

## Mutual Exchange Policy

### Version control

Avoid referring to printed versions of this document. Printed versions may be out of date.

<b>Owner/responsibility for compliance</b>		Head of Housing Services	
<b>Status (draft / approved and live)</b>		Approved & Live	
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1.1	April 2014		New Policy
2.1	March 2026	Cabinet	Significantly revised and extended in line with Consumer Standard. Updated to modern formatting.

## 1 Introduction

- 1.1 This policy is to support the Council in its function as a landlord to provide effective housing management.
- 1.2 This policy outlines the Council's approach to mutual exchanges.
- 1.3 The Council recognises that mutual exchange helps tenants to meet their housing needs, move closer to work, family members and / or specific services. For many tenants, mutual exchange provides the only realistic opportunity for them to move from their current home. It also provides a quicker way of finding alternative accommodation especially for housing applicants in need of accommodation for which there is high demand.
- 1.4 In developing this policy residents' and partnering agencies' views and feedback have been considered. An Equalities Impact Assessment has been carried out.

## 2 Aims/objectives

- 2.1 The aim of this policy is to deliver the Council's mutual exchange scheme in line with government legislation and relevant guidelines, and to apply the conditions for mutual exchange fairly and consistently across the board.
- 2.2 The Council aims to do this by:
  - Informing colleagues, residents and partners on how the scheme will operate, the eligibility criteria and grounds for refusal.
  - Promoting mutual exchange as an effective housing option for meeting housing needs.
  - Improving mobility for social housing tenants.

- 2.3 This policy will help ensure effective use of the Council’s housing stock by enabling tenants to move to accommodation suitable for their needs:
- Address over-crowding and under-occupation in the Council’s existing stock.
  - Addressing the needs for adaptations and help release adapted homes.
  - Relieve pressure on the Council’s Housing Register.
  - Relieve pressure on health and care services.

### **3 Legislation**

- 3.1 The following legislation informs the Council’s provision of a mutual exchange offering:
- Housing Acts 1985, 1988, 1996, and 2004.
  - Equality Act 2010.
  - Localism Act 2011.
  - Immigration Act 2014.

### **4 Scope**

- 4.1 Swindon Borough Council tenants who are on a Secure or Fixed Term Flexible Tenancy are eligible for mutual exchange.
- 4.2 External tenants seeking to exchange with Swindon Borough Council tenants must be on lifetime tenancy (secure or assured) or Fixed Term / Flexible Tenancy.
- 4.3 Applicants can exchange with tenants of any private registered providers of social housing anywhere in the country, including:
- Other Local Authorities.
  - Arm’s Length Management Organisations (ALMO).
  - Housing Associations.
  - Housing Trust which is a charity.
- 4.4 Tenants on Introductory Tenancies will not be considered for mutual exchange until such time that they have successfully completed the probation period.

### **5 Planning Agreements**

- 5.1 Social housing properties which are subject to S106 planning agreements have restrictions on how they are let based on factors such as a local connection.
- 5.2 The Council will not withhold consent for mutual exchange if an incoming tenant lacks a local connection. This is because the Housing Act 1985 does not specify this as a reason to refuse an exchange. The Housing Act is a primary legislation and therefore overrides restrictions set out in a planning agreement.

### **6 Types of Exchange**

- 6.1 Tenants can only exchange properties with written consents from their landlords. The exchange can be carried out by transferring tenancies using either of the two methods described below.

### **Assignment**

- 6.2 This applies when exchange partners hold tenancies with similar security of tenure. They will be asked to sign a 'Deed of Assignment' which will allow the incoming tenant to take on the rights and responsibilities of the outgoing tenant, with whom they have exchanged their property. In effect, exchange partners step into each other's tenancies.

### **Surrender and Re-grant**

- 6.3 Surrender and re-grant is where tenants surrender their current tenancy and are issued a new tenancy with similar level of security of tenure as their current tenancy. This is applicable when tenants on lifetime / secure tenancies that predate 1 April 2012, who have their security of tenure protected by law, seek to exchange with tenants on flexible or fixed-term tenancies
- 6.4 For the protection to apply, the following criteria must be met:
- One must be a lifetime / secure tenancy that predates 1 April 2012 and the other must be a flexible or assured shorthold tenancy with a fixed term of at least two years.
  - Rent payable under the fixed term tenancy must be at social rent.
  - The exchange does not fall within the list of grounds in Schedule 14 of the Localism Act 2011 based on which, a landlord may refuse an application for mutual exchange.

### **Flexible tenancies**

- 6.5 Swindon Borough Council no longer issues Flexible Fixed Term Tenancies for Council housing tenants.
- 6.6 For the purpose of mutual exchange, the transfer of tenancies will be carried out as described in **paragraphs 5.2 and 5.3**. However, Swindon Borough Council tenants who are currently on a flexible fixed term tenancy will be offered a secure tenancy prior to exchange being completed provided that, there are no tenancy breaches by the tenant. The incoming tenant will then be assigned to the secure tenancy.

## **7 Information, advice and guidance**

- 7.1 This policy provides detailed information about the procedures and processes for assessing applications for mutual exchange.
- 7.2 Information about the scheme will also be made available via appropriate Swindon Borough Council communication channels including the website [here](#).
- 7.3 Tenants may also contact their Neighbourhood Housing Officers for more information and guidance.

## **8 Support for the most vulnerable tenants**

- 8.1 Mutual exchange schemes are tenant-led. Those seeking to exchange are responsible for finding their potential exchange partners, carry out checks to the property they would like to move to and make the arrangements for the actual move.

- 8.2 The Council will provide reasonable support to tenants who do not have access to the internet.
- 8.3 The Council also provide additional and reasonable support to tenants who are unable to manage independently with using any mutual exchange service the Council provides. Support will be based on individual need and on a case-by-case basis. This may include:
- Access to a computer.
  - Explaining how the mutual exchange service works.
  - Assistance to navigate the online mutual exchange service.

## **9 Financial assessments**

- 9.1 Tenants who are seeking to exchange into properties that will lead to under-occupation will be offered a financial assessment. This is to help them establish if the potential move is affordable and if there are any financial implications such as reductions in their housing benefit entitlement or the housing element of their Universal Credit. Tenants will also be informed regarding the implications of not keeping a clear rent account.
- 9.2 Mutual exchange applicants will also be required to sign a disclaimer stating that they fully understand any financial implications of exchanging into a property that will result in under-occupation.

## **10 How to find a mutual exchange partner**

- 10.1 The Council subscribes to a nationwide mutual exchange service which Council tenants may use free of charge. Tenants will be required to register on the website to advertise their property and to find potential mutual exchange partners, both locally and nationally.
- 10.2 Tenants may also use other avenues to find mutual exchange partners, such as advertise in local shops, newspapers and on social media. They may also use other mutual exchange websites which may require a fee.

### **Before applying**

- 10.3 Before applying for a mutual exchange, tenants must ensure that they are satisfied with the property they wish to move into. This includes:
- Potential changes in tenancy terms.
  - Costs and affordability.
  - Repairs, property condition and the living environment.

### **How to apply**

- 10.4 Although mutual exchanges usually involve 2-way swaps, the Council will accept applications for multiple swaps involving 3 or more parties.
- 10.5 All mutual exchange partners must complete and submit Swindon Borough Council's mutual exchange application forms separately, online via Home Swapper, or using paper copies.

- 10.6 Tenants must provide all the necessary information and documents requested on the form and by the Neighbourhood Housing teams to help assess their application.
- 10.7 All named tenants on a joint tenancy must sign the mutual exchange application form. If for any reason, this is not possible, tenants must contact the Neighbourhood Housing teams for advice.

## **11 Assessment**

- 11.1 Applications for mutual exchange will not be assessed unless all parties involved have submitted fully completed application forms separately.
- 11.2 The date for receipt of application will be counted from the day the latest fully completed application for mutual exchange has been received.
- 11.3 The assessment process will be based on the following:
- Property inspections.
  - Breaches of tenancy, if any.
  - Landlord references if an external tenant is involved.
  - Rent arrears, if any.

### **Property inspections**

- 11.4 All mutual exchanges will be subject to property inspections to ensure that the property is in a good condition for exchange.
- 11.5 During the visit the Council will:
- Notify the tenant of any items including repairs that need to be addressed before the exchange can take place.
  - Make a note of the decorative state of the property.
  - Make a list of items being gifted by the outgoing tenant to the incoming tenant.
  - Take photographs of any (outstanding) repairs, damage and unauthorised improvements.
  - Note any other breaches of tenancy present at the time of the inspection.
- 11.6 Both exchange partners will be provided with copies of the property inspection report including any lists of gifted items and works (including photos) that are of the tenants' responsibility.
- 11.7 Repairs that are the responsibility of the Council must be reported in the usual way. Repairs will be carried out within the standard timescales.
- 11.8 Repairs that are the responsibility of the tenant, will need to be carried out prior to the date of exchange, or the incoming tenant will need to agree to take the property 'as seen'.
- 11.9 Depending on the circumstances the Neighbourhood Housing team may invite the incoming tenant to attend a property inspection at the new property with them. However, the date for inspections will be agreed between the Neighbourhood Housing

team and the outgoing tenants as the Council has a statutory duty to provide a written decision within 42-days of receiving applications for mutual exchange.

11.10 In the following circumstances applications will not be considered and tenants may re-apply once essential and / or remedial work have been completed:

- Items have been identified and deemed as 'major repairs' and / or as health and safety hazards caused by tenant's misuse or neglect.
- Unauthorised improvements made to the property by the tenant which is unsafe and / or the improvements would not have been permitted by the Council.

11.11 Subject to the nature of unauthorised improvements and / or any health and safety risks, the Council may:

- require tenant(s) to make safe and / or reinstate the property to its original form; and / or.
- undertake the work and recharge the tenant; and / or
- consider serving a Notice of Seeking Possession (NoSP) for a breach of tenancy for unauthorised alterations.

11.12 If a tenant has carried out improvements with permission from the Council, they may qualify for compensation.

### **Tenancy Breaches**

11.13 As part of the assessment process, the Council will also check to see if there have been any other breaches of tenancy conditions including any notices that have been served on the tenant or any court order pending.

### **References**

11.14 Where the exchange is between a Swindon Borough Council tenant and a non- Swindon Borough Council tenant, all landlords involved will provide and request references on outgoing and incoming tenants respectively. In providing the reference, the Council will share any breaches in tenancy by the outgoing tenant including:

- any tenancy management issues.
- all complaints of ASB and tenancy breaches.
- all known criminal activity related to the property or neighbourhood.
- any known child protection issues.
- If any succession has already taken place.

## **12 Decision**

12.1 The Council is required by law to provide a written decision within 42-days of receiving completed applications for mutual exchange.

12.2 Tenants have the right to enforce a decision by applying for an injunction in the County Court, should the Council fail to provide a decision within the statutory 42-days. In this situation, the Council will no longer be able to refuse an application based on the

grounds for refusals set out in law. However, any failure to meet the statutory target by the Council must not be treated as consent to exchange.

12.3 The Council will not unreasonably withhold consent for a mutual exchange and will rely on grounds for refusals set out in Schedule 3 of the Housing Act 1985.

12.4 Written decisions from the Council will state any of the following outcomes based on the Neighbourhood Housing team's assessment.

12.5 The Assessment process will be based on the following outcomes:

- Approval.
- Approval with condition(s).
- Refusal.

#### **Approval**

12.6 An application for mutual exchange will be approved where, the applicants are compliant of all grounds for refusal and / or there are no conditions to be met.

#### **Approval with condition(s)**

12.7 Approval is subject to condition(s) that tenants must meet prior to the exchange taking place. This is applied when the tenant is in rent arrears and / or in breach of tenancy. Examples of conditions include:

- Clearing any rent arrears.
- Completing repairs that are tenants' responsibility.
- Remedying any unauthorised home improvements.
- Reinstating the property back to a reasonable standard.
- Performing an obligation of the tenancy agreement example, removal and disposal of rubbish from the garden.
- Making payments for any rechargeable repairs.

#### **Refusal**

12.8 The Council may refuse applications for mutual exchange on grounds set out in Schedule 3 of Housing Act 1985, Schedule 14 of Localism Act 2011 and Housing Act 2004 (chapter 6, part 1). The grounds focus on court proceedings, the accommodation, landlord, rent arrears and breach of tenancy agreement.

#### **Grounds for Refusals – Considerations**

12.9 The Council will establish bedroom entitlement in accordance with its Allocations Policy. A property will be considered to be substantially more extensive than is reasonably required if under-occupation occurs in a Swindon Borough Council property by more than 1-bedroom.

12.10 Where under-occupation is likely to occur, applicants will be offered financial assessment to help make an informed decision. Applicants will be required to sign declaration(s) that they fully understand any financial implications of under-occupying the new home.

- 12.11 Overcrowding will only be permitted in very specific cases linked to the lack of available larger accommodation. For example, where a tenant has been assessed as having a 4-bedroom requirement and wishes to swap to a 3-bedroom property, but where that 3-bedroom property has an additional room that can be used as a fourth bedroom.
- 12.12 The Council will consider the property has been substantially adapted as major adaptations, in line with its Aids and Adaptations Policy.

### **Discretions**

- 12.13 There may be reasonable grounds for the Council to refuse a mutual exchange application however, the Council may choose to exercise discretion in certain circumstances. The Council cannot legally refuse a mutual exchange for rent arrears unless Schedule 14 grounds apply. Rent arrears will usually be made a condition for approval.
- 12.14 This may apply, if a tenant is in rent arrears and / or are affected by changes to housing benefit / universal credit and the mutual exchange may help the tenant to reduce rental outgoings (example if they are downsizing). This will help prevent further debt and enable the tenant to begin reducing their rent arrears.

## **13 Right to review and the appeals procedures**

- 13.1 If a mutual exchange application is not approved, the tenant(s) will be advised of the decision and the grounds for refusal in writing.
- 13.2 Tenants can request a review of a decision if they find the reasons for refusal unsatisfactory. To request a review, they must write to the Lead Neighbourhood Housing Officer at [MX@swindon.gov.uk](mailto:MX@swindon.gov.uk) within 14 days of receiving their decision letter. Tenants will be advised of the outcome of the review in writing within 28 days.
- 13.3 If the refusal is upheld following the review and the tenant remains dissatisfied with the decision and its reasoning, they can write to the Neighbourhood Housing Manager at [MX@swindon.gov.uk](mailto:MX@swindon.gov.uk) for an appeal within 14 days of receiving their decision letter. Tenants will be advised of the outcome of the appeal in writing within 28 days. The outcome of the appeal will be the final decision on the application. If the tenant still feels that their application has not followed due process, they will need to follow the Council's complaints process.
- 13.4 Where an external landlord is involved and rejects the application for an exchange, it is the responsibility of their tenant to appeal the decision.

## **14 Gas Safety**

- 14.1 Under the Gas Safety (Installation and Use) Regulations 1998 (GSR), the Council has a statutory duty to ensure that any Council owned gas appliances are safe to use before the incoming tenant moves in and that, the removal of any tenant owned appliances do not create unsafe conditions. The Council will therefore undertake the following actions which primarily deals with the visual aspects of gas safety to minimise and manage

potential risks.

- 14.2 The Council will ensure that all Council properties involved in an exchange have valid gas certificates, known as Landlord Gas Safety Record (LGSR).
- 14.3 On the day of the exchange the contractor will visit the relevant properties twice to cap and reinstate any gas supply. Any tenant's own gas fire or cooking appliance present at the time of contractor cap off visit, will be disconnected from the supply bayonet removed and capped for safety. Exceptions will be made if both exchanging tenants have gas cookers compliant with current standards and have mutually agreed to leave these in the properties.
- 14.4 During the first visit in the morning the contractor will:
- Disc off the meter inlet.
  - Disconnect any gas appliances that do not belong to the Council.
  - Seal any disconnection points with an appropriate fitting.
  - Remove bayonet and cap off if there is a gas cooker.
  - Cut back pipework to prevent fire being connected if tenant has own gas fire.
- 14.5 The contractor will agree a time slot with both tenants for a second visit later on the same day to commission the gas installations at their new property. Upon the re-visit later in the day the contractor will:
- Remove the disc from meter inlet; and
  - Carry out a tightness test of the installation.
- 14.6 It is the responsibility of the incoming tenant to instruct and pay for a Gas Safe Registered engineer to connect, test and certify any gas for both new or used cooker installation (including any necessary pipework alterations); or arrange to have a qualified electrician to connect an electric cooking appliance.
- 14.7 If there is no live gas cooker point or connection present, it is the responsibility of the incoming tenant to appoint a Gas Safe Registered engineer to supply and fit any necessary pipework and appropriate fittings to facilitate the safe cooker installation and provide certificate upon completion. The tenant will be responsible for paying the costs.
- 14.8 Where a tenant has a gas appliance connected, they must provide the Council with a copy of an Installation certificate generated by a Gas Safe Registered engineer.

## **15 Electrical testing**

- 15.1 The property must have a full electrical safety inspection carried out by the Council's repairs operatives before the exchange takes place. Any Category 1 or Category 2 defects found during the inspection must also be corrected prior to the exchange.
- 15.2 Any items that are the responsibility of the council and require attention must be attended to by the repairs contractor prior to the exchange taking place and should be completed as soon as practically possible.

## **16 Responsibilities of Swindon Borough Council**

- 16.1 The Council will subscribe to an internet based mutual exchange service to help tenants find suitable properties for exchange.
- 16.2 The Council will provide written decisions within 42-days of receiving completed applications from all exchange partners.
- 16.3 The Council will ensure that the Council properties have valid gas safety certificates and for safety purposes will cap and re-instate any gas supply to a property during the exchange.
- 16.4 The Council will carry out full electrical safety inspection of Council properties.
- 16.5 The Council will carry out inspections of Council properties and list any repairs, damage and / or alterations that are the responsibility of the tenant to make good.
- 16.6 The Council will carry out repairs that are of the Council's responsibility within the standard repair timescales, when reported by tenants.
- 16.7 The Council may recharge the outgoing tenant for undertaking works that are of the tenant's responsibility. This may include works due to damage, neglect, unauthorised alterations and health and safety hazards.

## **17 Responsibilities of mutual exchange applicants**

- 17.1 Applicants should read the mutual exchange Policies and processes published by all landlords involved.
- 17.2 Ensure all exchange partners have submitted completed application forms and have signed relevant declarations.
- 17.3 Provide any additional information and clarifications requested by Neighbourhood Housing teams.
- 17.4 Allow access to Council officers and contractors to undertake necessary property inspections and safety checks.
- 17.5 Undertake financial assessment to ensure the exchange is financially sustainable and consider any potential implications of exchange in terms of changes in tenancy, cost and living conditions.
- 17.6 Potential financial implications associated with the move include:
  - Mail redirection.
  - New school uniform, if they have children.
  - Outstanding repairs that are of tenants' responsibility.
  - Decorations.
  - Replacement of fittings and fixtures installed by outgoing tenant should they wish to remove them.
  - Copy of / replacement keys.

- Garden clearance.

## **18 Property condition and repairs**

- 18.1 Tenants will be agreeing to move into properties 'as seen'. It is important that all exchange partners do the necessary inspections and checks. It is recommended that exchange partners visit each other's' properties at least twice.
- 18.2 It is up to the incoming tenant to respond to any invitation from the Neighbourhood Housing teams to attend property inspection(s) at the new property with them. The date for inspection(s) will be agreed between the Neighbourhood Housing team and the outgoing tenant.
- 18.3 Agree with their exchange partner regarding the condition they will be leaving the property in and who will be responsible for any outstanding repairs or rubbish removal.
- 18.4 Any repairs identified as the Council's responsibility should be reported in the usual way before the move. The Council will carry out the repairs in line with standard timescales for completing repairs.
- 18.5 If the current tenant has installed their own bathroom, kitchen, conservatory or other fixture or fitting, this must be discussed with the incoming tenant to ensure they are happy to take over responsibility for the maintenance of the item(s). If any guarantees exist for new installations, these will need to be assigned to the incoming tenant.
- 18.6 It is the responsibility of the outgoing tenant to ensure that the property has basic electrical fittings as was provided when the property was let to them, should they wish to remove any electrical items installed by them such as decorative light fittings, Chrome or otherwise switches and sockets and outside lights. Replacement of any electrical fittings must meet the Council's approved specifications for electrical work. Tenants should contact their Neighbourhood Housing teams for information.
- 18.7 It is the responsibility of the outgoing tenant to reinstate property into its former state if the tenant has made unauthorised alterations.

### **Gas and electrical safety**

- 18.8 Tenants must privately commission a Gas Safe engineer (can be found [here](#)) and / or a qualified electrician registered under the [Competent Person Scheme](#) for (dis)connections and reconnections of gas and electrical appliances, and provide Neighbourhood Housing teams with copies of certificates upon completion.

### **Moving home**

- 18.9 Agree and inform the Neighbourhood Housing teams of the dates for Sign-up and move-in giving them at least 7 working day notice to make necessary arrangements for Sign-up.
- 18.10 Agree a list of items that will be gifted and / or removed from the property.
- 18.11 Tenants must leave their property in good condition. All rubbish and belongings from

the property, garden and outbuildings must be removed prior to the exchange.

- 18.12 Tenants to handover the keys to incoming tenants. The Council will not provide any spare keys for the property.
- 18.13 Tenants to take pictures of meter readings on leaving and arriving at exchanged properties and contact the utility suppliers with current meter readings as soon as possible after moving.
- 18.14 Incoming tenants needing adaptations, must not set a date for exchange until the required assessment, approval and funding has been obtained first.

#### **After the move**

- 18.15 The Council will visit tenants at their new Swindon Borough Council properties 6-weeks after the move:
- To find out how tenants are settling into their new property.
  - To discuss and answer any questions re their tenancy.
  - To discuss any problems experienced by tenants such as debt, anti-social behaviour or other housing management issues.
  - To check if the property is being kept in good condition.
  - To check if they have set up accounts with gas and electricity supplier.
- 18.16 The Council will not adjudicate on any dispute between exchange partners. The Council will expect tenants to resolve any disputes amongst themselves
- 18.17 The incoming tenant will maintain any improvements / alterations made by the outgoing tenant.
- 18.18 The incoming tenant will be responsible for any outstanding repairs including clearing the garden and any rubbish removal.
- 18.19 The incoming tenant will carry out any internal decorating and re-connection of appliances at their own expense.
- 18.20 Request for any fixtures or fittings that are the responsibility of the Council, will be replaced with standard items the Council uses for its housing stock.
- 18.21 There are no restrictions on the number of times tenants can apply for mutual exchange. New tenants can also apply to be on the Housing Register and their application will be assessed in accordance with the Council's Allocations Policy. The Council's website contains information on various housing options available to residents.

## **19 Recharges**

- 19.1 The Council may recharge outgoing tenant(s), if the Council inevitably undertakes any outstanding repairs, rectifies damages and removes rubbish that would have been the responsibility of the outgoing tenant.

## **20 Succession**

- 20.1 Swindon Borough Council tenancies granted after 1st April 2012 will only grant succession rights to spouses or civil partners therefore allowing only one succession. Succession rights stay with the person and not with the tenancy. Therefore, a mutual exchange applicant who is currently a successor, will remain a successor in their new property. No new succession rights are created through mutual exchange.
- 20.2 If an external tenant has not succeeded to their tenancy, they will retain their succession rights when they move into a Swindon Borough Council property through mutual exchange. Where an external landlord is involved, the Council will request and share information on whether successions have taken place.

## **21 Safeguarding**

- 21.1 The Council is committed to safeguarding and promoting the welfare of children, young people and vulnerable adults. Child protection involves taking steps to safeguard children and young people at risk or suffering from physical, emotional or sexual abuse. Safeguarding adults involve, as explained by the Care Act 2014 as "protecting an adult's right to live in safety, free from abuse and neglect."
- 21.2 Where applicable, the Council will use relevant grounds to refuse applications for mutual exchange if there are any safeguarding concerns including any risks to residents in the area and Swindon Borough Council staff.

## **22 Unauthorised mutual exchanges and unlawful inducements**

- 22.1 Both, mutual exchanges without written permission from landlords and receiving or offering any payment or other premium as an inducement to carry out an exchange are against the law. In such circumstances the Council will take necessary actions such as requiring tenants to return to their properties and serve notice to seek possession.

## **23 Data Protection**

- 23.1 Personal information collected as part of the mutual exchange application will be used and stored in line with Swindon Borough Council's Customer Privacy Notice.

## **24 Monitoring and review**

- 24.1 This policy will be reviewed every two years or sooner if legislation or regulations change.