

Mutual Exchange Policy

Cornwall Housing

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Date: 18/12/2018

Version 1.1



Policy control sheet

Current Document Status

| | |
|-------------------|----------------------|
| Status | Live |
| Reference | MX/001/MGMC |
| Last reviewed | December 2018 |
| Document type | Policy |
| Document Location | Intranet and website |
| Area Applicable | Landlord Services |

Version History

| Version | Version created | Date approved | Date for review | Author/s | Approved by | Revised by |
|---------|-----------------|---------------|-----------------|-------------------------|-------------|------------|
| 1.0 | 29/06/2017 | | | M Clemens & M Gallagher | | |
| 1.1 | December 2018 | | December 2020 | M Clemens & M Gallagher | | |

Equality impact assessment record

| Date | Type of assessment conducted | Stage/level completed | Summary of actions/decisions | Completed by | Impact assessment review date |
|------|------------------------------|-----------------------|------------------------------|--------------|-------------------------------|
| | | | | | |

Policy guidance and advice contact details

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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)

Non-legal influences on this policy

Homechoice Policy

Tenancy Policy

Homeswapper Website

Other documents linked to this policy

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1. Introduction

This policy document has been produced to detail how Cornwall Housing 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 Cornwall Housing will manage mutual exchanges;
- Provide an opportunity for tenants to move anywhere in the country without needing to go through a choice based lettings system, or similar, especially where they do, or would not have a high priority for a move;
- Provide Cornwall Housing 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 utilisation 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 Cornwall Housing properties that hold the following tenancy type :

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

You can't exchange tenancies if you are a:

- Cornwall Council tenant with an introductory tenancy or a demoted tenancy
- Cornwall Housing tenant with a assured shorthold (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, Cornwall Housing 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.

Cornwall Housing has 42 days to determine whether to approve or refuse a mutual exchange.

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.
- 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 tenants 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.

Cornwall Housing 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 the grounds within Schedule 3, these same ground are summarised above.

6. Conditional Consent

Under certain conditions, Cornwall Housing will agree to provide approval or consent for the mutual exchange, providing that certain obligations are met.

So 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.

Or where tenants have altered their home (e.g. by installing their own lights, or doors etc.) and Cornwall Housing will expect the tenants to put right these changes prior to the mutual exchange being completed.

Providing the tenant is notified within the statutory 42 day periods Cornwall Housing may attach a conditional consent, during the process of agreeing the mutual exchange (deed of assignment).

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

Cornwall Housing retains the right to recharge its tenants for any abortive charges incurred as a result of a mutual exchange failing to proceed.

As part of the mutual exchange process, Cornwall Housing will complete necessary (good practice) gas and electric safety checks, to ensure that a home is safe for the incoming tenant, or exchange partner. These checks are usually organised to be completed as near to the exchange date as possible.

Where these costs are incurred and either tenant chooses to not proceed with the mutual exchange, then Cornwall Housing will recharge its tenant the full cost of these checks, including and administrative fees.

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;
- tenant neglect or abuse;
- any defects hidden at the time of inspection;
- rubbish and household items left by the previous tenant.

Cornwall Housing 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 the Senior Housing Management Officer.

The appeal is outside of the formal complaints process.

Alternative formats

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