



HOUSING POLICY



LONDON BOROUGH OF
HARROW

Mutual Exchange Policy

May 2023

Version control	
Author	Residents First Policy Officer (RS)
Next review date	2026
Date of implementation	24/5/2023
Details of any changes or reviews should be added.	
V1: 11/9/2014	Original version
V2: 24/5/2023	Updated to remove information relating to flexible tenancies as no longer used by Harrow Council
V3: Sept 2025	Reviewed by Housing Operations Manager (BD) – added mould and damp

Contents

1. Introduction
2. Objectives
3. Definitions
4. Responsibility
5. Legislation and regulations
6. Related strategies and policies
7. Policy statement
8. Training
9. Publicity
10. Equality and diversity
11. Appendix 1 – Grounds for refusal

1 Introduction

- A This policy sets out Residents First approach to requests from tenants who wish to carry out a mutual exchange.
- B We will promote mutual exchange by:
- Informing tenants of their right to exchange
 - Encouraging mutual exchange as an alternative to transfer
 - Offering incentives for down-sizing tenants (who meet London Borough of Harrow's criteria) through mutual exchange allowing us make best use of housing stock
 - Promoting access to on-line mutual exchange registers
 - Providing a guide for tenants with information to consider before doing a mutual exchange (including positive and negative considerations)
- C This policy aims to ensure that
- Tenants are aware of their responsibility when finding and inspecting a mutual exchange property, with particular regard to the condition of the property and that the property meets their needs
 - Tenants understand that mutual exchange is a private arrangement between two exchange partners
 - Mutual exchanges are only carried out with the written consent of all landlords
 - All applications for mutual exchange are treated in a fair and consistent manner, in line with current legislation
 - All applications for mutual exchange are dealt with in a timely manner
 - The grounds on which we may refuse a request for a mutual exchange are in line with current legislation
 - Tenants are provided with information where permission is not granted for a mutual exchange

2 Objectives

London Borough of Harrow (LBH) is keen 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.

3. Definitions

Deed of Assignment – This is a legal document that transfers ownership or rights from one party (the assignor) to another (the assignee), ensuring clarity and enforceability in various transactions.

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.

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

Notice of Seeking Possession (NSP) - 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.

Notice to Quit (NTQ) - This is a legal notice used to terminate a tenancy. It can be served by either the tenant or the landlord to indicate the intent to end the rental agreement. This notice is essential in the context of tenancy agreements, particularly in the UK, as it formally communicates the decision to vacate the property.

4 Responsibility

Those responsible for the implementation of this policy include:

Divisional Director of Housing Services
Head of Residents First
Residents First Manager
Assistant Director of Homes
Repairs and Maintenance Manager

Housing Operations Managers
Housing Officers
Housing Support Officers
Contract Surveyors

5 Legislation and regulation

Housing Act 1985
Localism Act 2011
Protection Against Eviction Act 1977
Prevention of Social Housing Fraud Act 2013
Regulatory Standards for Landlords 2024
Housing Ombudsman spotlight reports

6 Related strategies and policies

This policy should be read in conjunction with LBH's policies and procedures:

- Housing allocation scheme
- Repairs Charter
- Voids standard
- Tenancy conditions
- Sub-letting and unauthorised occupation procedure
- Under-occupation incentive payments policy and procedure

7 Policy statement

A Tenants' right to carry out a mutual exchange

- 1 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.
- 2 No mutual exchange may take place without the prior written agreement of Residents First.
- 3 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 LBH homes will exchange to a secure tenancy irrespective of their tenure with their current social housing provider.

- 4 Demoted and Introductory tenants do not have a right to carry out a mutual exchange.
- 5 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.

B Grounds for refusal

- 1 Housing Act 1985 sets out the grounds for refusal applicable to mutual exchange requests (see Table 1 below).
- 2 Where Residents First seeks to rely on one of the grounds for refusal it must notify the tenant within 42 days of receipt of the mutual exchange application, stating the reasons for refusing consent. However, it is anticipated in the majority of cases that any grounds for refusal will be identified early in the process.

C Circumstances where the council may waive rights to refuse an exchange

- 1 Notice of Seeking Possession (NSP)
Where there is a valid NSP against a LBH tenant, Residents First can exercise discretion to agree to the mutual exchange based on the individual circumstances of the case. However, the existence of the NSP and the reasons for its service must be notified to the exchange landlord in writing.
- 2 Possession Proceedings
Where possession proceedings have begun or taken place, consent for a mutual exchange will not be granted.
- 3 Arrears
 - LBH will respond flexibly where a tenant has accrued rent arrears or increased rent arrears as a result of the under-occupation subsidy (bedroom tax)
 - Where any under-occupation incentive will exceed the outstanding rent arrears, the exchange may proceed
 - Tenants who have rent arrears less than 4 weeks' rent can be approved for exchange.
 - Tenants who have rent arrears in excess of 4 weeks' rent can be given conditional consent to exchange pending reduction of the arrears to an agreed level at the discretion of the Housing Operations Manager or other senior officer.

D Successor status

Successor status transfers with an exchanging tenant.

E Photographs

- 1 We will take photographs of tenants moving into our properties through a mutual exchange. This is in line with our tenancy agreement.
- 2 We may take photographs of a property before and after a mutual exchange has taken place. Such photos will be used in the event of a dispute concerning the condition of a property and will be retained on the tenants' electronic files.

F Safety Checks

LBH will carry out a gas and electric safety check during the first week after the exchange (or as soon as possible thereafter) to ensure that these services are in working condition if not carried out during the exchange process. The 'exchange tenant' will be supplied with the safety certificates. Any work identified following the safety check will be carried out as quickly as possible.

G Condition of the property

- 1 LBH will carry out an inspection of a property prior to giving consent to an exchange. This inspection will be carried out by housing officers and officers from the Homes team. This inspection will ensure that the tenant has maintained their property to a reasonable standard and fulfilled all tenancy conditions relating to the upkeep of the home.
The inspection will also identify where unauthorised improvements have been carried out and any work that is rechargeable to the existing tenant prior to exchange.
- 2 Concerns about the condition of a property may result in consent being conditional upon a tenant completing any identified work to a reasonable standard.
- 3 The incoming tenant takes the property 'as seen' and is responsible for the decoration and general condition of the house and any gardens comprising the tenancy address. The incoming tenant takes responsibility for the removal and disposal of any items left by the outgoing tenant.
- 4 LBH retains responsibility for repairs that are council responsibility in accordance with the tenancy conditions.

H Property size and household requirements

- 1 In the majority of cases, LBH will consider that a household's needs are appropriately accommodated in a home for which they would qualify under the Allocations' Scheme.
- 2 At its discretion, LBH may allow a mutual exchange to go ahead which will result in overcrowding.
- 3 In line with current grounds for refusing a mutual exchange, LBH will not withhold consent for a mutual exchange on the grounds of under-occupation unless the incoming tenant will under-occupy the property by more than one room (this includes a bedroom or second reception room). Tenants should be advised to contact any benefit provider (such as DWP or Housing Benefit) to discuss any rent restriction that may result due to the under-occupancy subsidy.
- 4 LBH determines the number of rooms required as:

Adult couple	One bedroom
Single adult aged 16 or older	One bedroom
Two children of the same sex under 16	One bedroom
Two children of either sex under 10	One bedroom
Sole or third child	One bedroom
Non-resident carer required to stay overnight	One bedroom
Reception room	One per household

- 5 LBH will recognise as members of the household, those family members dependant on the tenant, adult members of the household living with the tenant to provide or receive care and adult members of the household normally resident at the tenancy address.

I Exchanges without consent

If a tenant does not obtain LBH's written consent or permission to carry out the exchange was withheld or refused, any exchange will be unlawful. Both tenants will be in the position of

- Having no legal interest in the tenancy of the property at which they are living
- Being liable and responsible for rent and all other tenancy obligations at their original homes
- Having lost security of tenure as no longer occupying their original home as their only or main home

In these circumstances, LBH may:

- Consider making the exchange legal by completing the required paperwork retrospectively (in agreement with the other relevant landlord)
- Demand that both tenants return to their original homes (in agreement with the other relevant landlord)
- Terminate the tenancy (at the LBH property) by service of a NTQ and seek possession

J Paying or receiving a premium by a tenant

It is against the law for an exchanging tenant to accept money to move.

K Conditional consent

LBH may impose a condition prior to giving consent to a mutual exchange to oblige a tenant to comply with any tenancy conditions; this includes payment of any outstanding rent or carrying out repairs that are the tenant's responsibility.

L Right to buy

Outgoing tenants should check with the prospective landlord about the effect of a mutual exchange on their Right to Buy. Incoming tenants will qualify for the Right to Buy in line with current legislation.

M Mutual exchange by Deed of Assignment

As LBH only offers secure tenancies, mutual exchange takes place by a Deed of Assignment for all incoming mutual exchange tenants. This means that the

exchange partners swap their tenancy agreement and conditions with the tenant they exchange with. Outgoing tenants are advised to contact the new prospective landlord to discuss their future tenancy type.

8 Training

All relevant officers will receive regular and appropriate training to ensure compliance with this policy.

9 Publicity

This policy will be available on request and placed on the council's website.

10 Equality and diversity

Residents First will adhere to LBH's Equality and Diversity policy in the implementation of the policy, and as such will not discriminate against any resident on the grounds of age, gender reassignment, marriage or civil partnership, pregnancy or maternity, disability, race, religion or sex. (Refer to Harrow Council's Equality & Diversity Policy for further information).

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

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| 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. |