

MUTUAL EXCHANGE POLICY



Policy Title	Mutual Exchange Policy		
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Associated documents		EIA Completed by	

Notes

This policy was originally developed and agreed with tenants with the Scrutiny Panel

Legal influences on this policy

Housing Act 1985 and 1988
Conditions of Tenancy (all variants)
Tenancy Conditions (all variants)
Cornwall Council Mutual Exchange Guidance for S106 Homes

Non-legal influences on this policy

Homechoice Policy
Tenancy Policy
Homeswapper Website

Other documents linked to this policy

TABLE OF CONTENTS

1. Introduction _____ 4

2. Purpose and Aim _____ 4

4. Scope _____ 5

5. Refusals _____ 5

6. Conditional Consent _____ 6

7. Charges _____ 6

9. Appeals _____ 7

Diversity & inclusion _____ 8

Appendix A – Cornwall COUNCIL MUTUAL EXCHANGE GUIDANCE FOR S106 HOMES. _____ 9

1. INTRODUCTION

This policy document has been produced to detail how Cornwall Housing Ltd (CHL) will support the provision of mutual exchange within the social housing stock, which it manages on behalf of Cornwall Council.

2. PURPOSE AND AIM

The purpose of this policy is to:

- Explain how CHL will manage mutual exchanges.
- Provide an opportunity for tenants to exercise their Right of Exchange and move anywhere in the country without paying a fee or applying through local authority allocation systems.
- Provide CHL with the mechanism to enable mutual exchange moves without incurring void property costs, such as with traditional transfers to vacant homes.
- Encourage tenants to be proactive in finding suitable alternative accommodation if they wish to move.
- Ensure that tenants of Cornwall Council are aware of the legal implications of an assignment via mutual exchange.
- Make all the exchange parties, aware of any risks associated with a mutual exchange.

3. Policy Statement

The introduction of Welfare Reform has increased demand for smaller properties where under occupation or reduced benefits makes larger property unaffordable for some people.

Enabling tenant mobility (freedom to choose where they may live) is also important to ensuring sustainable communities.

One way to increase choice and flexibility for social housing tenants is through mutual exchange. This is where social housing tenants agree to swap their tenancies through a deed of assignment. Agreement to the move is subject to criteria detailed within the policy.

By enabling mutual exchanges to take place between tenants, a social housing landlord, is able to demonstrate how it is trying to make the best use of the housing stock to meet the housing demand; and not simply relying upon the choice-based lettings scheme.

The key objectives of this policy are to:

- Encourage the use of mutual exchanges so Cornwall Council will achieve the best utilization of its stock while minimizing the risks of inappropriate moves.
- Promote mutual exchanges as a method to enable tenants to choose a home in the area they wish to live in.
- Enable flexibility and choice of home for tenants.
- Provide advice and assistance.
- Provide a framework for completing a mutual exchange application.
- Ensure that exchanges are carried out in compliance with current Housing Law and Good Practice.

4. SCOPE

The policy covers all Cornwall Council and CHL properties that hold the following tenancy type:

- Cornwall Council tenants with a secure tenancy or a flexible tenancy
- CHL tenants with an assured tenancy

You cannot exchange tenancies if you are a:

- Cornwall Council tenant with an introductory tenancy or a demoted tenancy
- CHL tenant with a assured short hold (starter) tenancy

Introductory tenants (or starter tenants) are not able to complete a mutual exchange. Only once an introductory or starter tenancy (probationary period) has been completed will a mutual exchange be processed.

Before this point, CHL will not administer any mutual exchange forms; and will advise any applicants trying to complete a mutual exchange that they are not eligible for a mutual exchange, until they have gained a secure or assured tenancy.

CHL has 42 days from receipt of all applications to decide whether to approve or refuse a mutual exchange. The 42 days is not the timescale by which the move will have taken place.

5. REFUSALS

As part of the mutual exchange process, the social housing landlord for each exchanging party, such as Cornwall Housing, has the ability to consider the mutual exchange.

Whilst in most cases the mutual exchange will be approved, there are some instances where permission will be refused. Refusal for a mutual exchange will be on the following areas:

- A court order has been made giving possession of the tenant dwelling to the Landlord.
- A notice of seeking possession has been served on either tenant or the person whom the tenant proposes to exchange, and the notice is still in force.
- There is an injunction in force which has been served on the tenant or a household member, or the person/household with whom the tenant proposes to exchange relating to crime or anti-social behaviour.
- Either property is to be under occupied or over occupied as a result of the exchange
- The property has been let to a tenant who is an employee of the Landlord, and the property is within the boundaries of an operational building.
- The landlord is a registered charity and the where the incoming tenant's residency would conflict with the purposes of that of the charity.
- The landlord is a housing association or housing trust which caters for people with special needs and the exchange would result in the property being occupied by someone without those needs.
- The dwelling is in a group of dwellings let to people with special needs, e.g. elderly, and the exchange would result in the dwelling being occupied by someone without these needs.

CHL and all social landlords administering mutual exchanges will need to operate within the Housing law. Section 92 of the Housing Act 1985 permits secure tenants to assign their tenancy by way of mutual exchange. Under Section 92, the social landlord can only refuse the exchange on one of the grounds within Schedule 3, these same grounds are summarized above.

6. CONDITIONAL CONSENT

Providing the tenant is notified within the statutory 42-day periods CHL may attach a conditional consent, during the process of agreeing the mutual exchange (deed of assignment). Under certain conditions, CHL will agree to provide approval or consent for the mutual exchange, providing that certain obligations are met.

For example:

- a tenant in a small amount of arrears may be permitted to proceed with a mutual exchange provided that these arrears are cleared prior to the exchange being completed.
- where tenants have altered their home (e.g., by installing their own lights, or doors etc.). CHL will expect the tenants to put right these changes prior to the mutual exchange being completed or that the incoming tenant agrees to take responsibility for maintaining the alteration.
- where there is under or over-occupation and a welfare, downsizing, or defined housing need specifically linked to the incoming tenant's circumstances.
- That where a property is subject to S106 linked to the original new-build development, the conditions outlined in 'Appendix A – Cornwall Council Mutual Exchange Guidance for S106 Properties' are met.

In these instances, the exchange cannot take place until the condition is met. The landlord will notify the tenant of the conditional consent in writing.

7. CHARGES

CHL offers a free mutual exchange service via Homeswapper. [Mutual exchange \(cornwallhousing.org.uk\)](https://www.cornwallhousing.org.uk/mutual-exchange)

8. Applicant Undertaking

The applicants must accept the property in its present condition.

The incoming tenants will be required to accept:

- responsibility for previous tenant's improvements or alteration to the home, be they authorised improvements or not.
- they will have the same right to repair as outgoing tenants and in accordance with CHL's repairs policy.
- Any repairs or alterations that were the responsibility of the former/outgoing tenant will pass to the new tenant as they will agree to accept the property 'as seen' which includes tenant neglect, abuse or any defects hidden at the time of inspection.

- rubbish and household items left by the previous tenant.

CHL will not accept any responsibility for, or costs associated with, remedying any points from the above list.

9. APPEALS

If an applicant feels that a refusal or an inappropriate conditional consent has been applied, then they have the right to appeal to a senior housing manager. The appeal is outside of the formal complaints process.

DIVERSITY & INCLUSION

CHL are committed to treating all people with fairness and respect. CHL aim to create an inclusive environment where people are treated with dignity, inequalities are challenged, and CHL anticipate and respond positively to different needs and circumstances to enable individuals to achieve their potential and foster good relations within the communities CHL serve. CHL want to be recognised as an organisation delivering fair, inclusive, accessible services and an employer and partner of choice.

When applying this policy, CHL act sensitively towards the diverse needs of individuals and to reduce discrimination and harassment by making reasonable adjustments such as:

- eliminating discrimination – by providing support to those who need it and information in accessible formats and languages on request.
- tailoring the policy to meet both the specific needs of the individual, including those with additional support needs, and the diverse needs of the wider community
- advancing equality of opportunity – treating all tenants fairly
- fostering good relationships – listening to customers and responding appropriately
- compliant with all aspects of Equality & Diversity legislation, and specifically the Equality Act 2010.

APPENDIX A – CORNWALL COUNCIL MUTUAL EXCHANGE GUIDANCE FOR S106 HOMES.

Mutual Exchange Guidance – Section 106 Properties

1. A CHL tenant living on a s.106 development must ensure that any advert they place seeking a mutual exchange clearly sets out the local connection requirements.
2. The advert seeking a mutual exchange must appear on House Exchange or Home Swapper.
3. During a period of 90 days from the date the advert appears on House Exchange or Home Swapper the tenant can apply to CHL to exchange with a household that has a Primary or Secondary area connection, as set out in the s.106 agreement.
4. If after 90 days from the date the advert appears on House Exchange or Home Swapper the tenant has been unable to find an eligible household the tenant can apply to CHL to exchange with a household that has a County area connection as set out in the s106 agreement.
5. If CHL is satisfied that the local connection for the incoming household is evidenced the exchange can be approved, provided there is no other ground for refusal.
6. Mutual exchanges with households with a Cornwall area connection as set out in the s.106 agreement, but within 90 days from the date the advert appears on Home Exchange or Home Swapper will only be approved by CHL if one or more of the following criteria applies to one/both households, and is satisfactorily evidenced: (unless otherwise agreed with the Council in exceptional circumstances)
 - Moving for employment reasons
 - Moving for specific educational reasons
 - Moving to receive medical treatment that cannot be obtained within reasonable travelling distance of their current home.
 - Physical Disability – the exchange would provide a member of one of the households with a home that would demonstrably and materially better meet their mobility needs.



7. 91 days after the advert appears on House Exchange or Home Swapper the tenant can apply to CHL to exchange with a household that does not have an area local connection (Primary, Secondary, County) as set out in the s.106 agreement.
8. Mutual exchanges with households without an area local connection (Primary, Secondary, County) as set out in the s.106 agreement will only be approved by CHL if one or more of the following criteria applies to one/both households, and is satisfactorily evidenced: (unless otherwise agreed with the Council in exceptional circumstances)
 - Moving for employment reasons
 - Moving for specific educational reasons
 - Moving to receive medical treatment that cannot be obtained within reasonable travelling distance of their current home.
 - Physical Disability – the mutual exchange would provide a member of one of the households with a home that would demonstrably and materially better meet their mobility needs.
9. CHL must keep accurate and detailed records of all mutual exchanges approved on s.106 developments, including the evidence provided.
10. The details of all mutual exchanges will be made available to the Council for inspection within 10 working days of a request to see them.
11. On annual basis CHL will provide the Council, in a format to be agreed, a summary of all mutual exchanges on s.106 sites.

Note: Cornwall Council S106 Mutual Exchange Guidance – Reviewed and implemented 19/02/2025.



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Alternative formats:

If you would like this information on audio CD, audio tape, Braille, large print, any other format or interpreted in a language other than English, please contact info@cornwallhousing.org.uk

