



GUILDFORD
B O R O U G H

Guildford Borough Council Housing Services

Mutual Exchange Policy

December 2024

Version Control: Version 1

Policy Service Owner: Landlord Services

Document creation date: December 2024

Next review date: December 2027

Governance route: Executive

Table of Contents

1.	Introduction	3
2.	Aims of the Policy.....	3
3.	Scope	3
4.	Property Type	3
5.	Grounds for Refusal.....	3-4
6.	Legal Framework	4
7.	The Regulator of Social Housing	4
8.	Right to Exchange	4-5
9.	Roles and Responsibilities	5
10.	Performance Management and Standards	5
11.	Equality and Diversity	6
12.	Information Sharing and Confidentiality.....	6
13.	Monitoring and Review	6
14.	Reviews and Complaints	6
15.	Data Protection and Retention of Information	6

1. Introduction

- 1.1. This policy sets out Guildford Borough Council's (GBC's) approach to managing Mutual Exchanges and promoting choice, mobility and making the best use of our stock.

2. Aims of the Policy

- 2.1. The aim of this policy is to ensure that all Mutual Exchange applications are dealt with consistently, fairly and in accordance with legislation. This policy will:
 - Provide staff and tenants with a clear framework for undertaking Mutual Exchanges.
 - Ensure staff and tenants understand the implications of Mutual Exchange as well as their obligations and responsibilities throughout the process and the circumstances for assigning or surrendering a tenancy.
 - Promote choice for tenants.
 - Set out the grounds for refusing consent to an exchange.

3. Scope

- 3.1. A Mutual Exchange occurs when two or more social housing tenants swap homes with the written permission of their landlords.
- 3.2. It offers mobility and choice to tenants who may not have access to a housing needs register or have limited or no priority to move quickly through the normal allocations process.
- 3.3. This policy applies to GBC's secure tenants, all of whom have a statutory right to Mutual Exchange.

4. Property Type

- 4.1. The Council aims to ensure best use of its social housing stock so that homes are used to meet the right number of household members and not create overcrowding or underoccupancy. On receiving an application for a Mutual Exchange, we will assess whether the size of the property would be suitable for the size requirements of Mutual Exchange applicants. For example, where a property is substantially more extensive than is reasonably required for the proposed assignee's needs or is not reasonably suitable to the needs of the proposed assignee and his / her family, the Council is entitled to refuse.
- 4.2. This means that consent will usually only be granted for a Mutual Exchange to proceed where the properties suit the bedroom needs of both households. However, over-occupation is allowed where the exchange is "like for like" and in exceptional circumstances, we will consider under-occupation of one or more bedrooms.

5. Grounds for Refusal

- 5.1. Consent to assign a secure tenancy may only be refused on one or more of the grounds set out in Schedule 3 to the Housing Act 1985 or Schedule 14 to the Localism Act 2011. The appropriate Schedule will depend upon the nature of the tenancies being exchanged.
- 5.2. The decision of the council on whether to give or refuse consent must be issued to the tenant within 42 days of receiving the tenant's application for a Mutual Exchange.

- 5.3. Conditional consent to a Mutual Exchange can only be given to the applicant in instances where:
- Any current rent lawfully due from the tenant has not been paid.
- 5.4. Accordingly, the condition(s) to be satisfied can only relate to the tenant's need to pay the outstanding rent, remedy any breach of tenancy, or perform the obligation. No other condition can be imposed, and if it is, it shall be disregarded (e.g. GBC cannot request payment of the tenant's former tenancy arrears).
- 5.5. Before any Mutual Exchange is undertaken, the homes(s) of the exchanging tenants must be in an acceptable condition. A gas safety inspection will take place within the first week of the assignment.

6. Legal Framework

- 6.1. This policy will ensure compliance with the following standards and legislation and promote good practice.
- Housing Act 1985
 - Localism Act 2011
 - Data Protection Act 2018 and GDPR.
 - Regulator for Social Housing: Consumer Standards
 - Equalities Act 2010
- 6.2. Assignments – All Secure tenants have the right to assign their tenancy by way of exchange under Section 92 of the Housing Act 1985 as amended.
- 6.3. Surrender and Re-Grant – Section 158 of the Localism Act creates a new mechanism for Mutual Exchanges based on the granting of new tenancies where one tenant is a lifetime secure tenant granted pre-1 April 2012 and the other is post-1 April 2012 fixed term tenant. The section introduces a protection for assured lifetime tenants who were granted their tenancy prior to 1 April 2012. If Tenant A (a lifetime tenant whose tenancy was granted prior to 1 April 2012) wishes to exchange with Tenant B (a fixed term tenant where the grant occurred after 1 April 2012) then each will surrender their existing tenancy, and a new tenancy is issued to each Tenant and Tenant A is granted another secure tenancy.

7. The Regulator of Social Housing

- 7.1. This Policy is provided in accordance with the Regulator's Tenancy Standards, which sets out the obligation for registered providers to support relevant tenants living in eligible housing to mutually exchange their homes. The standard includes a requirement that any such mutual exchange service should be free for tenants to use, and that registered providers must publicise the availability of any mutual exchange service(s) it offers to its relevant tenants. Providers must provide support to relevant tenants and information about the implications for tenure, rent and service charges.

8. Right to Exchange

- 8.1. The existence of the right to Mutual Exchange is dependent on the type of tenancy agreement.

- 8.2. Any Council tenant with a secure lifetime tenancy or a secure flexible tenancy has the right to apply for a Mutual Exchange with another local authority or registered social landlord tenant.
- 8.3. Council tenants with a Demoted or Introductory tenancy cannot apply for a Mutual Exchange.
- 8.4. Council tenants who are currently in a review period of their flexible tenancy cannot apply for a Mutual Exchange.
- 8.5. Council tenants who are temporarily decanted cannot apply for a Mutual Exchange at the temporary address but may have the right to exchange at their permanent address.
- 8.6. Leaseholders and shared owners cannot apply for a Mutual Exchange.
- 8.7. Tenants of other social housing providers are not able to able to Mutually Exchange if they hold any of the following tenancies:
 - Starter tenancy or Probationary (including any extension period)
 - Assured Shorthold Tenancy (AST) (periodic)
 - Licences
 - Tenants with a periodic AST because of a break notice being issued on a fixed term tenancy, or where a new tenancy has not been signed at the end of a fixed term.

9. Roles and Responsibilities

Team	Responsibility
Housing Advice & Homelessness Prevention Team	Oversee the process from initial receipt of application to arranging sign-up and ensuring the 42-day deadline is met
Area Estate Specialist	Undertake property inspection to identify any issues or disrepair
Income Team	Complete the relevant checks for eligibility, rent arrears etc

10. Performance Management and Standards

- 10.1. All key stage performance information will be monitored and evaluated by the Head of Housing to ensure the service is delivered in the most efficient and effective way to help drive management standards, ensure value for money by reducing costs, improve efficiency, tenants' choice, and satisfaction levels.
- 10.2. We will measure and monitor the following areas of performance:
 - No. of Mutual Exchanges completed.
 - No. of Mutual Exchanges refused, with reasons.
 - Average. Time taken to complete the process.

11.Equality & Diversity

- 11.1. The Council is committed to promoting fair and equal access to services and equal opportunities in employment, the procurement of goods and as a community leader. The Council's policies, procedures and day to day practices have been established to promote an environment which is free from unlawful and unfair discrimination, while valuing the diversity of all people.
- 11.2. Discrimination on the grounds of race, nationality, ethnic origin, religion or belief, gender, marital status, sexuality, disability, and age is not acceptable: the Council will take action to ensure no person using the council's premises or services receives less favourable treatment or is disadvantaged by requirements or conditions that cannot be justified. The Council will tackle inequality, treat all people with dignity and respect and continue to work to improve services for all service users.
- 11.3. The legal framework for the Council's approach is provided by the Equality Act 2010 and specifically by the Public Sector Equality Duty, under which a public authority must work consciously to eliminate discrimination, harassment, victimisation and to advance equality of opportunity and foster good relations between people with differing characteristics.

12.Information Sharing and Confidentiality

- 12.1. The Mutual Exchange application process will require the exchange of references with other landlords. Where it is considered relevant to the situation and in line with rehabilitation of offenders, we will disclose all known criminal activity, any reports of anti-social behaviour complaints or breaches of tenancy and any relevant safeguarding issues. We will also provide rent payment history, as requested. We will require consent to share this information via the mutual exchange application form.
- 12.2. When we share information, we will ensure that the transfer of information is done safely, stored appropriately and is not shared with a third party without permission unless there is a legal basis for doing so.

13.Monitoring and Review

- 13.1. This policy will be reviewed every 3 years, or sooner if required by statutory, regulatory, best practice, emerging developments, or circumstances arising from reviews of other Council-wide policies.

14.Reviews and Complaints

- 14.1. Any individual who is dissatisfied with the service experienced should be encouraged to provide feedback. Complaints regarding the implementation of this policy will be dealt with in accordance with the Council's corporate Customer Complaints Policy and associated procedures.

15.Data Protection and Retention of Information

- 15.1. All information will be handled in accordance with the requirements of General Data Protection Regulations and the Data Protection Act 2018. The handling and storage of personal data will be managed and stored in accordance with our Data Protection Policy and our Record Retention Disposal Schedule.