

Landlord Services Mutual Exchange Policy

Final Version

Document Control

Document Details

Name	Landlord Services Mutual Exchange Policy
Version Number	2
Status	Final Version - Approved
Administrator	Jessica Warren, Senior Business Improvement Officer
Lead Officer/s	Jessica Warren, Senior Business Improvement Officer Satvinder Bhangal, Landlord Services Officer
Approved by	Claire Symonds, Acting Chief Executive
Address/ Contact Details	Barking Town Hall, Town Hall Square, 1 Clockhouse Avenue, Barking, IG11 7LU
Effective Date	01.02.2021
Review Date	01.02.2024

Version History

Version	Status	Date	Change Reason	Amended by
V.1	First Draft	14.05.2020	Reviewed by Landlord Services Working Group, and Mutual Exchange Officer	Jessica Warren
V.2.	Final Draft	22.05.2020	Amendments made to policy following review by Landlord Services Working Group.	Jessica Warren

Approval History

Version	Change	Date	Approving body
V.1	Draft	22.05.2020	Justin Hunt, Interim Head of Landlord Services
Final Draft	For approval	09.01.2021	Claire Symonds, Acting Chief Executive

Table of Contents

1. Introduction	4
2. Purpose	4
3. Definitions	4
4. Legislative Framework	4
5. Suitable exchange partners	5
6. Our responsibilities	5
7. Tenant responsibilities	6
8. Grounds for refusal	7
9. Equality Impact Assessment	7
10. Related Documents	7
11. Appendix	8
11.1. Appendix 1 – Grounds for refusal	8

1. Introduction

The London Borough of Barking and Dagenham (LBBD) recognises the importance of the mutual exchange process as a means to social housing tenants having a level of choice over where they live, as well as providing a platform for tenants to be able to find a home better suited to their needs.

LBBD wishes to support residents through the mutual exchange process, facilitating the swift and smooth exchange of properties where authorised in accordance with Schedule 3 of the Housing Act 1985.

2. Purpose

The aim of this policy is to:

- Provide both tenants and staff alike with clear guidance on the eligibility, requirements and responsibilities associated with the mutual exchange of properties
- Set out the grounds for the refusal of a mutual exchange

3. Definitions

LSM	Landlord Services Manager
LSO	Landlord Services Officer
Mutual Exchange	The term used to describe the ability for two (or more) tenants in the UK public housing sector to move to a new property by way of swapping their homes.
Secure Tenancy	A secure tenancy is usually associated to you if your landlord is a Local Authority, such as LBBD. It is a 'lifetime tenancy' which can only end if you leave or are evicted due to a breach in conditions of tenancy.
Assured Tenancy	An assured tenancy is usually associated to you if your Landlord is a Housing Association. It is also a lifelong tenancy, which only ends if you leave or are evicted.
Home Swapper	An internet based mutual exchange service which allows tenants to register their interest in a mutual exchange and find suitable exchange properties/ partners.

4. Legislative Framework

- 4.1. This policy complies with Schedule 3 of the Housing Act 1985, as amended by the Housing Act 2004.
- 4.2. This policy is also compliant with the The Homes (Fitness for Human Habitation) Act 2018.

5. Suitable exchange partners

- ✓ Secure tenants have the statutory right to assign their tenancy by way of exchange under Section 92 of the Housing Act 1985 as amended.
- ✓ Assured (non-shorthold) tenants also have the right to mutual exchange.
- ✗ The following tenancy types are not eligible to mutual exchange:
 - Introductory or starter tenancies
 - Use and occupation or any other temporary tenancies
 - Demoted tenancies
 - Job tied tenancies (i.e. wardens/ caretakers etc)
 - Licensees
 - Fixed-Term tenancies
 - Reside/ Intermediate Market rent tenancies
 - Leaseholders
 - Shared owners

Mutual exchanges between two or more parties can be UK wide. Tenants who are eligible to exchange can do so with another eligible LBBB tenant, a tenant of another registered non-profit social housing provider, or a local authority tenant.

6. Our Responsibilities

- 6.1. We will subscribe to an internet based mutual exchange service which allows tenants to register their interest in a mutual exchange and find suitable exchange properties. We will publicise the availability of this service on our website. The mutual exchange service that we have subscribed to is '[Home Swapper](#)'.
- 6.2. We will give notice of our decision to approve or decline an application to exchange within 42 calendar days of receiving a completed application.
- 6.3. Our decision to approve or decline an application will be given in writing. If the decision made is to decline, we will clearly state the reasons/ grounds for withholding consent.
- 6.4. We will ensure that valid gas and electrical certificates for our property are obtained prior to approving the exchange, and we will arrange the necessary checks to obtain them.
- 6.5. We will conduct a visual inspection to assess the condition of the property, to identify any repairs that may be required, and any alterations or damage that may have been made to the property.
- 6.6. We will notify both the outgoing and incoming tenants of any repairs that they will be responsible for or to be carried out after the exchange takes place. We may request that both the outgoing and incoming tenants formally accept their repair responsibilities by way of signing an undertaking prior to the completion of the exchange.

- 6.7. We will maintain responsibility for any landlord repair obligations and will complete any repairs that are our responsibility when they are reported to us, before the exchange takes place.

7. Tenant responsibilities

- 7.1. Tenants are responsible for finding their mutual exchange partner, and for making an application to us when they have found someone they want to exchange with.
- 7.2. Outgoing tenants are required to repair any neglect, alterations, or damage that they, their household or their visitors have made to the property and to complete any repairs that we consider to be their responsibility prior to the completion of the mutual exchange.
- 7.3. Incoming tenants are responsible for carrying out an inspection of the property they intend to exchange to prior to the completion of the exchange, and for making any agreements or arrangements with the outgoing tenant regarding the condition of the property, including any fixtures and fittings that are to remain or be removed.
- 7.4. In cases whereby the original exchange application is placed on hold, or is cancelled and reapplied for at a later date, it is the incoming tenants responsibility to reinspect the property they intend to exchange to, in order to ascertain that they are still accepting of the 'as is' condition of the property prior to the completion of the exchange.
- 7.5. Incoming tenants agree to accept the 'as is' condition of the property they are exchanging to.
- 7.6. Following the exchange, incoming tenants will assume responsibility for any damage or alterations made to the property by the outgoing tenant and for all repairs that we consider to be tenant repair obligations that were not completed by the outgoing tenant.
- 7.7. If the outgoing tenant deliberately damages the property or removes fixtures and fittings from the address (i.e. internal doors) we may seek to recharge the outgoing tenant to cover the cost of the damage.
- 7.8. If the incoming tenant finds that items or rubbish have been left on premises by the outgoing tenant upon exchange, the council will not be held liable to clear the items or to cover the cost of clearance.
- 7.9. Once an exchange has been approved, both tenants must give their landlord at least 7 days' notice of their selected exchange date, to allow us time to prepare the necessary documentation to legally complete the exchange.
- 7.10. Tenants must not move until they have received written confirmation from each landlord and signed the necessary paperwork to complete the exchange. If tenants move without our consent and without signing the required legal documents, we will treat the occupants as unauthorised occupiers and may seek possession of our property.

8. Grounds for Refusal

We may rely on any of the statutory grounds stated in Schedule 3 of the Housing Act 1985, as amended by the Housing Act 2004, to refuse an exchange for tenants that hold a periodic secure tenancy. Please see complete list of grounds for refusal in [Appendix 1](#).

Where our tenant holds a secure tenancy, we will make it a condition of granting permission for the exchange that any arrears are paid in full prior to the exchange taking place.

We will refuse any exchange that would result in our property becoming under-occupied by more than one bedroom.

We will not allow for any overcrowding to occur in our properties through the completion of a mutual exchange.

We will refuse an exchange where we have reason to believe that any tenant has offered or sought a financial incentive as a condition of the exchange.

We may refuse an exchange where there are significant safeguarding concerns or members of the public are put at risk.

We will refuse an exchange where one or more properties have or are set to be included in our regeneration programme and are therefore likely to be demolished in the foreseeable future.

We may rely on any other reasonable grounds to withhold our consent if so required.

9. Equality Impact Assessment

An Equality Impact Assessment has been carried out on this policy.

This involves assessing the effects of the policy and subsequent service provided to our customers in respect of their age, disability, race, religion/belief, sexual orientation, and/ or gender identity to ensure equal and fair access for all.

Conducting an Equality Impact Assessment assists us to make sure that the needs of people are accounted for when developing and implementing policies and services.

10. Related Documents

Document	Link
1. Housing Act 1985, Schedule 3.	LINK
2. Guide for Landlords: Homes (Fitness for Human Habitation) Act 2018	LINK
3. Guide for Tenants: Homes (Fitness for Human Habitation) Act 2018	LINK
4. GOV.UK list of social housing providers	LINK

11. Appendix

11.1. Appendix 1

Grounds for Refusal of Mutual Exchange by way of assignment under Schedule 3 of the Housing Act 1985, as amended:

Ground 1 – Possession Order outstanding

The tenant or the proposed assignee is subject to a possession order or a suspended possession order.

Ground 2 – Possession proceedings outstanding or NSP in force

A notice seeking possession is in force against the tenant or the proposed assignee under Grounds 1 - 6 of Schedule 2 of the 1985 Act (and similar or/and equivalent grounds under

Schedule 2 of the Housing Act 1988) or possession proceedings have begun against either party on one or more of those grounds.

Ground 2A – In respect of the tenant or the proposed assignee or a person who is residing with either of them

If a specified type of injunction (e.g. Anti-social behaviour injunction), demotion order, an anti-social behaviour order or a possession order (included suspended order) granted on the grounds of nuisance conduct is in force or if court action to obtain such an order is pending in respect of the tenant or the proposed assignee or a person residing with either of them.

Ground 2B – Closure Notice or Order

If the property is subject to a closure notice or closure order under the Anti-social Behaviour, Crime and Policing Act 2014.

Ground 3 – Under-occupation

The accommodation is substantially larger than is reasonably required by the proposed assignee.

Ground 4 - Suitability

The size of the accommodation is not reasonably suitable for the needs of the assignee.

Ground 5 – Accommodation associated with employment

The dwelling forms part of, or is within the curtilage of, a building which is held mainly for non- housing purposes or is situated in a cemetery and was let to the tenant or his predecessor in connection with their employment with the landlord, or with a local authority, a new town corporation, housing action trust, Development Board for Rural Wales, or the governors of a grant aided school.

Ground 6 – Conflict with charitable aim

The landlord is a charity and the proposed assignee's occupation would conflict with the objects of the charity.

Ground 7 – Accommodation designed for the disabled

The dwelling is designed to make it suitable for a physically disabled person and if the exchange took place, no such person would be living in the dwelling.

Ground 8 – Landlord as a specialist housing provider

The landlord is a housing association or housing trust which provides accommodation only for persons whose circumstances, (other than merely financial circumstances), make it especially difficult for them to satisfy their housing needs and if the exchange took place there would be no such person living in the dwelling.

Ground 9 – Accommodation in group designated for special needs e.g. sheltered or supported housing

The dwelling is one of a group that is let to persons with special needs, and a social service or special facility is provided close by in order to assist the tenants - if the exchange took place there would be no person with special needs living in the dwelling.

Ground 10 – Management Agreement

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, at least half the tenants of the dwellings are members of the association, and also that the proposed assignee is not such a member nor is willing to become one.