MUTUAL EXCHANGE POLICY

1 STATEMENT ON POLICY

1.1 The City Council recognises that the option to exchange tenancies can be of benefit in providing mobility to tenants. Mutual exchanges can take place between two or more Cambridge City Council tenants or between any other secure/fixed term or assured tenant provided written permission is obtained from all landlords and the exchange ensures the Council is making best use of its stock.

1.2 The City Council's Tenancy Agreement outlines tenants' rights to exchange by way of mutual exchange.

2 KEY ISSUES FOR POLICY IMPLEMENTATION

2.1 As laid out in the Housing Act (1985), the mutual exchange request will be refused if any of the following apply:

- There is a Possession Order on the property or legal action is being taken as per schedule 3 of the Housing Act (1985)
- The property is substantially bigger than the household needs – in this instance the Council will not allow under-occupation to take place when the property is classed as a 'high demand' property (2+ bedrooms) and is substantially bigger (1 or more bedrooms than required) than the household needs
- The property is not big enough for the household wishing to move into it and would worsen the household's living conditions
- The property is designed for people with disabilities, and if the exchange took place there would not be anyone with disabilities living there.

2.2 Exceptional applications where there is a case to override the criteria for refusal will be determined by the Tenancy Operations Manager or the Strategic Housing Management Lead.

2.3 Applicants wanting to move into a Cambridge City Council property need to be eligible for the type of property they are moving to, in accordance with the Council's Letting's Policy. Applicants requiring help in calculating their bedroom entitlement can use the Directgov online bedroom entitlement calculator at https://lha-direct.voa.gov.uk/BedRoomCalculator.aspx

2.4 The Council will have 42 days from the date the fully completed application forms from all parties have been received to consent to the exchange (section 92, Housing Act 1985). Within the 42-day timeframe the applicant will be responsible for:

- seeking permission from their housing provider to exchange (if applicable)
- clearing any rent arrears by the exchange date
- ensuring any repairs indicated within the Property Inspection Form are completed to the Council's satisfaction and any relevant certificates of works provided

Within the 42-day timeframe, the Council will be responsible for completing:

- gas or electrical safety inspections
- requesting any references from third party housing providers

The Council can only refuse a mutual exchange on the grounds set out in Schedule 3 of the Housing Act 1985 (see Appendix).

2.5 The applicant has the right to appeal a refusal within 28 days. The Council will ask for this in writing and ask the applicant to provide evidence to support the appeal.

Policy written: October 2018

Reviewed: June 2021

Next review date: June 2024

Note: Minor update to section 2.2 (November 2026) to include the Tenancy Operations Manager in approval responsibilities.

3 APPENDIX

Grounds for refusal of Mutual Exchange (Schedule 3, Housing Act 1985)

https://www.legislation.gov.uk/ukpga/1985/68/schedule/3

Listed below are the 10 grounds by which a Landlord can refuse consent to a Mutual Exchange.

Ground 1.

The tenant or the proposed assignee is obliged to give up possession of the dwelling-house of which he is the secure tenant in pursuance of an order of the court, or will be so obliged at a date specified in such an order.

Ground 2.

Proceedings have been begun for possession of the dwelling-house of which the tenant or the proposed assignee is the secure tenant on one or more of grounds 1 to 6 in part 1 of Schedule 2 (grounds on which possession may be ordered despite absence of suitable alternative accommodation), or there has been served on the tenant or the proposed assignee a notice under section 83 (Notice of Proceedings for Possession) which specifies one or more of those grounds and is still in force.

Ground 2a.

Either: a) A relevant order or suspended Ground 2 or 14 possession order is in force, or b) An application is pending before any court for a relevant order, a demotion order or a ground 2 or 14 possession order to be made, in respect of the tenant or the proposed assignee or a person who is residing with either of them. A relevant order means

• An injunction under section 152 of the Housing Act 1996 (injunctions against anti-social behaviour)

• An injunction to which the power of arrest is attached by virtue of section 153 of that Act (other injunctions against anti-social behaviour)

• An injunction under section 153A, 153B or 153D of that Act (injunctions against anti-social behaviour on application of certain social landlords)

• An anti-social behaviour order under section 1 of the Crime and Disorder Act 1998 or;

• An injunction to which a power of arrest is attached by virtue of section 91 of the AntiSocial behaviour Act 2003. A demotion order means a demotion order under section 82A of this act or section 6A of the Housing Act 1988.

A "Ground 2 or 14 Possession order" means an order for possession under Ground 2 in Schedule 2 to this Act or Ground 14 in Schedule 2 of the Housing Act 1988. Where the tenancy of the tenant or the proposed assignee is a joint tenancy, any reference to that person includes (where the context permits) a reference to any of the joint tenants.

Ground 3.

The accommodation afforded by the dwelling-house is substantially more extensive than is reasonably required by the proposed assignee.

Ground 4.

The extent of the accommodation afforded by the dwelling-house is not reasonably suitable to the needs of the proposed assignee and his/her family.

Ground 5.

The dwelling-house -
(a) forms part or is within cartilage of a building which, or so much of it as is held by the landlord, is held mainly for purposes other than housing purposes
and consists mainly of accommodation other than housing accommodation, or is situated in a cemetery, an

(b) was let to the tenant or predecessor in title of his/her in consequence of the tenant or predecessor being in the employment of -

- the landlord
- a local authority
- a new town corporation
- a housing action trust
- the Development Board for Rural Wales
- an urban development corporation, or
- the governors of an aided school.

Ground 6.

The landlord is a charity and the proposed assignee's occupation of

the dwelling-house would conflict with the objects of the charity.

Ground 7.

The dwelling-house has features which are substantially different from those of ordinary dwelling-house and which are designed to make it suitable for occupation by a physically disabled person who requires accommodation of the kind provided by the dwelling-house and if the assignment were made there would no longer be such a person residing in the dwelling-house.

Ground 8.

The landlord is a Housing Association or Housing Trust which lets dwelling-houses only for occupation (alone or with others) by persons whose circumstances (other than merely financial circumstances) make it especially difficult for them to satisfy their need for housing and if the assignment were made there would no longer be such a person residing in the dwelling-house.

Ground 9.

The dwelling-house is one of a group of dwelling-houses which it is the practice of the landlord to let for occupation by persons with special needs and a social service or special facility is provided in close proximity to the group of dwelling-houses in order to assist persons with those special needs those special needs residing in the dwelling-house.

Ground 10.

The dwelling-house is the subject of a management agreement under which the manager is a Housing Association of which at least half the members of the association, and the proposed assignee is not, and is not willing to become a member of the association.

NB Ground 10 was added by the Housing and Planning Act 1986, Schedule 5, Paragraph 7