

Mutual Exchange Policy – HO006

1. POLICY PRINCIPLES

- 1.1 bpha aims to support residents who need to move and to provide a level of choice about where they live. A mutual exchange is when two or more housing association or council tenants exchange (swap) their homes. Mutual exchanges encourage tenant mobility and support sustainable communities through making best use of housing stock.
- 1.2 This policy sets out our position in relation to allowing our tenants to exchange homes.
- 1.3 This policy applies to tenants who hold a current assured or fixed term tenancy. All other tenure types do not have the right of exchange.

2. HOW WE DELIVER THE MUTUAL EXCHANGE POLICY

- 2.1 Mutual exchanges are carried out fairly and efficiently.
- 2.2 Tenants and bpha staff have clear and accessible information on:
 - the requirements for a mutual exchange of properties
 - the grounds for refusing an exchange of properties
 - the process for requesting a review of a refusal of an exchange of properties via this document, bpha website and for staff via bpha intranet
- 2.3 Customers can find exchange partners using web based and other services.
- 2.4 We comply with the legislative requirements set out in the Localism Act 2011 (primarily S.158 and Sch. 14) and the Housing Act 1985 (primarily or S.92 and Sch. 3) and relevant provisions in the tenancy agreement.

3. POLICY STATEMENT

3.1 CONSENT FOR AN EXCHANGE

- 3.1.1 Tenants must ask their landlord for permission for an exchange.
- 3.1.2 bpha consent is required for an exchange to/from a bpha property or tenancy.
- 3.1.3 bpha will not withhold consent without good reason.
- 3.1.4 bpha may refuse the exchange where permitted by law or may withhold consent until a condition is satisfied.
- 3.1.5 bpha may take legal action to reverse an exchange if consent has not been granted from all landlords.

3.2 ELIGIBILITY

- 3.2.1 A tenant's right to a mutual exchange depends on the type of tenancy agreement.
- 3.2.2 Legislation gives secure tenants the right to exchange with secure or assured tenants of another housing association, local authority or trust. bpha usually extends this right to assured tenants and fixed term tenants in their tenancy agreements, under the same terms as secure tenants.
- 3.2.3 Certain types of tenants and residents do not have any right to an exchange, including:
 - tenants in a probationary period (including any extension periods)
 - certain types of assured shorthold tenancies
 - demoted tenancies
 - intermediate tenancies

- non-assured/contractual tenancies
- temporary (decant) tenancies
- leaseholders
- shared owners
- licensees

3.3 SUITABLE EXCHANGE PARTNERS

- 3.3.1 Tenants who are eligible to exchange can do so with another eligible bpha tenant, a tenant of another registered non-profit social housing provider, or a local authority tenant.
- 3.3.2 Eligible tenants can search for an exchange partner through the House Exchange website or House Exchange App. House Exchange provides information for tenants that want to move and offers a service allowing tenants to search immediately for housing options across the whole of the UK.
- 3.3.3 Tenants may also advertise their wish to exchange for example via a local paper, notice board or by word of mouth.

3.4 TYPES OF EXCHANGE

- 3.4.1 Mutual exchanges take place by either assignment or surrender and regrant, determined by the type of tenancy and when it was granted. Before a tenant accepts a mutual exchange, it is important that they understand what type of tenancy and rent level they will have if the exchange is successful as this may change.
- 3.4.2 **ASSIGNMENT** is the swapping of tenancies at the same time as homes are exchanged. The incoming tenant takes on all the rights and responsibilities and the tenancy agreement of the tenant they have swapped with. This is used when those exchanging homes hold tenancies with a similar security of tenure.
- 3.4.3 **SURRENDER AND REGRANT** is where tenants surrender their current tenancy and re-sign a tenancy with a similar security of tenure for their new property. This is used when the parties exchanging hold tenancies with different security and one of the parties has their security protected by law. bpha will re-grant tenancies in accordance with the bpha tenancy policy.

3.5 APPLYING FOR MUTUAL EXCHANGE

- 3.5.1 Once a tenant has found another tenant, they wish to exchange properties with they will need to complete and submit a Mutual Exchange Application Form, which is available on request from bpha.
- 3.5.2 We will consider each application and provide a written decision within 42 days of receipt, otherwise consent is deemed to be given.
- 3.5.3 During these 42 days, bpha will carry out necessary checks to ensure all parties in the mutual exchange are eligible and do not meet any of the grounds for refusal.

3.6 GROUNDS FOR REFUSING A MUTUAL EXCHANGE

- 3.6.1 We approve or refuse all mutual exchanges within 42 days of receiving a full application with supporting documents from a bpha tenant. The grounds for refusing an exchange vary according to the tenancy types of mutual exchange applicants Exchanges between lifetime tenants may be refused on grounds listed in Schedule 3 of the Housing Act, while the grounds for refusal for exchanges involving a fixed term tenant are listed in Schedule 14 of the Localism Act. For the full list of grounds for refusal please see 'Table of Grounds for Refusal' – FM-HO006-48).
- 3.6.2 For clarification, bpha have further defined the following:
- Substantially under occupation is having more than 1 spare room (grounds 3 & 7).
 - We have defined substantial adaptations as major adaptations as per our aids and adaptations policy. This means that permission will be given where there are minor adaptations such as handrails. In addition, we will also allow a mutual exchange where the current household no

longer requires them, for example if the resident they were for no longer lives at the property or the aids and adaptations were already in the property when the current resident moved in (grounds 7 & 11).

- Where a tenant has broken any terms of the tenancy including, but not limited to, non-payment of rent, other housing debt or, unsatisfactory property condition bpha may, at its absolute discretion grant conditional consent if the breach has been remedied (grounds 1& 2 of the Localism Act 2011).

3.7 REASONS FOR CONDITIONAL EXCHANGE

3.7.1 A mutual exchange can be considered for a conditional exchange for the following grounds:

- where there are minor works which the tenant can rectify quickly.
- where there are minor rent arrears where the tenant can bring the rent account up to date quickly.
- if a tenant is in a tenancy probationary period.
- where there is a notice of seeking possession in place and there are less than six weeks before it is due to expire.

3.8 REQUESTING A REVIEW OF A REFUSAL TO GRANT AN EXCHANGE OF PROPERTIES

3.8.1 If an applicant is eligible to exchange and disputes the decision that has been made regarding the outcome of their mutual exchange, they have the right to have the original decision reviewed. The applicant has 14 days to request a review from the date on the decision letter.

3.8.2 The review will be carried out by a manager who did not make the original decision and the outcome of the review will be sent in writing via email/letter.

3.8.3 The decision at review is the full and final decision.

4. ASSOCIATED LEGISLATION, NATIONAL STANDARDS AND REGULATION

- 4.1 Tenancy Standard - Regulator of Social Housing
- 4.2 Housing Act 1985 (Section 3)
- 4.3 Anti-Social Behaviour, Crime and Policing Act 2014
- 4.4 Localism Act 2011 (S158 and Schedule 14)
- 4.5 Table of Grounds for Refusal – FM-HO006-48

5. MONITORING, REVIEWS AND REPORTS / MEASURES OF SUCCESS

- 5.1 The Head of Housing Operations is responsible for monitoring the implementation of this policy.
- 5.2 This policy does not form part of any contract and we may amend it at any time.
- 5.3 This policy will be reviewed biennially through the policy review programme or more frequently if changes to legislation make it necessary.

Approved by	Senior Management Team
Date approved	December 2019
Owner	Head of Housing Operations
Review	December 2021