



Mutual Exchange Policy

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2. PURPOSE OF THE POLICY

This policy sets out The Council's approach to managing individual tenant requests for a mutual exchange of properties (which may involve multiple properties); the proactive use of a local mutual exchanges database and referrals to regional and national schemes to promote moves.

3. SCOPE

From the initial request for a mutual exchange from a tenant to confirmation of the decision.

4. BACKGROUND

Background/legal framework Mutual exchanges are a form of assignment of tenancy defined by Section 92 of the Housing Act 1985. A mutual exchange allows a secure tenant to exchange homes with:

- another secure tenant
- an assured tenant of a registered social landlord (RSL) private registered provider (PRP) or charitable housing trust.

In either case, each tenant must have written consent of his/her landlord to exchange either with the other tenant or with another secure or assured tenant as above. In cases where both applicants are Haringey tenants, the written consent of each Tenancy Management Officer is required. It is therefore possible for more than two tenants to exchange properties. For example three-way or multiple exchanges can be permitted.

Haringey can find other tenants wishing to exchange by:

- [Completing a Homeswappers application online](#)

5. POLICY

5.1 Policy statement

The aim of the mutual exchange policy is to promote exchanges between secure tenants locally, regionally and nationally to maximise customer choice as to the type and location of their home. Mutual exchanges can provide suitable alternative accommodation for those who are under-occupying, overcrowded and in need of adapted properties.

5.2 Approving cases

Once the tenant has found someone to exchange with, permission is sought from the Tenancy Management Officers responsible for managing both tenancies, whether it be internal or external. If there are no objections, a mutual exchange is normally permitted.

5.3 Grounds for refusal

There are specific grounds for refusing applications for mutual exchanges. These are listed in Schedule 3 of the Housing Act 1985. In Haringey's case, applications will be refused if:

- Either tenant is subject to a possession order or a suspended possession order
- Either tenant has a Notice of Seeking Possession against them under Grounds 1-6 of Schedule 2 of the Housing Act 1985 as amended by the Housing Act 1996, Sections 144-146 or possession proceedings have begun against either party on one or more of these grounds.

In brief, these grounds are:

1) **Ground 1:** Rent lawfully due had not been paid or any other tenancy obligation has not been performed or broken. There are rent arrears, then (subject to exceptions detailed below) permission to exchange will be refused until the arrears are cleared.

2) **Grounds 2 and 2ZA:** Either the tenant or a person living at the property has been found guilty of causing a nuisance or annoyance to neighbours, or has been convicted of using the property or allowing it to be used for immoral purposes or has been convicted of an indictable offence committed either on or near the property or at the scene of a riot in the United Kingdom (the riot ground applies only to an adult who is convicted).

Ground 2A: Where one partner has left the property because of violence or threats of violence from the other. The couple must have been married, in a Civil Partnership or living together, with one or both being the secure tenant. The court must be satisfied that the partner who has left is unlikely to return.

4) **Ground 3:** The condition of the property or common parts has deteriorated owing to acts of waste, neglect or default by the tenant or anyone else living with him/her. Where a lodger or subtenant is responsible, the tenant should have taken steps to remove them.

5) **Ground 4:** The condition of furniture provided by the landlord for use in the property has deteriorated owing to ill treatment by the tenant or anyone living with them. Where a lodger or subtenant is responsible the tenant should have taken steps to remove them.

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6) **Ground 5:** The tenancy was granted as a result of a false statement made knowingly or recklessly by the tenant or someone acting at the tenant's instigation.

7) **Ground 6:** The tenancy was previously assigned by mutual exchange and the tenant (or a member of their family still resident) paid or received a premium in return for the exchange.

- Proceedings have begun (or a NoSP has been served) for possession under the absolute ground for possession for anti-social behaviour.
- A suspended anti-social behaviour or riot related possession order, or a relevant (anti-social behaviour injunction or order – see Housing Act 1985 Schedule 3 Ground ZA for a full list) is in force or such an order (or a demotion order) has been applied for.
- The property is subject to a closure order or closure notice under the Anti-social Behaviour Crime and Policing Act 2014
- Where the incoming tenant would under-occupy the property by more than one bedroom.
- Where the extent of the property is not reasonably suitable to the needs of the incoming tenant and their family (for example the incoming tenant's household would statutorily over-crowd the property as set out in Sections 325 and 326, Part 10 of the Housing Act 1985).
- Where the property forms part of, or is within the curtilage of, a building held for mainly non-housing purposes (such as a school) or is in a cemetery and was let to the tenant or his/her predecessor in connection with their employment.
- Where the property has been designed or adapted to make it suitable for a physically disabled person and the incoming tenant or a family member does not require these facilities.
- Where the property is part of a sheltered (or special needs) housing scheme and if the exchange takes place there will be no person with special needs living in the property.

5.4 Exemptions to rent arrears bar

There are three exemptions to the rent arrear bar on approving mutual exchanges:

- Where a Housing Benefit application is being processed and it is known that this will clear the arrears.
- Where the tenant is adversely affected by Welfare Reform 'bedroom tax' deductions in their benefit entitlement is causing hardship. Providing the tenant has an under-occupation grant that will clear or reduce the arrears, the application will be approved in this circumstance. If the arrears are reduced, approval is only granted to tenants who have abided by an agreement to clear their arrears for a period of 12 months prior to the mutual exchange request.
- Where one or both tenants have been approved for a Management Transfer. This is subject to our safeguarding criteria.

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5.5 Repairs

All applicants are advised to complete a property questionnaire. The purpose of the checklist is to find out the likely condition of the property you want to move to once the existing tenant moves out. This list is issued for guidance as the council do not accept responsibility for the condition of a property once the mutual exchange has been agreed between the parties. The property is accepted at the time it is habited. Where legally permissible, the council will not make any repairs to the property which are a result of a previous tenant's mistreatment of the property; this is however only rarely an option, and instead a NoSP should be served and consent refused.

Where a tenant has not provided access to their property for internal and/or external repairs to be carried out, a NoSP will be served immediately the application is received and permission for the mutual exchange will be refused until access is granted to complete the works.

5.6 Implementation

The Council Tenancy Management staff are responsible for implementing this policy and will assess each application against the above criteria.

If the applicant does not meet the criteria the application will be refused. There is no right of appeal.

The council are not responsible for any complaints about the previous tenant particularly private agreements such as what items will be left in the property. Applicants are advised to pursue their own legal recourse.

5.7 Service standards

All applications for a mutual exchange are dealt with within 42 days from the date of completed application to either approve or refuse mutual exchange. This is a statutory requirement.

IF CONSENT IS NOT REFUSED IN PROPER FORM WITHIN 42 DAYS THE LAW TREATS CONSENT AS HAVING BEEN GIVEN.

5.8 Value For Money

Value for Money will be achieved by correct application of this policy. The option to move home can be a strong incentive to remedy breaches of tenancy including rent arrears.

5.9 Equalities

The Housing Allocations Policy was subject to an Equalities Impact Assessment.

6. MONITORING AND REVIEW

6.1 Monitoring and review

This is a Haringey Council policy.

The Head of Tenancy Housing Services will monitor implementation and performance.