

Mutual Exchange Policy

FINAL: December 2024

Version Control

Revision History

Version	Date	Author	Changes
1.0	2014	Tina Mustafa	Tenancy Management Policy
2.0	5 th February 2018	Gemma Sidaway Rae Mann Sarah Finnegan	Allocations policy which includes Mutual Exchanges. Changes to accommodate the Homelessness Reduction Act 2017
3.0	5 th November 2018	Gemma Sidaway Joanne Mallaband	Changes to reflect feedback from HQN Tim Brown
4.0	1 st November 2019	Gemma Sidaway	Changes to reflect Legal Advice
5.0	8 th July 2021	Gemma Sidaway Joanne Mallaband Sarah Finnegan	Changes to incorporate Eligibility amendments, Domestic Abuse Act and guidance on improving access to social housing for armed forces
6.0	March 2024	Gemma Sidaway Sarah Finnegan Campbell Tickell Ltd (CT)	A table of changes has been provided with the cabinet report following a gap analysis by CT.
7.0	November 2024	Sarah Finnegan Lucy Cunnett Tim Brown (HQN)	Tenant Consultative Group – no objections raised on policy, feedback given
8.0	December 2024	Sarah Finnegan Lucy Cunnett Tim Brown HQN	Minor Changes required for Social Housing Regulatory programme and Consumer standards.

Approvals

Name	Title		Approved
Cabinet	Allocation Policy		24.01.2019
Health and Wellbeing Scrutiny Committee	Allocation Policy		15.10.2019
Full Council	Allocation Policy		19.11.2019
Cabinet	Allocation Policy Update		08.07.2021
Cabinet	Allocation Policy Update		March 2024
Tenant Consultative Group TCG	Mutual Exchange Policy		05.11.2024
Cabinet	Mutual Exchange Policy	Minor Changes required for Social Housing Regulatory programme and Consumer standards.	December 2024

Document Review Plans

This document is subject to a scheduled three year review dependant on any legislative or contract changes. Updates shall be made in accordance with business requirements and changes and will be with agreement with the document owner

Distribution -The document will be available on the Intranet and the website.

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1.0 Aim of the Scheme

- 1.1.1 To enable existing tenants, with a low or nil band, to move to a different property locally or nationally, through swapping with another tenant
- 1.1.2 To meet the Mutual Exchange tenancy standard requirements of the Regulator of Social Housing (RSH).
- 1.1.3 ME may in principle take place between tenants of the same social housing landlord or between tenants of different social housing landlords. ME is also often referred to as 'tenancy exchange' or 'home swapping'.
- 1.1.4 It is important to note that the scheme is tenant-led i.e. tenants initiate and carry through the process. The Council acts as a facilitator.

1.2 Equality and Diversity

- 1.2.1 The Council's Choice Based Lettings Scheme and Mutual Exchange policy have been designed to ensure that its services are fair and equitable for all of its customers.
- 1.2.2 The Mutual exchange policy is accessible to all of those eligible and does not discriminate against anyone on the grounds of age, disability, gender, race, colour, national origin, sexual orientation or any other factor that may cause disadvantage.
- 1.2.3 This policy has been drafted with reference to the Equality Act 2010 and also with regard to the Council's Public Sector Equality Duty.
- 1.2.4 The Council remains committed to help customers and applicants who have difficulties and who are vulnerable, to access this policy.
- 1.2.5 The ME policy and application forms can be provided in other formats if required, such as large print or braille.
- 1.2.6 This policy has been developed following legal advice

1.3 Force Majeure

We will not be liable for any delay in performing our obligations under this policy if the delay is caused by a Force Majeure (chance occurrence or unavoidable accident for example), provided that reasonable action and notification to customers is taken by the council. More fully, this means, circumstances beyond reasonable control of that party, including without limitation, strikes, lock outs, acts of God, cyber-attack, the act or omission of any governmental or other competent authority, war or national emergency.

1.4 Review of this Policy

- 1.7.1 Where there are changes that are required urgently for legal reasons, minor in nature or changes in government policy and / or legislation, these changes will be approved by the Executive Director of Communities or person with delegated authority.
- 1.7.2 Any major change required to the policy will be subject to a full public consultation and member approval.
- 1.7.3 All changes to this policy will be noted on the version control page of this document and an updated policy document will be uploaded to the Council's website: www.tamworth.gov.uk.

2.1 Mutual Exchanges for Social Tenants

If you are the tenant of a local authority or a registered provider, mutual exchange or swapping properties with other tenants gives you the best chance of moving. You can exchange your property with any other social housing landlord's tenant, anywhere in the country. The Council has developed a mutual exchange service for its tenants which runs through the [House Exchange](#).

There is no charge for Tamworth Borough Council tenants.

If you are looking to move for work or to be near to family and friends, House Exchange is a national service which means that you will be able to see homes across of the whole of the UK, not just in Tamworth. You may exchange with other social housing tenants if everybody involved in the exchange process agrees. Normally an exchange will be agreed by the Council providing:

- a. Both properties are the right size for the incoming family's needs.
- b. Neither party is having legal action taken against them for breaking their tenancy

- 2.1.1 If you are not a Tamworth Borough Council tenant, please contact your own landlord as they will have their own mutual exchange service.

2.2 Justification

2.2.1 Our existing tenants have little if any realistic opportunities to move to alternative accommodation through ‘finding a home’ unless their circumstances significantly worsen (such as poor health and higher care needs). This is because of the high demand for council homes coupled with low turnover of our stock as well as the challenges of increasing supply.

2.2.2 Existing tenants may have only low level housing needs according to our banding scheme. In other cases, they may not have even applied to join the register. Nevertheless, they may have reasons for seeking alternative accommodation including:

- Accommodation that better meets their requirements
- Perceived housing and neighbourhood issues that we objectively do not feel justifies a higher priority / banding (such as seeking a better school)
- Length of time taken to successfully use the Council’s ‘finding a home’ scheme
- Need to move to another local authority area for employment / training opportunities, to be closer to family and friends etc

2.2.3 In relation to the last point, 85% of our successful MEs nevertheless are within our local authority area, compared to a national average figure of less than 80%. However, national policy emphasises the importance of geographical mobility for existing social housing tenants.

2.2.4 Finally, as has already been pointed out, the RSH has included ME in its tenancy standard. We understand that councils and housing associations that have been inspected since the new regulatory regime was introduced in April 2024 have been required in some cases to provide details of their schemes.

3.0 Scheme Principles

Tenancies

3.1 In a ME, tenants not only swap properties but also, in principle, swap tenancies i.e. if a tenant (say, tenant x) has a different tenancy agreement from the tenant (say, tenant y) they are swapping with, then tenant x will take on the type of tenancy agreement that tenant y has, and vice-versa.

3.1.1 MEs can take place where an existing tenant has a

- Secure council tenancy,
- Fixed-term council tenancy
- Assured housing association tenancy
- Secure housing association tenancy

- Assured shorthold tenancy with a housing association.

Tenants do not have a right to a ME where they have:

- Introductory tenancy
- Starter tenancy
- Demoted tenancy.

3.1.2 Also tenants do not have a right to a ME where they have been decanted to a temporary address, unless they are able and willing to use their permanent address.

3.1.3 Section 158 of the Localism Act, 2011, created a further mechanism for ME. Customers with an assured lifetime tenancy granted before 1 April 2012, who wish to use ME with households who have a fixed term tenancy, would be entitled to another assured tenancy. Although it is a matter for the landlord to decide the type of tenancy for the household, the assumption, based on the principle above, is that it would be an assured tenancy.

4.0 *Reasons for refusing a tenancy*

4.1 Under Section 92 of the Housing Act 1985, the Council can only refuse a ME on one of the following grounds within Schedule 3:

- Court order made giving possession of the tenant dwelling to the landlord
- Notice of seeking possession has been served on either tenant or the person whom the tenant proposes to exchange with, 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 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.

4.2 Also, there are additional grounds for refusal listed in Schedule 14 of the Localism Act 2011. These are:

- When any rent lawfully due from a tenant under one of the existing tenancies has not been paid
- When an obligation under one of the existing tenancies has been broken or not performed.

5.0 *Tenant-led*

- 5.1.1 We have already highlighted that the scheme is tenant-led. Existing tenants wishing to use ME are required to use an independent online website to find another tenant that wishes to move, with both parties willing to exchange their properties (subject to the agreement of both landlords).
- 5.1.2 The Council recently re-procured the use of a website run by a company that specialises in running ME. Applicants must register with this scheme and provide information on their existing home and their requirements.
- 5.1.3 Each tenant has an obligation to be transparent in providing information on the property and neighbourhood as well as responding to requests from the other party and from landlords.
- 5.1.4 It is essential that customers considering ME are aware of the implications for right-to-buy, and rents & service charges.
- 5.1.5 For the former, if there is a ME with an assured tenant of another housing association, preserved right-to-buy is lost. If the ME is with a secure council tenant, right-to buy at the new property applies. It is also important for other party in the ME to understand the implications for right-to-buy. Please note that other right-to-buy criteria apply e.g. the property is suitable to be sold.
- 5.1.6 On rents and service charges, it is important that customers appreciate that there may be significant differences between a property with a social rent (approximately 50 per cent of market rent) and an affordable rent (up to 80 per cent of market rent). Also one of the properties in the ME may have service charges (covering, for example, the cleaning of communal areas).

6.0 *Landlord agreement*

- 6.1.1 Each landlord (assuming it is an exchange between tenants of different landlords) or a single landlord (e.g. the Council) has an approval process, which takes effect when the existing tenant has found a mutual exchange partner:
- Application form
 - Inspection of the existing property to make sure there are no issues about the condition of the property
 - Confirmation that the existing tenant does not have any debts owed to the Council or any other issues of concern
 - Requirement for the 'new' tenant to sign an agreement.
- 6.1.2 Failure to follow this process and meet these requirements will result in delays or cancellations.

- 6.1.3 The Council is required to complete these actions within 42 days subject to the tenant providing the required information.

7.0 Facilitating and promoting the scheme

7.1 Many existing tenants, nevertheless, are unaware of ME. The Council will be proactive in promoting the scheme and will work with other social housing landlords to highlight its opportunities. This will include emphasizing the landlord agreement process.

7.1.1 Although the scheme is tenant-led, the Council will monitor progress on each application.

8.0 Scheme limitations

8.1. Nationally, the number of completed MEs per year has declined significantly over the last decade (although the figures for Tamworth show less of a decline).

8.1.1 Research shows that there are several factors at play:

- Fewer existing tenants are able to find a suitable exchange property
- ME process can be time-consuming, and some potential users are over-optimistic over the speed of completion.

8.1.2 Overall, abandonment rates are significant – in some areas 50% of potential MEs per year are not completed. Factors include changing personal circumstances of the applicant, one or both parties fail to meet the landlord agreement requirements, and the lack of enthusiasm of one of the parties to proceed with the exchange.

9.0 Scheme performance

9.1 Annual monitoring of the performance of ME scheme will take place.

9.1.1 This will include an assessment of the KPI of 'achieving at least 20 successful MEs per year'.

10.0 Grounds for Refusal

The Council reserves the right to refuse Mutual Exchanges under specific grounds as detailed in Schedule 3 of the Housing Act and/or Schedule 14 of the Localism Act 2011.

11.0 Complaints, Compliments and Comments

If there are any complaints, compliments or comments about this process, applicants are encouraged to use the Council's website on [comments, compliments and complaints](#).

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