

Mutual Exchange Policy

| | |
|-------------------|--|
| Version: | Final |
| Lead Directorate: | Homes and Neighbourhoods |
| EIA completed: | 6 April 2023 |
| Approved by: | Customer Focus Committee 5 May 2023 |





1. Introduction – Scope & Purpose

Plymouth Community Homes (PCH) is committed to supporting tenants who need to move and to provide choice about where they live by enabling tenants to move within PCH or with another social housing provider.

This policy sets out PCH's position regarding how eligible PCH tenants can exchange homes.

What is a mutual exchange?

A mutual exchange is where 2 or more eligible tenants agree to swap homes with the permission of their landlord. Tenants find another eligible tenant to exchange with, and this can be with the same or a different social landlord.

PCH will provide access to a web based national register of potential home swaps to help tenants find a suitable match, however tenants may find an exchange partner independently.

PCH will support tenants who do not have access to the internet and provide the information they need to exchange their property and highlight the implications of undertaking such an exchange.

PCH will require participating tenants to register with this scheme as part of this policy. PCH will provide information for tenants about how to find a prospective exchange, the process we follow and the support that is available.

This policy applies to all PCH's tenants and sets out how we will assist tenants in finding a swap and our obligations to ensure all exchanges are completed promptly and in line with legislation.



2. Eligibility to Exchange

Legislation and regulatory guidance give social tenants, that is most tenants of local authorities and housing associations, the right to exchange.

Not all tenancies are eligible to take part in an exchange. Additionally, some PCH homes have specific conditions or requirements, such as age criteria or support need requirements, and tenants exchanging will need to meet the relevant conditions of the tenancy.

PCH tenancies that have a right to exchange

- Assured Non-shorthold tenants with a contractual right to exchange
- Assured Non-shorthold transferring tenants with the statutory right to exchange

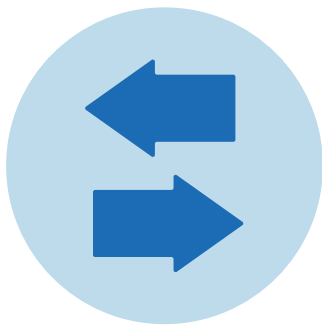
'Tenancies' or occupancies that are not eligible to exchange

- Non-eligible residents who are in 'use and occupation' of PCH home
- Temporary decant licence where the property is for a temporary short-term use
- PCH Starter Tenancy assured shorthold tenancies – these are granted to new tenants in their 12-month probationary period (including any extension periods)
- Demoted tenancies
- Family Intervention Tenancy

Eligible tenants must seek permission from their landlord PCH to exchange.

3. Types of Exchange

There are 2 ways in which an exchange can take place. These are either by assignment, (the mutual signing over of the tenancies), or surrender and regrant, (the ending of the tenancy and new tenancy being granted). The approach taken is determined by the type of tenancy when granted.



Assignment is the swapping of tenancies at the same time homes are exchanged. The incoming tenant takes on the rights and responsibilities of the existing tenancy agreement of the tenant they are swapping with.

This is used when those exchanging homes hold tenancies with a similar/same security of tenure.



Surrender and regrant is where tenants surrender their current tenancy and re-sign a tenancy with a similar security of tenure for their new home.

This is used when the parties exchanging hold tenancies with different security and one of the parties has their security protected by law; PCH will re-grant tenancies according to PCH tenancy policy

Tenants should, at an early stage in the process, must seek their own legal advice so they are aware of any loss of rights or other implications resulting from a change in the status of their tenancies due to undertaking an exchange.

It is important that exchanging tenants make their own checks for any local issues, for example incidents of anti-social behaviour, and satisfy themselves regarding the neighbourhood of the home they will be exchanging to.



4. Property Size

PCH aims to ensure the best use of the social housing stock so that homes are used to meet the right number of household members so as not create overcrowding or underoccupancy.

On receiving an application for a mutual exchange PCH will assess whether the size of the property would be suitable for the size requirements of mutual exchange applicants. This is in line with PCH's Tenancy Allocation Policy based on households needs for the size of property required.

Usually, we will only grant consent for a mutual exchange to proceed where the properties meet the bedroom needs of both households.

However, in exceptional circumstances, we will consider under-occupation of one or more bedrooms, where in the view of PCH, it would assist in improving the existing circumstances of one or more of the tenancies.

PCH will not agree the exchange if either tenant would become statutorily overcrowded as a result.

5. Affordability

PCH will require all applicants to take part in a financial Health Check. This is to help tenants ensure that their new home will be affordable. By undertaking an exchange, tenants will be accepting the existing rent of the property they are exchanging to. This could be more expensive than their existing rent.

PCH will always stress the potential risk of exchanging into an unaffordable property. As part of the mutual exchange, tenants will be required to ensure that their rent account is or continues to be 4 weeks rent in credit.





6. Repairs & Property Condition

Tenants are responsible to satisfy themselves with the condition of the property they are proposing exchanging with.

It is important that homes are in good and safe condition for an exchange to proceed. We will arrange an inspection of each applicant's property to establish if there are any matters that need resolving and will complete Health and Safety checks on PCH properties to the gas and electrical systems.

We expect all PCH applicants to ensure their tenancy and their home are 'Mutual Exchange Ready' so that the property meets our letting standards. This is set out in our mutual exchange application form and information.

Any day-to-day repairs that are required must be reported to PCH and both parties made aware of the timescale for the repairs. Following an exchange, tenants are still able to request and report repairs in line with their tenancy agreement.

For 'incoming tenants' that are not PCH tenants, we will seek a current landlord's reference to ensure that the exchange can proceed.

To help make the best use of social housing stock, where properties have existing significant adaptations to meet physical disability needs, we will require that the incoming tenant or their household meet the criteria for this home and the adaptations that are already present. PCH will assess each mutual exchange request on an individual basis. This will ensure that the limited supply of homes that already meet the requirements of physically disabled households are secured to continue to meet these needs. This should not prevent a household seeking to exchange moving from a home that has adaptations.

Exchanging tenants should be aware and adhere to the PCH Pets Policy as it applies to the proposed exchange property.

7. Consent to exchange & grounds for refusal

Consent to an exchange request will be granted after 42 calendar days, except where there are issues with the application, or with one of the tenancies. This is set in the law relating to mutual exchanges; however, consent can be conditional, or could be refused.



Conditional consent

This is where a condition of the tenancy hasn't been met and needs to be resolved so that the exchange can go ahead. This may include for example, ensuring that the home is in good condition or that there are no rent arrears.

This could mean:

- Bringing the property back to the PCH letting standard or the incoming resident confirms they will undertake any such work with no cost to PCH.
- A realistic arrangement to repay any rent or service charges owed in a timely manner.



Refusal of consent

There are grounds set out in legislation where consent can be refused. For example, this includes where the property is too big or too small, or where there is a court order in place. The grounds for refusal are set out in Appendix 1 to this policy.



Mutual exchange refusal due to S106 planning conditions

Some properties have restrictions placed on them as to who can live there.

The restrictions are decided by the local authority where the home is located as part of the original planning application and often include having a local connection to the area where the home is located.

These form part the planning agreement that is known as a section 106 agreement under the Town and Country Planning Act 1990. One of the purposes of this agreement is to ensure that the homes go to local people most in need of affordable housing.

Where there is a s106 agreement in place it is likely that an exchange request will be refused if the requirements of the agreement cannot be met.



Appeal of a mutual exchange decision

If you wish to appeal any decision relating to your mutual exchange you should put this in writing, e-mail, or letter, setting out the why you want to appeal the decision, this must be done within 14 days of the decision.

The appeal request will be reviewed by an officer who has not been involved in the original decision. We aim to give an outcome of the review within in 10 working days.

8. Legislation

PCH comply with all relevant legislation and regulations.

9. Data Protection

Information regarding our tenants is sensitive and PCH will maintain confidentiality in line with our data protection policies. However, for the exchange to take place, we are required to share information about the applicant's tenancy history with the exchange partner's landlord or staff.

In applying this policy, all members of staff must comply with PCH's Data Protection Policy and ensure that the personal information supplied by customers is always protected.

10. Equality, Diversity, & Inclusion

PCH will apply this policy consistently and fairly and will not discriminate against anyone based on any relevant characteristics, including those set out in the Equalities Act 2010.

PCH will make this policy available in other languages and formats on request.

PCH will carry out an equality impact assessment on this policy, in line with our corporate procedure.

11. Monitoring & Review

We will monitor this policy to ensure it meets good practice and current legislation and will review it in accordance with our review timetable for all policies.



Appendix 1 - Grounds for refusal of a mutual exchange

| Schedule 3 of the Housing Act 1985 | Schedule 14 of the Localism Act 2011 | Grounds for refusing consent to exchange |
|------------------------------------|--------------------------------------|---|
| - | Ground 1 | When any rent lawfully due from a tenant under one of the existing tenancies has not been paid. |
| - | Ground 2 | When an obligation under one of the existing tenancies has been broken or not performed. |
| Ground 1 | Ground 3 | A court order for possession or a suspended possession order has been made for either property. |
| Ground 2 | Ground 4 & 5 | The landlord has served a notice of seeking possession and the notice is still in force, or possession proceedings have commenced. |
| Ground 3 | Ground 7 | The property is substantially larger than is reasonably needed by the proposed assignee. |
| Ground 4 | Ground 8 | The property is not reasonably suitable to the needs of the proposed assignee and their household. |
| Ground 5 | Ground 9 | The property is part of or close to a building that is held for non-housing purposes, or it is situated in a cemetery and was let in connection with employment with the landlord or with a local authority, a new town corporation, housing action trust, an urban development corporation, or the governors of a grant-aided school. |
| Ground 6 | Ground 10 | The landlord is a charity and the proposed assignee's occupation of the property would conflict with the objects of the charity. |
| Ground 7 | Ground 11 | The property has been substantially adapted for occupation by a physically disabled person, and if the assignment went ahead a physically disabled person would not be living there. |
| Ground 8 | Ground 12 | The landlord lets properties to people in difficult circumstances (other than merely financial circumstances) and the proposed assignee would not fulfil this criteria. |
| Ground 9 | Ground 13 | The property is let to people with special needs and there is a social service or special facility nearby to the properties to assist people with those special needs, and if the assignment were made there would no longer be a person with those special needs residing in the dwelling-house. |
| Ground 10 | Ground 14 | 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 are tenants of dwelling-houses subject to the agreement, at least half the tenants of the dwelling-houses are members of the association and the proposed assignee is not, and is not willing to become, a member of the association. |



Plumer House, Tailyour Road, Crownhill, Plymouth PL6 5DH
info@plymouthcommunityhomes.co.uk | www.plymouthcommunityhomes.co.uk

CARE. RESPECT. LISTEN. DO THE RIGHT THING.