

# Mutual Exchange Policy

## Housing Services



### Introduction

Leicester City Council recognises that promoting mutual exchanges encourages tenant mobility and tenant choice, helping to create sustainable communities.

The mutual exchange is affected by an assignment under which each exchanging tenant takes over the tenancy of the other exchanging tenant. Housing Services will deal with applications promptly, fairly and efficiently and in accordance with the mutual exchange procedure.

Secure tenants have the right to exchange properties unless there are grounds for refusal.

### Who the Policy Applies to

Mutual exchanges can take place between two or more tenants who have secure tenancies. Secure tenants are also able to exchange with housing association tenants.

Introductory and demoted tenants do not have the right to exchange.

### Policy Context

The mutual exchange is an agreement between two or more parties to exchange tenancies and properties. Where they meet the criteria and there are no grounds to refuse the request, tenants have the right to exchange. Grounds for refusing a mutual exchange apply (as set out in Schedule 3, Housing Act 1985) for any of the households involved (see Appendix 1 from the Mutual Exchange Procedure).

Housing Services has 42 days to make a decision if tenants are entitled to exchange. Tenants have the right to exchange properties if the Council does not make a decision to accept or refuse the exchange within 42 days.

Where there are rent arrears, outstanding rechargeable repairs or where there are other breaches of tenancy conditions Housing Services may give provisional permission to exchange, conditional upon these breaches being remedied. Where an applicant is suffering exceptional financial hardship an exchange can be granted without a clear rent account at the Area Managers discretion. The applicant should also sign an agreement to clear any arrears following their move.

Housing Services should advise applicants that **“It is important that you are aware of the type of tenancy you are exchanging to. Some Housing Associations use different types of tenancies including fixed term. You need to be sure what the rent is, what type of tenancy it is and if you would lose your right to buy. Ask your Estate Management Officer for advice if you are not sure.”**

Housing Services will undertake an inspection of the properties (Council tenants only). This will be to identify if there have been any tenant adaptations and whether they are in a

safe and satisfactory condition. If the adaptation is not in a safe and satisfactory condition the tenant could be served a Notice of Seeking Possession for a breach in the conditions of tenancy relating the unauthorised adaptations, the exchanged will be refused.

However it is the responsibility of the incoming tenant to ensure they are satisfied with the general condition of the property. Housing Services will not be responsible for repairing, replacing or improving aspects of the property that would not be normally the Councils responsibility. See the Repairs Handbook for more details on the repair responsibilities.

The Housing (Preservation of Right to Buy) Regulations 1996 permits transferred tenants to retain their right to buy as they move from one dwelling to another within the same landlord.

## **Purpose of the Policy**

The purpose of this policy is to ensure that requests from tenants to exchange tenancies and properties are managed efficiently and effectively in line with the rights tenants have to mutually exchange.

Where Housing Services wishes to refuse a tenant's request to exchange, notice of this refusal will be provided within 42 days of the original application. The grounds for the refusal will be explained in the letter.

In order to meet the aims and principles applying to this policy, Housing Services will:

- Promote opportunities for tenant mobility
- Give general advice on the implications of taking over the tenancy agreement of another tenant. Tenants should seek independent legal advice where appropriate
- Arrange for a gas and electrical safety check to be carried out and carry out any gas related works found to be necessary.
- Ensure that tenants are aware that any repairs / improvements, which are not deemed the responsibility of the Council, will be their responsibility.
- Housing Services will carry out a property inspection prior to the exchange to identify any major issues and concerns. If major issues are identified legal action may commence leading to the refusal of the exchange.

## **Restrictions and conditions**

Tenants of Leicester City Council must complete a mutual exchange application form.

## **Leicester City Council Responsibilities**

It is the responsibility of all staff to ensure this policy is applied. Housing Services is responsible to make a decision and action the Mutual Exchange request within 42 days.

Estate Management Officers will:

- Investigation the request to mutually exchange.
- Request a property inspection is carried out by a technician.
- Action any findings by the technician including serving notice.
- Approve requests within 42 days, of tenants that have the right to exchange and complete a deed of assignment.
- Refuse requests within 42 days, of tenants who do not have the right to exchange
- Arrange a gas & electrical safety check.

Team Leaders will be responsible for overseeing the management of Estate Management Officers work and ensure any performance or training related issues are identified and dealt with.

Area Managers and Heads of Service will be responsible for ensuring:

- All relevant staff are aware of the Mutual Exchange Policy
- All relevant staff are trained on the Mutual Exchange Policy and any relevant legislation or regulatory requirements
- Customers are aware of the Mutual Exchange Policy

This Policy will be reviewed every 3 years

### **Associated Documents**

The Mutual Exchange Procedure