
Policy reference	PO-D-049-H
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MUTUAL EXCHANGE POLICY

Approved	14 April 2020
Published	17 April 2020
Effective	17 April 2020

Summary

This Policy details our approach to handling Mutual Exchange requests in line with legislation as detailed in the Housing Act 1985 and the Localism Act 2011.

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PART TWO

Policy

Intent

This Policy sets out our approach to supporting customers who wish to Mutual Exchange their home.

Principles

The Group will provide an effective Mutual Exchange service that meets the requirements of the Regulator of Social Housing (RSH) Tenancy Standard.

- The Policy will provide a clear statement of the level of service and standards to which we will work.
- These should be supported by detailed procedures and agreed practices applied uniformly across the service.
- Training for staff will be provided to ensure that they are equipped to carry out the roles expected of them.

Scope

This Policy applies to all parts of the Longhurst Group (“the Group”).

This Policy covers the Group’s social housing customers, including Affordable Rent and Sheltered Housing customers. This policy does not cover Freeholders, Leaseholders or Shared Owners. This policy applies to all Group tenancies with the exception of Introductory/Starter tenancies, Assured Shorthold tenancies, Licence Holders or Service tenancies.

Eligible customers are restricted to those of Local Authorities and other Registered Providers.

Definitions

Lettings definitions applicable to this Policy are listed at Appendix B.

Policy Details

Managing Mutual Exchanges

Eligibility

Approvals

We will not unreasonably withhold consent when two or more customers request to exchange their properties.

Customers wishing to exchange must apply in writing and must obtain their landlords written consent before moving;

Due to Government guidelines in respect of Covid-19 and Longhurst Policy of suspending all sign-up’s, we will endeavour to notify the tenant of our decision on the application to exchange within 42 days. If a decision is not given within this timescale, then consent will not automatically deemed to have been given due to the current climate. We will inform the tenant(s) involved in the mutual exchange that failure to maintain payments to their rent account and any recorded anti-social behaviour during the time that the mutual exchange is approved but pending may result in the mutual exchange being refused upon review once the suspension of sign up’s are lifted.

Refusals

We may refuse a request to exchange, only if there are reasonable grounds for refusal and these are specified in the relevant housing legislation;

Customers applying for a mutual exchange will be required to undertake our pre-tenancy assessment, including our Sustainability Matrix. Should the Sustainability Matrix show that the exchange would place any or all of the parties exchanging properties in a position where the tenancy would be unaffordable then we reserve the right to defer the application.

The grounds for refusal taken from legislation are not exhaustive (see Appendix C for details). There is no definitive list of grounds for refusing consent and each case will be assessed on its own merits.

Affordability

We will use our Sustainability Matrix to assess whether the incoming customer can afford to sustain their tenancy. The financial metrics used are in line with the Consumer Price Index and are updated yearly. Regional variances will be taken into account within agreed frameworks.

We will not offer a Mutual Exchange to a customer where it is clear from the pre-tenancy checks that they cannot afford to sustain the tenancy.

Unauthorised Exchanges

If a customer does not obtain our written consent or the application to exchange was withheld or rejected, the exchange will be unlawful. Both customers will be in the position of:

- having no legal interest in the tenancy at the property at which they are living;
- being liable for the rent and other obligations of their original respective tenancies; and
- having lost their security of tenure because they are no longer occupying their original home as their only or main principal home.

In these instances, the available options are to:

- consider making the exchange legal by completing the new Tenancy Agreements or Deed of Assignment, and Licence to Assign forms retrospectively;
- demand that both customers return to their original homes;
- terminate the tenancies by serving a Notice to Quit and without prejudice Notice of Seeking Possession on the original homes to seek possession.

Appeals

If an application for a Mutual Exchange is refused the customer may appeal in writing within five working days to the appropriate manager from Housing Services.

The reviewing manager will notify the customer of the outcome of their review within 14 days of receiving the appeal.

Costs

It is understood that owing to the work involved in processing mutual exchanges that this will never be a cost neutral process. We will charge for any utility test certificates that are required. We also reserve the right to recover that cost by way of a non-returnable charge to tenants applying for a mutual exchange. The current charge is £250.00.

Roles and Responsibilities

Legal responsibility for the Mutual Exchange Policy is held jointly by:

- Longhurst Group Chief Executive; and
- Executive Director of Housing Services

Operational responsibility for the Mutual Exchange Policy is held by the Director of Housing Services and Head of Housing Services.

Procedural responsibility for the Mutual Exchange Policy is held by Housing Managers/Team Leaders.

Day-to-day responsibility for the Mutual Exchange Policy is held by Team Leaders, Lettings Advisors and Housing Officers.

Monitoring, Evaluation and Review

Performance data for mutual exchanges will be produced each month by the Performance and Quality Team.

Each company will carry out monthly audits to monitor compliance. Regular checks will also be completed by our auditors.

This Policy will be reviewed every three years. In addition, it will be reviewed:

- following information suggesting that the policy is not effective;
- to reflect any service enhancements; and/or
- following the introduction of relevant new legislation, regulations or guidance.

Summary of local variations

In cases where any Mutual Exchange partners have a 48-week tenancy their new tenancy will be set at 52 weeks rent unless there is a specific and valid reason for not doing so.

PART THREE

Appendices

- A. Policy Approval Control
- B. Definitions
- C. Reasons for refusal
- D. Policy Development Plan

Mutual exchange Policy - Appendix B

Definitions

Resident	Includes customers and leaseholders.
Longhurst Group	All parts of the Longhurst Group, including subsidiaries.
Mutual Exchange	The direct swapping of tenancies by social customers as detailed in the Housing Act 1985 and the Localism Act 2011.
Under occupation	“The accommodation afforded by the dwelling-house is substantially more extensive than is reasonably required by the proposed assignee.” (Housing Act 1985 (c. 68), Schedule 3, Ground 3). As a guideline up to 1 unused extra bedroom will be permitted but applications will be considered on a case by case basis to establish what is “reasonably required”.

Different Types of Exchange

Like for like Exchange

If an assured customer is exchanging with another assured customer or a lifetime secure customer of a local authority, then the exchange takes place by assignment of the tenancies to each other. This is called a “like for like exchange”.

Surrender and re-grant of a new tenancy exchange

If an assured customer is exchanging with a secure fixed term customer or a fixed term assured customer of a registered social housing provider, then the exchange takes place by surrender of existing tenancies and the grant of new tenancies.

Exchange Partners

Eligible customers can apply in writing to exchange their home with:

- Another Longhurst Group customer
- A customer of a Registered Provider
- A customer of a Local Authority

Mutual exchange Policy - Appendix C

Reasons for refusal

Section 158 of the Localism Act 2011 sets out the grounds under which a mutual exchange can be refused. These are broadly the same as those set out in Schedule 3 of the Housing Act 1985. The table below shows what grounds apply under both of these Acts.

Schedule 3 of the Housing Act 1985	Schedule 14 of the Localism Act 2011	Grounds for refusing consent to the exchange
N/A	Ground 1	When any rent lawfully due from a customer under one of the existing tenancies has not been paid.
N/A	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	Ground 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 (HA 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.