

Mutual Exchange

Policy



1. Purpose and scope

As a Registered Provider of Social Housing the Trust aims to support customers that need to move and to provide a level of choice about where they live. A mutual exchange is when two or more social housing tenants exchange (swap) their homes. Mutual exchanges do not include the internal transfer of a Trust tenant to a vacant property.

This policy outlines the Trust's approach to mutual exchanges and ensures that applications are considered fairly, and where permitted; exchanges are conducted in line with legislation and best practice, whilst ensuring that the Trust encourages appropriate occupation of its adapted and other homes.

This policy applies to secure and Assured (including some fixed term) tenants who have the right to exchange their tenancy with another social housing tenant. Starter tenants or those still within their probationary period are not eligible for a mutual exchange.

2. Aims

This policy aims to:

- Promote tenant mobility through mutual exchanges.
- To provide tenants with the support and information needed to complete applications for mutual exchange.
- To provide clear advice on the implications of mutual exchange.
- Encourage and support sustainable communities.
- Strike a balance between the Trust's charitable objectives and its obligations as a Registered Provider of Social Housing.

3. Applying for a Mutual Exchange

Registering for an exchange

Tenants wishing to swap homes are advised to register with www.houseexchange.org.uk to find someone willing to agree to a mutual

exchange. Tenants may also advertise their wish to exchange via a local paper, notice board or by word of mouth.

Once they have found another tenant willing to exchange, the tenant will need to complete a **Mutual Exchange Application Form** to request consent from the Trust. Mutual exchanges can only be permitted with the Trust's permission.

Tenants will be made aware that any party can withdraw from a potential mutual exchange at any stage with no recourse to the other party. However, once all parties have signed the assignment or the new tenancy agreement, then under current legislation the mutual exchange must proceed.

4. Types of Exchange

Mutual exchanges happen in one of two methods:

1. Assignment

Assignment is the swapping of tenancies at the same time as homes are exchanged. The incoming tenant will take on the rights and responsibilities of the tenant they have swapped with. This is used when tenants exchanging homes hold similar tenancies.

2. Surrender and regrant

Surrender and regrant is where tenants surrender their existing tenancy and re-sign a new tenancy. This is used when the parties exchanging have different tenancies, and where one party has their security of tenure protected by law. The following section sets out when each method of mutual exchange will be used.

Exchange by assignment or surrender and regrant

Tenants who hold a lifetime (secure or assured) tenancy that was granted before 1 April 2012 have their security of tenure protected by law. Tenants who hold a secure or assured tenancy granted before this date therefore cannot swap tenancies (be assigned) with a fixed term or flexible tenant, though there are exceptions.

This legislative protection will not apply when a lifetime tenant chooses to exchange with a fixed term tenant on an Affordable Rent.

The table below sets out whether an exchange will be by assignment or by surrender and regrant:

Tenant A	Tenant B	Mutual exchange by:	Exceptions:
Fixed term tenancy	Fixed term tenancy	Assignment	Internal exchanges: surrender and regrant five-year fixed term
Secure/Assured tenancy	Secure/Assured tenancy	Assignment	

Secure/Assured tenancy	Fixed term tenancy	Surrender and Regrant (each tenancy gets a new tenancy with the same/similar level they currently have)	If the secure/assured tenancy commenced after April 2012: exchange by assignment . If the fixed-term tenancy is affordable rent exchange by assignment
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5. Conditions for Mutual Exchange

Tenants must obtain written consent from the Trust before a mutual exchange is carried out, and certain conditions will need to be met in order for consent to be granted.

The Trust may withhold consent under the following circumstances until certain conditions are met or remedied:

- Rent arrears, or any other debts such as court costs, are cleared.
- That a breach of the tenancy agreement be remedied, for example:
 - Invalid Gas Safety Certificate
 - Invalid Electrical Certificate
 - Invalid LOLER Certificate
 - Other Invalid safety certification
 - Unauthorised alterations
 - Damage to property

6. Refusing Mutual Exchange

The Trust may refuse an application for mutual exchange on different grounds depending on whether the exchange would happen by assignment, or by surrender and re-grant.

Grounds for refusing exchange by **Assignment** are as follows:

- Ground 1 The tenant or other person applying for the exchange is under a court order to give up possession.
- Ground 2 Possession proceedings have started, or a Notice of Seeking Possession has been served on any grounds for possession.
- Ground 2a The tenant or any member of their household has behaved in an anti-social way and action including possession proceedings, injunctions, anti-social behaviour orders or a demotion order against them are in place or are being sought.

- Ground 3 The property is too large for the prospective tenant, or otherwise not reasonably suitable to their needs.
- Ground 4 The property is not large enough for the prospective tenant.
- Ground 5 The premises were let in consequence of employment, and form part of, or in the grounds of, a non-housing building.
- Ground 6 The landlord is a charity and the proposed new tenants moving into the property would conflict with the objects of the charity.
- Ground 7 The property is designed for a physically disabled person, and if the proposed tenant moved in, there would be no such person in occupation.
- Ground 8 The landlord is a special needs housing association or trust, and if the proposed tenant moved in, there would be no one with the relevant need in occupation.
- Ground 9 The accommodation is supported housing for people with disabilities and if the exchange took place there would no longer be such a person living in the property.
- Ground 10 The property is the subject of a management agreement where the manager is a Housing Association and there are specific arrangements in place that the proposed new tenant is not willing to participate in

Grounds for refusing exchange by **Surrender and Regrant:**

- Ground 1 Any rent lawfully due from a tenant under one of the existing tenancies has not been paid.
- Ground 2 An obligation under one of the existing tenancies has been broken or not preformed.
- Ground 3 Any of the relevant tenants is subject to an order of the court for possession.
- Ground 4 Proceedings for possession have started, or a Notice of Seeking Possession has been served on any grounds for possession 1 to 6 of Schedule 2 to the Housing Act 1985 (grounds on which possession may be ordered despite absence of suitable accommodation)
- Ground 5 Where a court order is in force against a tenant of one the existing tenancies which is based on anti-social behaviour, e.g., a suspended possession order, an antisocial behaviour order, an injunction, or a demotion order.
- Ground 7 The accommodation proposed to be let on the new tenancy would be too large for the existing tenant or tenants to whom the tenancy is proposed to be granted.
- Ground 8 The accommodation proposed to be let on the new tenancy is not reasonably suitable to the needs of the existing tenant or tenants to whom the tenancy is proposed to be granted, or their family.

- Ground 9 The premises were let in consequence of employment, and form part of, or are in the grounds of, a non-housing building or cemetery.
- Ground 10 The property is designed for a physically disabled person and if the proposed tenant moved in there would be no such person in occupation.
- Ground 11 The landlord is a special needs housing association or trust, and if the proposed tenant moved in, there would be no one with the relevant need in occupation.
- Ground 12 The accommodation is sheltered, and as above, if the proposed tenant moved in, there would be no one with the relevant need in occupation.

If Papworth Trust refuses a mutual exchange, the tenant will be sent a refusal letter which will quote the ground or grounds for refusal.

6.1. Rent Arrears

If a tenant wishing to conduct an exchange has rent arrears, consent will be refused unless the tenant is downsizing and is exchanging with another Trust tenant. An **Arrears Repayment Agreement** must be completed and signed before the exchange can take place.

6.2. Refusal on grounds of under occupation or overcrowding

An exchange will be refused if it will result in under occupation or overcrowding. This will be calculated by the standard number of bedrooms required as follows:

One room for each:

- adult couple
- two children under 16 of the same sex
- two children under 10 (regardless of sex)

The following can have their own bedroom:

- a single adult (16 or over)
- children who cannot share because of a disability or medical condition. A tenant will need to provide proof of the disability or medical condition and will need to prove how the disability or medical condition prevents the child from sharing a room.
- a non-resident carer who needs to stay overnight. A tenant will need to provide medical proof that an overnight carer is required.

One spare bedroom is also allowed for:

- an approved foster carer who is between placements, but only for up to 52 weeks from the end of the last placement

In determining whether the property will be overcrowded, Papworth Trust will take into consideration any expected children i.e., where there is an expectant mother moving into the property.

The Trust will ensure that the size of the property matches the size of the household as far as reasonably possible.

7. Review

Any applicant who has had a request for mutual exchange refused may request that the decision be reviewed through the Trust's housing decision review process.

8. Service Standards

The following service standards apply to mutual exchanges:

- A decision made on mutual exchange requests within 42 days.
- A settling in visit within six weeks of the exchange

9. Legislation, Regulation and Guidance

Government legislation has an impact on how Papworth Trust can implement its Mutual Exchange policy. Listed below are the key Acts that have been acknowledged.

- Housing Act 1985
- Housing Act 1988
- Housing Act 2004
- Equality & Diversity Act 2010
- Localism Act 2011

10. Monitoring and review

This policy will be reviewed at least every 3 years by the policy owner.
The policy owner is responsible for the monitoring and review of this policy.

11. Further Information

Policies and Procedures
• None
Forms
• Mutual Exchange Application Form
Guidance
• None
External web links
• www.houseexchange.org.uk

12. Document control

Owner	Business Manager – Housing Management
Consulted	Tenant Scrutiny Panel
Approver	Senior Business Manager
Date approved	October 2023
Next review date	October 2026
Ratified by	None required

13. Version tracker

Version number	Date	Approved by	Comments/Reason for issue
1.0	March 2020	-	New Policy
2.0	Oct 2023	Senior Business Manager	Standard policy review

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