

# Co-op Homes Mutual Exchange Policy & Procedure Updated September 2022



## Policy details

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The procedure to process mutual exchange applications has been updated to reflect current operational practice, changes in staff structure as well as any other relevant external changes since the last review. All references to Housing Law(s) should be checked for accuracy at the time the Policy is referred to. The principle of the Policy is largely unchanged.

## 1. Policy Aims

Most tenants\* have a legal right to request permission to carry out a Mutual Exchange with other tenants in England and Wales who hold a Secure, Assured and in certain circumstances, Contractual Tenancies. For most tenants this will be their best opportunity to move to a home of their choice. All tenants must seek their landlord's prior permission to carry out mutual exchange. There are only a few circumstances when permission will not be granted.

Mutual exchange or "home swap" describes the ability for 2 or more customers in social housing to move house by swapping homes because its often the easiest and quickest way to move. Co-op Homes therefore actively encourages its customers to seek mutual exchange as an effective way of increasing tenant mobility and choice. We will, therefore, actively assist residents to move home by permitting mutual exchange with another tenant of a social housing provider.

Co-op Homes subscribes to Homeswapper (<https://www.homeswapper.co.uk>) and gives its tenants as well as members of its client co-ops free access. This helps prove its commitment to increasing customers' opportunities to move to a larger or smaller home in the area of their choice when the time comes.

\* Co-op Homes' tenants holding a starter, probationary, introductory or other form of assured short-hold tenancy do not have the right to mutual exchange.

## 2. Objective

The objective of the mutual exchange policy and procedure is to

- To clarify who is eligible to request permission for a mutual exchange.
- To clarify the grounds for refusing or imposing conditions on permission.
- To clarify that the timescale for notice of a decision will be given within 42 days of the original application and if this not met then consent is deemed to have been given.
- To address the effects of the Welfare Reform Bill and improve the chances of those affected by the "Bedroom Tax".

### 3.Procedure

The procedure starts when a request to exchange is received from one of our tenants in writing, by letter, email or on a mutual exchange request form. If the initial request is received from a tenant of another landlord the Housing Officer will contact our tenant to get confirmation that they wish to exchange.

The other landlord should be contacted where the exchange partner is not a tenant of Co-op Homes. This will enable them to commence their own investigations and ensure that notice of the decision will be given with 42 days.

Tenancy, household and property details should be checked on Omniledger as well as on the tenants' files to ascertain the sizes of both properties where they are both CHS tenants and to check that there is no more than a one bedroom discrepancy that would create an overcrowding/under occupancy situation. Note that CHS reserves the right to refuse an incoming household if it would immediately create an overcrowded dwelling. This checking will also help identify any other discrepancies, breaches of tenancy, or other potential reasons for refusal.

The Housing Officer will also check the current rent ledger to ensure there are no rent arrears on the account.

Co-op Homes will only agree to mutually exchange tenants in arrears if the application is as a direct result of the Welfare Reform Bill (vis Bedroom Tax), and subject to

- The tenant in arrears is under occupying their current property and wish to downsize
- They are in receipt of housing benefit/universal credit
- They agree to re-pay any current arrears by means of a former tenant arrears agreement.

An appointment will be made to visit our customer and to discuss the request as well as any issues that arose during the records check. A letter should be sent confirming the purpose of the proposed visit, what will be checked, what their rights are regarding the exchange and the timescales for making a decision on the exchange.

At the home visit, the Housing Officer will complete a pre-void Inspection form to ensure that any property defects or alterations are put on record before the new tenant moves in and that the property is safe to live in. The Housing Officer will also make sure that any alterations have had our approval and, where appropriate, planning and building consent. If there is any doubt, we have the right to arrange for a surveyor to inspect and report on the alteration prior to any approval being given.

Where the property has been adapted for a disabled resident the exchange will not be permitted unless the incoming applicant has a need for a similarly adapted property.

When assessing mutual exchange applications, apply the grounds set out in Schedule 3, Housing Act 1985 as if they applied to Assured Tenancies.

After the visit, we will write to the tenant confirming / informing them:

- What repairs are the tenants' responsibility and will need to be carried out prior to the exchange.
- What tenancy conditions (if any) need to be met, e.g. clear rent arrears

- Where known, the date the tenants would like the exchange to take place
- The household members who will be moving with them
- That the exchange cannot take place until the consent of both landlords has been given.

If the exchange is to be refused, the case should be referred to the Head of Housing with reasons for refusal. If the refusal is upheld, the tenant should be written to outlining the grounds for refusal and any condition (if any) that will need to be met before approval can be given.

The other landlord needs to be informed of the decision, setting out details of our tenant and our decision (subject to a report on their tenant if it has not been received) including, if appropriate, reasons for refusal. The grounds for refusal will be the same as those set out in the Housing Act 1985. It should also be made clear that any incoming tenant who had preserved status with the Right to Buy scheme in their previous property will **not** be eligible for the Right To Buy in their Co-op Homes property. However, changes in the law as they apply to Co-op Homes and created by the 2016 Housing and Planning Bill will also need to be taken into account.

When consent has been granted by both landlords, the Housing Officer will write to our tenant confirming:

- that the exchange has been approved
- the date the exchange takes place
- the type of tenancy they will have including any rights or benefits
- the rent for the new property
- the appointment for both tenants to sign the Deed of Assignment (DOA). The DOA should be signed on the day the exchange takes place.

**Note that it is important that a new Tenancy Agreement is not signed**

Before the exchange takes place, the Housing Officer should arrange appointments for electrical and gas safety checks to take place within 14 days of the date of exchange.

When the tenants come in to sign the DOA check or seek confirmation from the outgoing tenant that the property has been left clean and tidy and all conditions including the clearance of any arrears have been met. Clarify and confirm with the incoming tenant that no repairs works will be carried out in the property **for a period of one year**, save for any essential health and safety elements.

The incoming tenant should be provided with a specimen copy of the tenancy agreement where the terms and conditions are clarified. The Housing Officer should ensure that they have made arrangements to pay the rent in advance or have provided necessary documentation to enable any HB application to be processed. Confirm that they will be contacted within 14 days for access to carry out electrical and gas safety checks.

Make the tenant(s) aware that once the deed is signed, the assignment is considered to be complete and that if they fail to move we may take possession action against them. After the DOA has been signed by both parties and there is confirmation that the exchange has happened, the Housing Officer should end the tenancy of the outgoing tenant and set up a new account and file for the incoming tenant on Omni Ledger.

#### 4. Further information

- Tenants whose application for mutual exchange is turned down may appeal the decision through Co-op Homes' Complaints Policy & Procedure. This should be put in writing to the Head of Housing within 5 days of the refusal. They will give a final response to the appeal within 10 working days. Customers have the right to further escalate their appeal to a designated person or the Housing Ombudsman.
- If tenants exchange without permission the exchange is not legal and may lead to legal action being taken to terminate the tenancy. However, in exceptional circumstances, a decision can be made retrospectively by the Head of Housing if it is determined that consent *would* have been given had permission been sought in the proper way
- If consent would not have been given action shall be taken for the tenants to return to their original properties, serving NTQs as appropriate.
- If one tenant refuses to move after the deed of assignment has been signed action should be taken in the first instance to try and resolve the matter amicably. If they refuse to move and the other tenant still wishes to pursue the exchange, possession action must be commenced immediately. Speed is important as the other tenant may have already arranged schools or removal companies.
- If the tenant is a successor in their present property the tenant coming in will not have succession rights as no new tenancy will have been created and mutually exchanged tenants simply "step into each other's shoes". The right of succession goes with the property, not the tenant, so an existing successor will not be entitled to further succession after the exchange.
- A tenant who had preserved status with the Right to Buy scheme in their previous property will not be eligible for Right To Buy in their Co-op Homes' property - however this should be checked against any current housing law in place at the time.
- Tenants are allowed to exchange with tenants of other RSL's and local authorities. Seek guidance and advise the tenant to check their own rights with a specialist agency such as the CAB or Shelter before considering an exchange with an organisation other than a local authority or social housing provider.