Four in a Block  Upper/Lower \_\_\_\_\_

House

Was the house purpose built for someone with a disability or have any adaptations been made? Yes / No

If yes, do you or a member of your family have a disability? Yes / No

Have you made any improvements? Yes / No

Details

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**Reasons for Sublet**

Why do you want to sublet your property?

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When do you want to sublet your property? Please give dates from and to

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**Intended Forwarding Address for the proposed period of subletting**

Name of Tenant: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Postcode: \_\_\_\_\_

Contact Phone Number: \_\_\_\_\_

**Details of Person(s) wishing to sublet**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Postcode: \_\_\_\_\_

Contact Phone Number: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Relationship to Tenant: \_\_\_\_\_

*Sight of Identification documents will be required, e.g birth certificate, driving license, passport.*

<b>Details of other people who will be living with the Sublet</b>		
<b>Name</b>	<b>Age</b>	<b>Relationship</b>

Please give details of your prospective sub-tenant's last three addresses			
Address	From	To	Name and Address of Landlord

Has your sublet applicant ever held a tenancy with a Council or any other Housing Association? If YES, please give details (if not listed above)

Address	From	To	Name and Address of Landlord

Does the sublet applicant or any person living with them have any medical condition that will require the property to be adapted? Yes / No

If yes, give details

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Does the sublet applicant have a housing application with Williamsburgh Housing Association? Yes / No

What rent is proposed to be charged to the sub tenant?	£ Per week/month
What other proposed payments are to be made (if any)?	£ Per week/month
Will the proposed sub tenant be entitled to Housing Benefit/Universal Credit?	YES / NO

**I confirm that all the above information is correct.**

**I consent to this information being checked and understand that you may seek to obtain further relevant details in relation to my housing circumstances**

**I understand that any information that I provide is covered by the Data Protection Act 1998 and you will not disclose this information to others without my consent.**

Tenants Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Joint Tenants Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Spouse/Civil Partner Signature: \_\_\_\_\_

Date: \_\_\_\_\_

- I can confirm that all my answers on this form are true and that I want to become the sublet tenant of the property detailed in question 1.
- I give you my permission to check the information I have given in this form or obtain further relevant details in relation to my housing circumstances.
- I understand that the information provided in this form will be covered by the Data Protection Act 1998 and you will not pass it on to others without my permission.

Proposed Sublet Signature: \_\_\_\_\_

Date: \_\_\_\_\_

### Appendix 3

## Application to take in a Lodger

A lodger is a guest in your home, who pays you rent. You would continue to live in the property and let a room out for rent. You also become responsible for the conduct of your lodger in the property. You cannot take in a lodger without our permission in writing beforehand, which we would not unreasonably refuse.

<b>Current Tenancy Details</b>
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Name of Tenant: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Contact Phone Number: \_\_\_\_\_

Tenancy Start Date: \_\_\_\_\_

Household Composition			
Name	Age	Relationship to You	Remaining in Property

Do you have a spouse/civil partner? Yes / No

If yes, has your spouse/civil partner given their permission to take in a lodger? Yes / No

Are you a joint tenant? Yes / No  
(All joint tenants must sign the application form)



<b>Details of Proposed Lodger</b>
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Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Postcode: \_\_\_\_\_

Contact Phone Number: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Relationship to Tenant: \_\_\_\_\_

*Sight of Identification documents will be required, e.g birth certificate, driving license, passport.*

Please give details of your prospective lodger's last three addresses			
Address	From	To	Name and Address of Landlord

Has your proposed lodger ever held a tenancy with a Council or any other Housing Association? If YES, please give details (if not listed above)

Address	From	To	Name and Address of Landlord

Does the proposed lodger have any medical condition that will require the property to be adapted? Yes / No

If yes, give details

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Does the proposed lodger have a housing application with Williamsburgh Housing Association? Yes / No

What rent is proposed to be charged to the lodger?	£ Per week/month
What other proposed payments are to be made (if any)?	£ Per week/month
Will the proposed lodger be entitled to Housing Benefit/Universal Credit?	YES / NO



**I confirm that all the above information is correct.**

**I consent to this information being checked and understand that you may seek to obtain further relevant details in relation to my housing circumstances**

**I understand that any information that I provide is covered by the Data Protection Act 1998 and you will not disclose this information to others without my consent.**

Tenants Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Joint Tenants Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Spouse/Civil Partner Signature: \_\_\_\_\_

Date: \_\_\_\_\_

- I can confirm that all my answers on this form are true and that I want to become the lodger of the property detailed in question 1.
- I give you my permission to check the information I have given in this form or obtain further relevant details in relation to my housing circumstances.
- I understand that the information provided in this form will be covered by the Data Protection Act 1998 and you will not pass it on to others without my permission.

Proposed Lodger Signature: \_\_\_\_\_

Date: \_\_\_\_\_



## Appendix 4

### Application for a Joint Tenancy

A request to create a joint tenancy is where the tenancy was originally in a sole name, but that sole tenant now wishes to add another person to their tenancy.

There is a residency test which must be satisfied which is that the person who wishes to become the joint tenant must have been living in the property and using it as their only or principal home for at least 12 months prior to the date of the application to become a joint tenant. Furthermore, Williamsburgh Housing Association must have been informed that the person the current sole tenant wishes to become a joint tenant has moved into the property and have granted permission for that residence. The 12-month qualifying period only starts when the Association has been notified. The residency test applies regardless of the relationship between the tenant and intended joint tenant, and includes spouses, civil partners, and co-habiting partners.

<b>Current Tenancy Details</b>
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Name of Tenant: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Contact Phone Number: \_\_\_\_\_

Tenancy Start Date: \_\_\_\_\_

<b>Household Composition</b>			
<b>Name</b>	<b>Age</b>	<b>Relationship to You</b>	<b>Remaining in Property</b>

Do you have a spouse/civil partner?

Yes / No

If yes, has your spouse/civil partner given their permission to create a joint tenancy? Yes / No

Are you a joint tenant? Yes / No  
(All joint tenants must sign the application form)

**Property Details**

Property Type:

Tenement Flat  Floor level \_\_\_\_\_

Own Door Flat

Four in a Block  Upper/Lower \_\_\_\_\_

House

Was the house purpose built for someone with a disability or have any adaptations been made? Yes / No

If yes, do you or a member of your family have a disability? Yes / No

Have you made any improvements? Yes / No

Details

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**Details of Proposed Joint Tenant**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Postcode: \_\_\_\_\_

Contact Phone Number: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Relationship to Tenant: \_\_\_\_\_

*Sight of Identification documents will be required, e.g. birth certificate, driving license, passport.*

Does the proposed joint tenant have any medical condition that will require the property to be adapted? Yes / No

If yes, give details

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**I confirm that all the above information is correct.**

**I consent to this information being checked and understand that you may seek to obtain further relevant details in relation to my housing circumstances**

**I understand that any information that I provide is covered by the Data Protection Act 1998 and you will not disclose this information to others without my consent.**

Tenants Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Joint Tenants Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Spouse/Civil Partner Signature: \_\_\_\_\_

Date: \_\_\_\_\_

- I can confirm that all my answers on this form are true and that I want to become the joint tenant of the property detailed in question 1.
- I give you my permission to check the information I have given in this form or obtain further relevant details in relation to my housing circumstances.
- I understand that the information provided in this form will be covered by the Data Protection Act 1998 and you will not pass it on to others without my permission.

Proposed Joint Tenant Signature: \_\_\_\_\_

Date: \_\_\_\_\_



WILLIAMSBURGH  
HOUSING ASSOCIATION LTD

# MUTUAL EXCHANGE APPLICATION FORM

	APPLICANT 1	APPLICANT 2
NAME		
ADDRESS		
TELEPHONE		
CURRENT LANDLORD		
MONTHLY RENT	£	£

## WHO IS MOVING WITH YOU:

NAME	D.O.B.	RELATIONSHIP TO YOU

## WHO IS MOVING WITH YOU:

NAME	D.O.B.	RELATIONSHIP TO YOU

## WHY YOU WANT TO EXCHANGE

APPLICANT 1	APPLICANT 2
HOW MANY BEDROOMS DO YOU HAVE  SINGLE: DOUBLE:	HOW MANY BEDROOMS DO YOU HAVE  SINGLE: DOUBLE:

