HOUSING POLICY

Mutual exchange policy

LONDON BOROUGH OF HARROW

Mutual Exchange Policy

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1. Purpose

This policy sets out the London Borough of Harrow's (LBHs) approach to requests for a mutual exchange. We aim to be more transparent with residents involved in mutual exchanges and will make the most of every opportunity to identify and address damp and mould. This will include visits to inspect properties before a mutual exchange and also during void periods. The purpose of this policy is to promote mutual exchange as a way to encourage tenant mobility. Mutual exchange will often be the most successful method of moving home where a tenant does not fulfil the requirements of the Allocations' Policy and therefore is unable to transfer through the council's bidding system or where a tenant wishes to move out of the borough.

- Provide a clear, fair, and consistent approach to managing mutual exchange requests.
- Ensure compliance with the Housing Act 1985, the Localism Act 2011, and other relevant legislation.
- Support tenants in exercising their statutory rights to exchange their homes, while protecting our housing stock and meeting legal and regulatory duties.
- Set out our role in assessing applications, carrying out inspections and safety checks, and making timely decisions.
- Clarify the responsibilities of tenants entering a mutual exchange, including the condition of the property and ongoing tenancy obligations.
- Promote transparency, accountability, and good record-keeping in the management of mutual exchanges.

2. Scope

This policy applies to all properties owned or managed by the landlord where tenants have the legal right to exchange.

This policy applies to all tenants who hold a tenancy type that gives them the statutory right to mutually exchange, including secure tenants and most assured tenants. It sets out LBHs responsibilities in processing mutual exchange applications, and the tenant's responsibilities when requesting or accepting a mutual exchange.

The policy covers:

- The eligibility of tenants to apply for a mutual exchange.
- The legal framework and statutory timescales for considering applications.
- The grounds on which a landlord may reasonably refuse an exchange.
- The inspections, safety checks, and tenancy checks required before consent is given.
- The obligations of tenants to accept the property in its condition at exchange, subject to the landlord's statutory health and safety duties.

- The record-keeping, communication, and decision-making standards the landlord will follow.
- The procedures for refusing an exchange, providing reasons, and advising tenants of their right to complain or appeal.

3. Definitions

LBH – Is an abbreviation for London Borough of Harrow

We/ Our/ Us: Refers to the London Borough of Harrow.

Mutual Exchange – A legal process that allows eligible social housing tenants to swap their homes with another tenant, subject to their landlords' consent.

NOSP – Notice of Seeking Possession is a pre-court notice to notify a tenant that the landlord intends to apply to the court to regain possession of a property.

Void – Is an empty property belonging the council.

Tenant – A person who holds a tenancy agreement. Only secure tenants, assured tenants, and some fixed-term tenants usually have the right to apply for a mutual exchange. Introductory, demoted, or non-secure tenants generally do not.

Application – A formal written request submitted by a tenant to their landlord to approve a mutual exchange.

Consent – The landlord's formal written agreement to allow a mutual exchange to proceed. Consent may only be withheld on legally recognised grounds.

Grounds for Refusal – The statutory reasons under the Housing Act 1985 (Schedule 3) and the Localism Act 2011 (Schedule 14) which allow a landlord to lawfully refuse a mutual exchange. Examples include: overcrowding, under-occupation, unsuitable adaptations, or ongoing possession proceedings.

Pre-Exchange Inspection – A property inspection carried out by the landlord before consent is granted, to check the home's condition, tenancy compliance, and health and safety standards.

Health and Safety Checks – Compliance checks carried out before a mutual exchange, including gas safety, electrical safety, and fire safety inspections.

Statutory Timescale – The legal requirement that landlords must provide written consent or refusal to a mutual exchange application within **42 calendar days** of receiving it.

Complaint – A formal expression of dissatisfaction by a tenant about the handling of their mutual exchange request, to be dealt with under the landlord's complaints procedure and, if necessary, escalated to the **Housing Ombudsman Service**

4. Objectives

The objectives of this policy are to:

- Promote mutual exchange by informing tenants of their right to exchange and to use mutual exchange as an alternative to transfer in some cases.
- Make mutual exchange an option for tenants who wish to downsize, allowing us to make best use of housing stock.
- Promote access to on-line mutual exchange registers.
- Provide a guide for tenants with information to consider before doing a mutual exchange.
- Enable mobility and support tenants to move home through mutual exchange in a fair, transparent, and accessible way.
- Ensure compliance by meeting all legal and regulatory requirements, including those set out in the Housing Act 1985 and Localism Act 2011.
- Protect health and safety by ensuring that all London Borough of Harrow properties involved in a mutual exchange meet core safety standards before an exchange is approved. This would include ensuring that damp and mould is not present.
- Set clear responsibilities and clarify the duties of both the landlord and tenants throughout the exchange process.
- Maintain consistency and fairness by applying the same principles and standards to all applications, avoiding discrimination or bias.
- Provide clear communication keeping tenants informed at each stage of the process, including reasons for any refusal.
- Encourage accountability by maintaining accurate records of decisions, inspections, and communications, and provide tenants with access to a complaints procedure if they are dissatisfied.

5. Terms and conditions for Mutual Exchange

The type of tenancy a tenant has will determine whether they are able to carry out a mutual exchange subject to certain conditions being met.

No mutual exchange may take place without the prior written agreement of Harrow Housing's Tenancy Team.

Secure tenants, including both lifetime and flexible tenants, have a right to carry out a mutual exchange with the landlord's written consent. London Borough of Harrow no longer issues flexible tenancies, however, council tenants seeking an exchange with another social housing provider should ensure that they are aware of the tenure type they will receive on exchange.

All tenants moving into a LBH property will exchange to a secure tenancy irrespective of their tenure with their current social housing provider.

Demoted and Introductory tenants do not have a right to carry out a mutual exchange.

Where a council tenant wishes to carry out a mutual exchange with a tenant paying an affordable rent, consent for such an exchange is at the discretion of both landlords (by the Tenancy team).

6. Commitments

In implementing this policy LBH commits to:

- Uphold Tenants' Rights
- Respect and facilitate tenants' statutory rights to mutually exchange their homes.
- Provide clear guidance and support to tenants wishing to apply.
- Meet Legal and Statutory Duties
- Comply with the Housing Act 1985 and Localism Act 2011, including the requirement to issue written consent or refusal within 42 calendar days of a valid application.
- Only refuse applications on legally valid grounds.
- Follow Housing Ombudsman Standards
- Ensure decisions are fair, transparent, and well-documented, in line with the Ombudsman's Dispute Resolution Principles of Be Fair, Put Things Right, and Learn From Outcomes.
- Maintain accurate records of inspections, communications, and decision-making.
- Provide clear reasons for refusal, with reference to the relevant statutory grounds.
- Carry out adequate pre-exchange inspections and health and safety checks (gas, electrical, fire) to protect incoming tenants, as highlighted in Ombudsman case findings.
- Avoid maladministration by ensuring inspections are not superficial, delays are avoided, and tenants are given enough information to give informed consent to the exchange.
- Transparency and communication
- Keep tenants informed throughout the application process, including expected timescales and next steps.
- Confirm decisions in writing, including the legal basis for any refusal.

- Tenant Responsibilities
- Make clear that tenants accept the property “as seen,” while ensuring the landlord continues to meet health and safety obligations.
- Ensure tenants understand their responsibilities regarding rent arrears, property condition, and non-standard alterations.
- Complaints and redress
- Provide tenants with a clear route to complain if they are dissatisfied with how their application was handled.
- Respond to complaints in line with the landlord’s complaints policy and the Housing Ombudsman’s Complaint Handling Code.
- Where failings are identified, offer timely remedies including apologies, corrective action, and compensation where appropriate.
- Learning and improvement
- Regularly review mutual exchange cases to identify lessons learned.
- Use feedback and Ombudsman determinations to improve practice and prevent repeat failings.

Damp and Mould

London Borough of Harrow is also committed to including provisions for:

Transparency with residents involved in Mutual Exchanges

Landlords should be proactive in identifying and addressing damp and mould issues, especially during property inspections and void periods. This includes informing residents about any known issues and the steps being taken to resolve them.

Timely and effective response to reports of damp and mould

Upon receiving reports of damp and mould, landlords are expected to respond promptly and take appropriate action. This may involve conducting inspections, determining the severity and cause of the issue, and implementing necessary repairs. Failure to address such issues in a timely manner can lead to findings of maladministration.

Clear communication and record-keeping

Landlords should maintain accurate records of inspections, repairs, and communications related to damp and mould issues. This ensures accountability and helps in addressing any future concerns.

Consideration of resident vulnerabilities

When handling reports of damp and mould, landlords should consider the health and wellbeing of residents, particularly those with vulnerabilities. This includes assessing the impact of damp and mould on their health and taking appropriate action to mitigate any risks.

Pre-exchange inspections

Conducting thorough inspections to identify any damp and mould issues before approving an exchange.

Disclosure of known issues

Informing incoming tenants about any existing damp and mould problems and the steps being taken to address them.

Timely repairs

Ensuring that any identified issues are addressed promptly to prevent further deterioration and potential health risks.

Resident support

Providing support to residents affected by damp and mould, including considering their health needs and offering suitable solutions

7. Responsibilities

Those responsible for the implementation of this policy include:

Head of Residents First
Resident Services Manager
Assistant Director of Homes
Repairs and Maintenance Manager
Housing Operations Managers
Housing Officers
Housing Support Officers
Contract Surveyors

8. Legislation and regulations

This policy is underpinned by the following legislation and regulatory requirements:

Housing Act 1985 (Schedule 3)

Provides secure tenants of local authorities and housing associations with the statutory right to exchange their home with another secure tenant or assured tenant. Sets out the grounds on which a landlord may lawfully refuse consent to a mutual exchange.

Housing Act 1988 (Section 92 and Schedule 2A)

Extends the right to mutual exchange to assured tenants of housing associations. Defines circumstances where exchanges may be restricted or refused.

Localism Act 2011 (Schedule 14)

Amends the statutory grounds for refusal to reflect modern housing management needs, including overcrowding, under-occupation, and property adaptations.

Housing Ombudsman Scheme

Sets expectations for fair decision-making, accurate record-keeping, timely communication, and effective complaint handling in relation to mutual exchange applications.

Complaint Handling Code (Housing Ombudsman, 2020, updated 2022 & 2024)

Requires landlords to provide clear complaint routes, fair remedies, and to learn from complaints about mutual exchange processes.

Health and Safety Legislation

Landlords must ensure properties meet statutory safety standards (including Gas Safety (Installation and Use) Regulations 1998, Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020, and relevant fire safety legislation) before approving an exchange.

9. Related strategies and policies

This policy should be read in conjunction with:
Mutual Exchange Procedure
Housing Allocation Scheme
Tenancy Conditions
Repairs Charter
Void Standards

10. Compliance and monitoring

Managers are responsible for ensuring that all staff involved in the mutual exchange process are trained on this policy as well as the Mutual Exchange Procedure. Staff must act in accordance with standards and managers must monitor compliance with this policy, keeping accurate records of inspections, decisions, and communications.

11. Review

This policy will be reviewed as and when needed, if required by statutory regulations, best practice, emerging developments, or circumstances arising from reviews of other group wide policies to ensure ongoing compliance with legal requirements and Housing Ombudsman expectations.

12. Equality and diversity

This policy will be applied in a way which ensures equality of treatment for all customers without discrimination, or victimisation on account of any protected characteristic as defined within the Equality Act 2010. In drafting this policy LBH has considered its public sector equality duties under s149 of the Equality Act 2010, namely the need to:

- Eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited under the Act.
- Advance equality of opportunity between people who share a relevant protected characteristic and persons who do not share it.
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The policy also considers diversities around access to and delivery of any services.

Upon request LBH will provide translations of all its documents, policies and procedures in various languages and formats including different languages, and large print.

8.

13. Appendix 1- Grounds for refusal

Source: Housing Act 1985

Ground 1	A court order for possession or a suspended possession order has been made for either party
Ground 2	The landlord has served a notice of seeking possession and the notice is still in force or possession proceedings have commenced
Ground 2A	An injunction order under sections 152 or 153 Housing Act 1996 or an anti-social behaviour order or a Demotion order or a possession order under Ground 2 (for secure 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.
Ground 3	The property is substantially larger than is reasonably needed by the proposed assignee
Ground 4	The property is not reasonably suitable to the needs of the proposed assignee and their household
Ground 5	The property is part of or close to a building that is held for non- housing purposes or is situated in a cemetery and was let in connection with employment with the landlord
Ground 6	The landlord is a charity and the proposed assignee's occupation would conflict with the aims of the charity
Ground 7	The property has been substantially adapted for occupation by a physically disabled person and if the assignment went ahead no physically disabled person would live there
Ground 8	The landlord is a housing association and lets properties to people in difficult circumstances and if the assignment went ahead, no such person would be residing there
Ground 9	The property is let to people with special needs and there is a social service or special facility nearby to assist people with those special needs and if the assignment went ahead on person with those special needs would be residing there
Ground 10	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.