



Tenancy policy

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TWO RIVERS HOUSING

Tenancy Policy

1.0 Introduction

- 1.1 The Homes and Communities Agency (HCA) took responsibility for the regulation of registered providers of social housing in England, such as Two Rivers Housing (TRH), on 1st April 2012. The HCA has a Regulatory Framework which includes 7 regulatory standards which providers must meet; 3 of these are classed as economic and 4 as consumer standards.
- 1.2 One of the consumer standards is the Tenancy Standard which requires Registered Providers, such as TRH, to *'offer tenancies or terms of occupation which are compatible with the purpose of the accommodation, the needs of individual households, the sustainability of the community, and the efficient use of their housing stock.'*
- 1.3 The HCA also states 'affordable rent' terms can be used where a delivery agreement for new supply of social housing has been agreed under the 2015-18 affordable Homes Programme Framework. TRH was successful in its grant bid to build new affordable homes and as such is required to re-let a proportion of empty properties on fixed term tenancies at rents calculated at 80% of the gross market rent including service charges.
- 1.4 It is also a requirement for Registered Providers to have 'due regard' to local authority tenancy strategies. Local authorities had to have their strategies in place by April 2013, TRH proactively engaged with its partner local authorities to deliver this policy.
- 1.5 The aim of this policy is to:
- Provide a flexible and responsible tenancy management service;
 - Ensure tenants are aware of their rights and responsibilities in accordance with their tenancy conditions, legislation and regulatory guidance;
 - Support and sustain tenancies;
 - Support the development of new homes and sustainable communities across the areas in which we work; and
 - Make the best use of the available social housing stock, including reducing overcrowding, tackling under-occupation, and adapted housing for those with a disability.

1.6 It also sets out TRH's approach to:

- The types of tenancy granted and circumstances when they apply.
- Security of tenure.
- How a tenancy can be ended.
- Needs of those households vulnerable by reason of age, disability or illness and households with children.
- Advice and support when tenancies end.
- Complaints and appeals process.
- Mutual exchanges and succession rights.
- Management moves

2.0 Definitions

2.1 A *contractual tenancy*, is the type of tenancy used when housing applicants who have applied to a Local Authority as Homeless on a temporary basis. This tenancy runs from week to week and does not offer the applicant any security

2.2 A *starter tenancy* is also commonly known as an assured shorthold tenancy. This is the default tenancy for most dwellings in England and Wales. It is a form of Assured Tenancy with limited security of tenure (usually 12 months), which was introduced by the Housing Act 1988 with important changes made by the Housing Act 1996.

2.3 An *assured tenancy* is a form of residential tenancy in England and Wales that grants a degree of security of tenure to the tenant. A tenant under an assured tenancy may not be evicted without a reason and the rent under the assured tenancy will fall under the supervision of a Rent Assessment Committee, where no Tenancy Agreement is in place. Assured tenancies were introduced by the Housing Act 1988 and replaced tenancies protected by the Rent Acts.

There is no set time period associated with an assured tenancy and therefore provides security for the 'life' of the tenant, provided there are no tenancy breaches and other issues, such as redevelopment, which require the tenant to be relocated. They are sometimes also referred to as 'lifetime' tenancies.

- 2.4 A *fixed term tenancy* is a tenancy which is granted for a set length of time. When this tenancy period ends, the tenant's circumstances will be reviewed to determine whether a further fixed term tenancy will be reissued or not.

Although the minimum term for a fixed term tenancy specified by the HCA is 5 years, TRH's Governing Board decided that due to the geographical areas TRH operates within it would be more appropriate to grant fixed term tenancies for a 10 year period. The Board also considered feedback from the relevant local authorities in its operational area.

- 2.5 *Affordable rent* is the rent levels that social landlords can now charge to a portion of new tenancies. The rent level is calculated at 80% of the market rent in the locality, as opposed to social rent which is generally lower.

The use of affordable rent is to ensure TRH can continue to develop new affordable housing to respond to on-going housing need.

- .6 A *tenancy agreement* is a contract between a tenant and their landlord. It may be written or spoken. A tenancy agreement gives certain rights to both tenant and landlord; for example, the right to occupy the accommodation and the landlord's right to receive rent for letting the accommodation.

3.0 Tenancy Options

- 3.1 TRH offers the following tenancy options:

Type of Tenancy	Duration
Contractual Tenancy	1 week (homeless temporary lettings)
Starter Tenancy	12 months (on Starter only tenancies can be extended by a further 6 months.
Assured Tenancy	Life
Affordable Rent Fixed Term Tenancy	10 year fixed term

At present TRH do not let any properties at market rent although it may look at this tenure type in the future

- 3.2 The level of rent charged at letting for each tenure option, and the level of increase are as follows:

Type of Tenancy	Rent Level at Letting	Increase
Starter Tenancy	Formula Rent (previously known as Target Rent)	CPI +1%
Assured Tenancy	Formula Rent (previously known as Target Rent)	CPI +1%
Affordable Rent Fixed Term Tenancy	Up to 80% of Market Rent	CPI +1%
<p><i>Target rent is set via government guidelines relating to social housing rent.</i></p> <p><i>CPI = Consumer Price Index is a measure of inflation published monthly by the Office for National Statistics.</i></p> <p><i>For rent increases, TRH uses the annual September figure.</i></p>		

3.3 Following the government announcement in July 2015, it should be noted that the current method of setting rent levels has been suspended, and from April 2016, new guidelines will be provided for the following four year period.

3.4 Due to the transfer of housing stock in April 2003 from the Forest of Dean District Council, some tenants are still on secure tenancy agreements. This is very similar to an Assured Tenancy. The tenant would retain all the rights they had with this type of tenancy as they did with the Local Authority. This would include the Right to Buy. Whilst these agreements are still legally binding, TRH does not offer these tenancy types now for new applicants/tenants.

4.0 Circumstances for granting a tenancy type

4.1 Starter tenancies:

4.1.1 Starter tenancies are used for all new applicants, whether general needs or HomePlus schemes, and last for a 12 month period. Where a tenant has a starter only tenancy, TRH can extend this for a further six months. We will serve a notice before the expiry of the first 12 months. This will only happen if the tenant is in breach of the tenancy terms. The tenant will have a right to internal review of the notice. Provided the starter period is completed with no breaches of tenancy conditions, an assured or fixed term tenancy will be created at the 12 month anniversary.

4.1.2 Starter tenancies will not be issued to:

- Existing TRH tenants on assured tenancies transferring to another TRH property.
- Tenants undertaking a mutual exchange whether they are an existing TRH tenant or tenants with another Registered Provider or Local Authority. Tenants assigned a tenancy whether via succession or otherwise where the original tenancy is assured.

4.2 Assured tenancies:

4.2.1 Assured tenancies are used for all lettings where a tenant already has security of tenure; i.e. they already have an assured or secure tenancy. For example, this could be a tenant who is moving from one TRH property to another, whether via a Choice Based letting Scheme or mutual exchange.

4.2.2 An assured tenancy will automatically be granted after 12 months if there have been no tenancy breaches to a tenant with a starter tenancy.

4.3 Affordable Rent Fixed Term tenancies:

4.3.1 Affordable rent fixed term tenancies are used for the majority of new build schemes and a small number of general needs re-lets; they are granted on the property rather than by applicant/tenant. This is condition of TRH's 2015-18 development grant from the Homes and Communities Agency (HCA).

4.3.2 As with all other relets, properties identified for affordable rent fixed term tenancies are advertised via the relevant Choice Based Letting scheme but are clearly marked as fixed term, with clear information provided covering length of tenancy and rent levels. Prior to allocation an assessment of an applicant's ability to pay will be made (Appendix 1). Affordable rent lettings will be eligible for Housing Benefit in the same way as Assured Tenancy lettings depending on the individual tenant's circumstances.

4.3.3 Where a tenant with an existing assured tenancy applies for an affordable rent fixed term tenancy, they are advised that they will be 'losing' some tenancy security as they will be agreeing to move from a 'lifetime' tenancy to a 10 year fixed term period.

4.3.4 Only general needs 2, bed houses are considered for conversion to affordable rent fixed term tenancies and this is only when they become empty. The current objective is to create £133,937.18 of capital by March 2018 which equates to approx. 34 properties (excluding new builds) being converted to affordable rent fixed term tenancies.

4.3.5 Although TRH has discretion over which general needs properties to convert from social to affordable rent it will not consider a property where any of the following apply:

- there is a Section 106 planning agreement or restrictive covenant which is not compatible with the affordable rent model;
- there are local agreements/contracts which are not compatible with the affordable rent model;
- there is a regeneration project/agreement which is incompatible with the affordable rent model;
- Up to 80% of the market rent is below the target social rent plus service charges;
- there are ineligible service charges;
- the proposed tenant is a minor (below the age of 18); and
- the proposed property has been significantly adapted to meet the needs of a disabled person. An example of this would be if a property had high level adaptations such as full wheelchair access and level access shower.

4.3.6 TRH also has the discretion to convert affordable rent properties back to a social rent if a property cannot be let at an affordable rent level. The trigger for this is to be reviewed and will come into effect if the property has been through four Choice Based Lettings bidding cycles and a suitable applicant has not been identified.

5.0 Security of tenure/Ending a tenancy

- 5.1 TRH will ensure that all new tenants are provided with clear information concerning the terms of their tenancy agreement and the consequences of failing to keep to those terms.
- 5.2 TRH will intervene at an early stage when we become aware of breaches of tenancy agreements. Following investigation, we will seek to ensure that tenants receive appropriate support to help them keep their home.
- 5.3 Where tenants have rent arrears, we will seek possession only where all preventative methods such as financial inclusion advice have been reviewed and exhausted.
- 5.4 TRH may also seek possession of a property which is part of a wider redevelopment or regeneration scheme. In these circumstances TRH will look to move tenants in line with its Decant Policy.
- 5.5 Although repossession of a property is always a last resort, TRH will take action to evict a tenant in relation to tenancy breaches. There are different processes for each tenancy type:

- For a starter tenancy, TRH will issue a Section 21 notice. Although TRH would have to apply to the Courts for a warrant of eviction there is less security with this type of tenancy as there are no grounds for the court to overturn the notice. A tenant on a starter tenancy has the right to appeal a notice as outlined in section 10 of this policy.
- For an assured/secure tenancy, TRH will issue a Notice of Seeking Possession. There are specific grounds for each type of breach of tenancy which will be clearly stated in the Notice.
- For breaches during the fixed term period of an affordable rent tenancy, the process for an assured tenancy will be followed.
- Mandatory Grounds as described in the Crime and Policing Act 2014

5.6 Provided there are no breaches during a starter tenancy, a tenant will either convert to an assured tenancy or sign a new 10 year affordable rent fixed term tenancy agreement. As mentioned previously an assured tenancy provides security for the 'life' of the tenant and the affordable rent fixed term tenancy provides security for a 10 year period (both subject to no tenancy breaches).

6.0 Review at end of Affordable Rent Tenancy Fixed term period

6.1 TRH grants a fixed term period of 10 years with all affordable rent tenancies. Tenants with fixed term tenancies will be visited by TRH in the final year of the 10 year period to complete a review assessment whether the tenancy should be ended or renewed. This assessment will be completed at least 9 months prior to the proposed tenancy end date.

6.2 TRH will renew all tenancies for a further ten years unless:

- the tenant's capital is sufficient to purchase a property (*assessed against the Communities and Local Government's Lower quartile average house price data*);
- the tenant's income exceeds the income threshold for the area (*calculated against lower quartile average house prices*);
- the household is under-occupying their home by more than one bedroom; and
- there has been a breach of tenancy conditions.

However, in exceptional cases, for example where a member of the household is deemed vulnerable, TRH has the discretion to renew tenancies outside these criteria or offer alternative suitable accommodation.

6.3 Where a tenant's circumstances in terms of family size, housing need, or financial status remain compatible with the property they are occupying, a further ten year fixed term tenancy will be issued. As before, TRH will not end

the tenancy during a fixed term unless there is a breach of tenancy condition; however, the tenant (s) can end the tenancy at any time by surrender with a notice period agreed with TRH. Both signatures are required where there is a joint tenancy.

- 6.4 Where a review determines that it is not appropriate to renew the tenancy, a “minded to” notice will be served on the tenant confirming that TRH will not renew the tenancy. Advice and support will be offered to help the tenant find alternative accommodation and where necessary TRH will signpost tenants to the relevant local authority and other appropriate organisations such as the Citizens Advice Bureau.

Options should also be considered where the tenant is:

<i>Situation</i>	<i>Option</i>
Now under occupying the property	Consider offer of smaller accommodation
Now over crowding the property	Consider offer of larger accommodation
Income now significantly increased	Consider conversion to shared ownership.*
Tenancy condition record poor	Consider refuse to re-house.
<i>*Please note: Tenants with a fixed term of two years or above have the 'Right to Acquire'.</i>	

- 6.5 The tenant has the right to request a review of the decision in line with the TRH appeal process, outlined in point 9.2 of this policy. The appeal should be received within 21 days from the day the “minded to” notice was served, the decision of which will be final.

7.0 Assignment and Mutual Exchange

- 7.1 TRH aims to reduce housing need and make the most effective use of its housing stock by encouraging appropriate mutual exchanges. This will also increase tenant's choice and mobility.
- 7.2 TRH encourages mutual exchanges between two or more tenants of TRH, or between two or more tenants of TRH, another Registered Provider or a Local Authority.
- 7.3 TRH will approve mutual exchange applications provided that none of the grounds for refusing such applications in the Housing Act 1985 and the Localism Act 2011 apply.

- 7.4 TRH tenants who were previously tenants of the District Council and new tenants who have joined TRH and who hold an Assured or 10 year Fixed Term Tenancy are entitled to mutually exchange with the consent of TRH.
- 7.5 TRH tenants who are on a Assured Shorthold (Starter) tenancy or a Starter only tenancy are not able to apply for a mutual exchange until they have been a tenant for a year and their tenancies have been converted to an Assured Tenancy or they have signed a 10 year Fixed Term Tenancy Agreement.
- 7.6 TRH is a member of Homeswapper, a national mutual exchange facility to enable its tenants to advertise their interest in finding a mutual exchange.
- 7.7 TRH will not withhold permission for a mutual exchange to take place unless it has good reason to do so. It may impose conditions on its permission concerning the payment of outstanding rent, the remedying of any breach or the performing of any obligation of a tenancy. Some of the reasons that TRH would not give permission are as follows but not exhaustive.
- If a Court Order for possession has been granted to the Assignee.
 - The accommodation is substantially more extensive than is reasonably required by the proposed assignee. i.e. under occupation of the property
 - The accommodation is not reasonably suitable to the needs of the proposed
 - assignee. i.e. over occupation of the property.
 - The accommodation is designed to make it suitable for occupation by a disabled person. If the assignment were made and there would no longer be such a person residing in the accommodation.
 - Where a Section 106 Agreement is in place.
 - Where there are rent arrears on a 10 year Fixed Term Tenancy Agreement.
- 7.8 TRH's tenants will be informed of its' decision concerning their application within forty two days of the application being made. If the application is refused, reasons for the refusal will be given.
- 7.9 Due to the changes brought about the Localism Act 2011, the type of tenancy given to tenants carrying out a mutual exchange may be different depending on the type of tenancy the applicant currently holds. The date on which their current tenancy commenced will also have an impact. Information relating to this is detailed in Mutual Exchange Matrix (Appendix 2)
- 7.10 TRH can in line with the tenancy agreement grant permission for an assignment to take place in the following circumstances only:
- by way of exchange;
 - as a result of a court order, in family proceedings;

8.0 Succession

- 8.1 TRH will grant the right to succession on the death of a tenant. The tenancy may be passed on to a partner who lived with the tenant at the time of their death, whether or not they were married, This right is also granted to same sex partners. This is provided:
- They lived in the tenant's home as their only or main home at the time of the tenant's death.
 - The previous tenant did not succeed to their tenancy; and
 - The previous tenant held a sole tenancy.
- 8.2 This right applies to TRH tenants who were previously tenants of the District Council, new tenants who have joined TRH and who hold an Assured tenancy or a 10 year Fixed Term Tenancy.
- 8.3 Due to the Localism Act 2011, any tenancy that is granted after 1st April 2012, the tenancy "vests" in the person who qualifies. This means that the tenancy will automatically pass by law to the qualifying person with no new tenancy agreement being signed. This also means that if there are any rent arrears owing by the deceased tenant they will automatically pass to qualifying person.
- 8.4 If the tenant does not have a partner, then the tenancy may be passed to a member of their family as long as they lived at the property with the tenant, as their main or only home, for at least twelve months before the tenant died. The tenancy can only be passed on once.
- 8.5 Members of a family include parents, grandparents (including those by marriage), children, grandchildren, brothers, sisters, uncles, aunts, nephews, nieces, half brothers or half sisters, adopted children and stepbrothers or stepsisters. If more than one family member qualifies to succeed the tenancy under point 8.4 above, the family should agree who will take it. If they cannot agree they must apply to the Court to decide who the tenancy will pass to.
- 8.6 If the tenancy does pass to someone under point 8.4 above and the family member is under-occupying the property at the date of the tenants death, they will not be entitled to take over the tenancy of the property. In these circumstances, TRH will offer a maximum of two offers (if any). For the avoidance of doubt, this is not a right of succession.
- 8.7 An application to succeed to a tenancy must be made within four weeks of the death of the tenant.

9.0 Management Move

- 9.1 If a tenant is experiencing difficulties in their home; for example if there is nuisance and anti social behaviour occurring, severe medical issues or financial difficulties, Two Rivers Housing will consider giving the tenant a priority move within Two Rivers Housing's Stock.
- 9.2 When considering this option, the appropriate member of staff, should provide a report to the Neighbourhood Housing Team Leader/Head of Housing, giving details of the issues and concerns and make recommendations, together with appropriate supporting evidence from other agencies.

10.0 Complaints and appeals

- 10.1 If a tenant/applicant is not happy with any element of TRH's service received they will be able to make a formal complaint. The complaint will be dealt with in line with TRH's Complaints and Compliments policy.
- 10.2 If a tenant/applicant is not happy with the type of tenancy they have been offered, had their tenancy extended or been refused a property due to its tenancy type option they can, if they wish, appeal against the decision. Tenants should notify TRH within 10 working days of receipt of the refusal letter stating their reasons for an appeal. The tenant will be asked to attend an appeal hearing to present their case. The appeal panel will consist of three senior managers and the tenant will be advised of the outcome.
- 10.3 As outlined in section 6.5 where a decision is made not to renew an affordable rent fixed term tenancy the tenant has the right to appeal.

11.0 Equality and Diversity

- 11.1 TRH is committed to the principle of equality of opportunity in the delivery of its services. TRH aims to ensure that all of its customers are dealt with fairly and equitably and, where possible, taking into account the diverse nature of cultures and backgrounds.
- 11.2 TRH will actively work towards promoting good relations, eliminating discrimination and addressing existing disadvantage in relation to different groups on the basis of race, colour, ethnic and national origin, nationality, gender, disability either mental or physical, religion, sexual orientation, marital status, HIV/AIDS, responsibility for dependants, trade union activity, and age.
- 11.3 It should be noted that TRH has taken into account the needs of households who are vulnerable by reason of age or disability/illness by ensuring Home Plus schemes and properties significantly adapted are only considered for assured 'lifetime' tenancies in order to provide a degree of stability. Although 2, 3 or 4 bed houses are considered for conversion to affordable rent fixed term tenancies, TRH has considered the impact on households with children and has chosen to instigate 10 year fixed term periods rather than the

recommended 5 year minimum in order to provide a reasonable degree of stability. In addition, only a relatively small percentage of the overall general needs housing stock is being converted to this type of tenancy, with the remaining being let as assured 'lifetime' tenancies.

- 11.4 An Equality Analysis Form has been completed in the production/review of this policy (see Appendix 3).

12.0 Monitoring and Review

- 12.1 The Neighbourhood Housing Team Leader is responsible for monitoring this policy ensuring it is being correctly applied, and is also responsible for ensuring reviews of this policy are carried out.
- 12.2 TRH will undertake regular reviews of this policy, any procedures related to it and staff training needs, ensuring service improvements are made and implemented.
- 12.3 There will be an automatic review of this policy whenever there is a change of policy from the government, the HCA or change to legislation. In the absence of any other trigger, the policy will be reviewed after one year and at intervals of no more than two years thereafter.
- 12.4 This policy will also be reviewed in line with the subsequent reviews of the tenancy strategies of partner local authorities, such as Herefordshire Council, Forest of Dean District Council, Tewkesbury Borough Council, Gloucester City Council and Stroud District Council

Appendices:

Appendix 1: Financial Assessment Calculator

Appendix 2: Mutual Exchange Matrix

Appendix 3: Equality Analysis Form



Financial Assessment Form

Affordable Rent Tenancies

Name of Applicant:		Name of Joint Applicant/partner:	
Gross Income:	£ per week/month	Gross Income:	£ per week/month
Net income after tax and national insurance	£ per week/month	Net income after tax and national insurance	£ per week/month
State benefits/ £ Pension	£ per week/month	State benefits/ £ Pension	£ per week/month
Occupational Pension	£ per week/month	Occupational Pension	£ per week/month
Other	£ per week/month	Other	£ per week/month

Capital:	
Total savings/ Investments	£
Property value	£
Outstanding Mortgage	£
Other	£

Capital:	
Total savings/ Investments	£
Property value	£
Outstanding Mortgage	£
Other	£

Do you have any financial commitments that we should be aware of e.g. maintenance payments, debt relief orders, individual voluntary arrangement, etc?

I confirm that I have provided all the information requested of me and that the information provided is correct to the best of my knowledge. I understand that if I have failed to provide information asked of me or provided false or incorrect information which leads to a tenancy being granted then legal action can be taken against me which could result in the loss of my home.

Signed (applicant)

Print name:

Date

Signed (applicant)

Print name:

Date

Notes on completing this form

Details of **income** and **capital** must be provided for all of the following people:

- You
- Any joint tenants
- Your spouse/civil partner
- Your partner if they will be living with you

You must provide evidence of any income and capital.

What to include in the 'Gross Income'

- Wages from any paid employment
- Working tax credit
- Child tax credit
- Disability allowance
- Any other benefits you receive (not including council tax credit)
- Any maintenance payments you receive from another person

What to include in 'Total savings and investments'

- Savings in bank accounts/building society accounts etc.
- Stocks and shares
- Other investments such as ISAs, bonds, etc.
- National Savings and Investments e.g. Premium bonds, saving certificates, growth bonds, income bonds etc.

What to include in 'property value'

- All property owned in the UK or abroad

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Is the applicant or partner getting any of the following means tested Benefit?				
	Applicant		Applicant 2 / Partner	
Income Support	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Jobseekers Allowance (income based)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Employment and Support Allowance (income based)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Guarantee Pension Credit	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Where benefit income unknown, is the following statement true?				
Is the Council Tax bill paid by Council Tax benefit?	<input type="checkbox"/> Yes <input type="checkbox"/> No			

Where both the applicant and applicant 2/partner have ticked yes to any of the above then they will be considered to be under the threshold as they are on means tested benefits and therefore the below assessment does not need to be carried out.

Where either of the applicant(s) or their partner is not on means tested benefit then the following financial assessment for both (including the person on means tested benefit) will be required.

Is financial assessment based on sole or joint income?	<input type="checkbox"/> Sole <input type="checkbox"/> Joint
Is the total capital sufficient to purchase a property outright at the average house price within that area?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Where there is capital but not enough to purchase a property outright carry out the following calculation:	

(Average House Price – Total capital) ÷ 3.5 (sole) or 2.5 (joint)

£

Does the total income exceed this value?

☐ **Yes** ☐ **No**

Where there is no capital:

Sole/joint* income threshold for property size for that area: **£**

Does the total income exceed the income threshold for that area? ☐ **Yes** ☐ **No**

Is tenant(s) or partner bankrupt? ☐ **Yes** ☐ **No**

If yes, please provide details and attach evidence:

Are there any other reasons why the tenant(s) or partner may struggle to secure a mortgage or private rented accommodation e.g. poor credit history, job insecurity (fixed term, temporary contract, redundancy notice served), irregular income, etc. ☐ **Yes** ☐ **No**

If yes, please provide details and attach evidence:

* Delete as appropriate

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