

CROYDON COUNCIL HOUSING

Mutual Exchange Policy

The policy outlines the Council's approach to the management of its mutual exchange process and applies to Croydon Council members of staff, and staff with roles and responsibilities relating to mutual exchanges.

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1. Purpose of Policy

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

2. Statement of Intent

- 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 an exchange.

3. Scope

- 3.1. A mutual exchange occurs when two or more social housing tenants swap homes with the 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 Croydon Council's secure tenants, all of whom have a statutory right to mutual exchange.

4. Property type

- 4.1. Croydon Council aims to ensure the best use of its social housing stock so that homes are used to meet the right number of household members so as not create overcrowding or underoccupancy. On receiving an application for a mutual exchange Croydon will assess whether the size of the property would be suitable for the size requirements of mutual exchange applicants. This work is in line with Croydon Allocation Policy based on households needs for the size of property required.
- 4.2. Usually, consent will only be granted for a mutual exchange to proceed where the properties suit the bedroom needs of both households. However, in exceptional circumstances, Croydon will consider under-occupation of one or more bedrooms, where in the view of Croydon Council, it would assist in improving the existing circumstances of one or more of the tenancies. Croydon Council will not agree the exchange if either tenant would become statutorily overcrowded as a result.

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 of the Housing Act 1985 and Schedule 14 of the Localism Act.
- 5.2. The decision of the council on whether to give consent 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; or
 - A condition to the property which is the tenant's responsibility, and the tenant can carry out the necessary repairs within a short time.
- 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. Croydon cannot request payment of the tenant's former tenancy arrears). Any current rent owing must be paid, or any minor disrepair that is the tenant's responsibility must be repaired before the assignment of the tenancy can take place.
- 5.5. Before any Mutual Exchange/Transfer is undertaken, the homes(s) of the exchanging tenants must be in an acceptable condition. Checks of the gas and electrical systems will be undertaken prior to the 'new' tenant taking up residence and a gas certification and electrical certificate will be provided at sign up.
- 5.6. The Housing Act 1985 provides 9 of the 10 grounds for refusing a mutual exchange. Ground 10 was added by the Housing and Planning Act 1986, schedule 5, Paragraph 7:

Schedule 3 of the Housing Act 1985	Schedule 14 of the Localism Act 2011	Grounds for refusing consent to the exchange
	Ground 1	When any rent lawfully due from a tenant under one of the existing tenancies has not been paid.
	Ground 2	When an obligation under one of the existing tenancies has been broken or not performed.
Ground 1	Ground 3	A court order for possession or a suspended possession order has been made for either property.
Ground 2	Grounds 4 and 5	The landlord has served a notice of seeking possession and the notice is still in force, or possession proceedings have commenced.
Ground 3	Ground 7	The property is substantially larger than is reasonably needed by the proposed assignee.
Ground 4	Ground 8	The property is not reasonably suitable for the needs of the

		proposed assignee and their household.
Ground 5	Ground 9	The property is part of or close to a building that is held for non-housing purposes, or it is situated in a cemetery and was let in connection with employment with the landlord or with a local authority, a new town corporation, housing action trust, an urban development corporation or the governors of a grant aided school.
Ground 6	Ground 10	The landlord is a charity and the proposed assignee's occupation of the property would conflict with the objects of the charity.
Ground 7	Ground 11	The property has been substantially adapted for occupation by a physically disabled person and, if the assignment was approved a physically disabled person would not be living there.
Ground 8	Ground 12	The landlord lets properties to people in difficult circumstances (other than merely financial circumstances) and the proposed assignee would not fulfil this criteria.
Ground 9	Ground 13	The property is let to people with special needs and there is a social service or special facility nearby to the properties to assist people with those special needs and, if the assignment was approved no person with those special needs would be living there.
Ground 10	Ground 14	The dwelling is the subject of a management agreement whereby the manager is a housing association of which at least half the members are tenants subject to the agreement and at least half of the tenants of the dwellings are members of the association and where the proposed assignee is not such a member nor is willing to become one.
Additional ground (Housing Act 1985)	Ground 6	One of the following in junction orders (under section 153 of the Housing Act) is in force either against the tenant and/or the

		<p>proposed person who resides with them:</p> <ul style="list-style-type: none"> • anti-social behaviour order. • a demotion order. • an order under ground 2 for secure tenancies. • an order under ground 14 for assured tenancies.
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6. Legal Framework

6.1 This Policy will ensure compliance with the following standards and legislation and promote good practice.

- Localism Act 2011
- Housing and Regeneration Act 2008
- Data Protection Act 2018 and GDPR.
- The Landlord and Tenant Act 1985
- The Housing Act 2004
- Regulator for Social Housing: Consumer Standards
- Equalities Act 2010

6.2 Assignments - Secure tenants have the right to assign their tenancy by way of exchange under Section of 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. The section introduces a protection for assured lifetime tenants who were granted their tenancy prior to 1 April 2012. 3.2.2. 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) then a new tenancy is issued to each Tenant and Tenant A is granted another assured 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 enable tenants to access opportunities to exchange their tenancy with another tenant through online mutual exchange services. The standard includes a requirement that any such mutual exchange service should be free for tenants to use, and that registered providers should reasonably publicise the service and support tenants to access it.

8. Roles and responsibilities

Team	Responsibility
Lettings Team	Oversee the process from initial receipt of application to arranging sign-up and ensuring the 42-day deadline is met.
Tenancy Team	Complete the relevant checks for eligibility by completing points 18-21 of the Mutual Exchange Fact Sheet.
Income Team	Complete the relevant checks for eligibility by completing point 4 of the Mutual Exchange Fact Sheet.
Void Team	Undertake property inspection to identify any issues or disrepair.

9. Performance Management and Standards

9.1. All key stage performance information will be monitored and evaluated by the Director of Housing Management 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.

9.2. 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.

9.3. Performance data will be presented to the Appropriate resident forum on request

10. Equalities Statement

10.1. 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.

10.2. 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.

10.3. 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.

10.4. Further detail on the Duty, and the Council's approach to fulfilling its requirements, can be found on our website.

11. Reasonable Adjustments

11.1. Croydon Council will make reasonable adjustments to support our residents' needs when they access our services. The term 'reasonable' refers to what we can do without compromising our resources, efficiency, or ability to practically fulfil requests. This does not include Aids and Adaptations to our properties and common parts of a building.

11.2. No resident should be at a disadvantage when accessing our services. The following statements offer a general overview to ensure that our services are adjusted to meet the needs of our residents where possible. This list is not exhaustive, and we will adapt our approach based on individual resident needs.

- We aim to provide services that are accessible to all who require them. As a result of this, we will:
- Ensure our officers get to know our residents and their individual needs
- Provide a range of ways for residents to contact our officers including phone, mail, email and via Housing Online
- Provide alternative communication methods on request, such as Braille, foreign language interpreter, large print etc.
- Ensure residents are always able to select their preferred method of contact.
- Ensure our offices are fully accessible to visitors
- We will continue to diversify our services to meet residents' needs where possible.

12. Complaints

12.1. Should there be a complaint from a tenant concerning, any aspect of the mutual exchange process, this will be dealt with via the Council's Corporate Complaints Policy.

13. GDPR and Data protection Act 2018

Housing Management recognise the commitment to ensure that all data is:

- Processed lawfully, fairly and in a transparent manner.
- Collected for a specific and legitimate purpose and not used for anything other than this stated purpose, or as provided for in our privacy and fair processing notices.
- Relevant and limited to whatever the requirements are for which the data is processed.
- Accurate, and where necessary, kept up to date. Any identified inaccuracies will be amended or removed without undue delay.
- Stored for as long as required, as specified within Housing Management's Records Retention policy.

- Secured with appropriate solutions, which protect the data against unauthorised or unlawful processing and accidental loss, destruction, or damage.

Further information about the Council’s commitment to the General Data Protection Regulations (GDPR can be found on the Council’s website)

14. Roles and Responsibilities to implement the policy

14.1. Director of Housing Management

The Director of Housing Management will have overall responsibility for the implementation of the Mutual Exchange policy.

14.2. Head of Services

The Heads of Tenancy, Lettings, Income, and Repairs Services will develop, implement, and monitor the effective management of mutual exchanges.

14.3. Council staff and Contractors

Will follow the mutual exchange policy and related policies, the associated rules, and procedures, and have an awareness of property-related legislation and regulations to ensure the operational delivery is fair and consistently delivered across our services. Staff and contractors are aware of their roles and responsibilities and regularly carry out mandatory and personal development training offered to them.

15. Monitoring and Review

15.1. 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.

15.2. Arrangement for a full internal audit of the process to be undertaken by the Council's Internal Auditors. The full scope of the audit will be agreed upon with the Internal Auditors, Director of Housing Management and Heads of Service.

16. Document Control

16.1. This is a controlled document and should not be changed unless by authorisation of the policy owner.

Monitoring	
Approved Date:	13 March 2025
Next Review Date:	April 2028
Effective date:	14 March 2025
Consultation Review	

Stakeholders review:	13.05.2024
Legal review date:	22.06.2024
Residents reading group:	November 2024
Policy owner:	Director of Housing Management
Ratified by:	Housing DMT on the 13 th of March 2025
Equality impact assessment:	The impact of this policy will be measured as it is implemented and used as part of a scheduled 1-year implementation compliance review.

Version History

Version Number	Summary of change	Author
1.0	New Policy	Developed and reviewed with subject matter experts in Housing and the Residents Reading Group