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MUTUAL EXCHANGE POLICY

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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.

Contents

PART ONE	1
About this Policy	1
Summary	2
Contents	2
PART TWO	3
Policy	3
Intent	3
Principles	3
Scope	3
Definitions	3
Policy Details	3
Managing Mutual Exchanges	3
Roles and Responsibilities	4
Monitoring, Evaluation and Review	5
Equality and Diversity	5
Summary of local variations	5
PART THREE	6
Appendices	6
A. Policy Approval Control	6
B. Definitions	6
C. Reasons for refusal	6
D. Policy Development Plan	6

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.

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 Housing Assessment Form (HAF). Should the HAF show that the exchange would place any or all of the parties’ exchanging properties in a position where the tenancy would be unsustainable 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 the income and expenditure section of our HAF 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.

We will not offer a Mutual Exchange to a customer where it is clear from our pre-tenancy checks that they cannot afford to sustain the tenancy and that they would fall into financial hardship.

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.

Investigating Fraud

Longhurst Group will investigate any suspicion of fraud in a thorough and timely manner in order to limit the impact the fraud has on our social housing stock. We shall investigate fraud by responding promptly to reports or suspicions of Fraud and gather evidence which comes from a variety of sources.

Appeals

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

The Head of Service will notify the customer of the outcome of their review within 14 days of receiving the appeal.

Roles and Responsibilities

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

- Longhurst Group Chief Executive; and
- Deputy Chief Executive and Chief Financial Officer

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 the Housing Services Manager/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 Assurance Team.

The Housing Team will monitor compliance with the Housing Act s92 with regard to the 42-day legal requirement to make mutual exchange decisions.

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.

Equality and Diversity

The Group is committed to ED&I and such will make reasonable adjustments to the policy to recognise, accommodate and support individual needs, where needed.

This Policy adheres to the Group's approach to Equality and Diversity.

Group members will take a proactive approach to ensure that no individual or group is discriminated against or treated differently as a direct or indirect result of this Policy.

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. Any customer exchanging into a property with a Fair Rent attached to it will be subject to that Fair Rent in respect of their weekly rental charge.

PART THREE

Appendices

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