



Sussex Housing & Care

Mutual Exchange: Policy

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Cross references:	<ul style="list-style-type: none"> • Mutual exchange: Procedure • Allocations and Letting Policy for Rented Accommodation (approved March 2016) • Ending a tenancy: Policy and Procedure

Change control details:

Record any changes to this document in the table below to provide a documentation audit trail.

Date	Version	Reason for changes

Key legislation and related – can be found at <http://www.legislation.gov.uk/> Including: Schedule 3 Section 92 Housing Act 1985

Regulatory framework

[Housing and Community Agency \(HCA\) Regulatory Standards - Tenancy](#)

Good practice

Chartered Institute of Housing guidance:

<http://www.cih.org/resources/PDF/Policy%20free%20download%20pdfs/How%20to%20promote%20mobility%20among%20existing%20tenants.pdf>

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Mutual Exchange: Policy

1. Introduction

- 1.1 Sussex Housing & Care (SHC) is a Registered Provider of social housing as defined by Homes England (formerly the HCA). SHC was established in 1946 to provide housing for older people in Sussex.
- 1.2 The mission statement of SHC is *'to help people live their later lives to the full'*. It aims to keep its promises regarding standards of service and our Values include to *'treat everyone with fairness, dignity, kindness and respect'*.
- 1.3 This policy outlines how SHC will meet the requirements of its objectives and its regulator in this area. SHC aims to ensure that all of its homes are occupied, in order to maximise income for the benefit of future improvements to our services.
- 1.4 This policy covers SHC tenants who live in sheltered housing.

2. What is a mutual exchange?

- 2.1 A mutual exchange is where a tenant of SHC swaps home with a tenant of another registered provider, including local authorities, or with another SHC tenant.

3. SHC priorities

- 3.1 SHC has 5 key priorities in relation to mutual exchanges:
 - Communicating fully with the applicant and abiding by the statutory timescale of 42 days.
 - Make applicants fully aware of their legal responsibilities
 - Giving applicants a decision at the earliest point
 - Ensuring all repairs and legal liabilities are carried out
 - Ensuring the correct documents are completed accurately e.g. Deed of Assignment and Licence to Assign.

4. The mutual exchange process

- 4.1 Our **Mutual Exchange Procedure** explains the stages of the exchange process and includes the forms which are used, such as the Landlord Report Form. It also sets out the legislation regarding when landlords such as SHC can refuse consent to a mutual exchange.

The right to exchange

- 4.2 SHC grants assured tenancies to those living in their sheltered housing. Their tenancy agreements give tenants the Right to Exchange (as set out below):

37. Right to exchange

You have a right to exchange your Tenancy by way of assignment with that of another assured periodic or secure tenant of a Registered Social Landlord or a local authority subject to our prior written consent, which shall only be withheld on specified grounds.

Grounds for refusal

- 4.3 SHC is able to refuse to give consent to a mutual exchange under certain legal grounds (from the 1985 Housing Act and 2011 Localism Act) which are set out in Appendix 2 of the **Mutual Exchange Procedure**. These include if there is a Possession Order against the property or if the property has been adapted for a person with physical disabilities and no such person would now occupy that property.

Types of mutual exchange

- 4.4 Mutual exchanges are carried out in one of two ways:
- Through **assignment** or
 - Through **surrender and regrant** of tenancies.
- 4.5 **Assignment** is the swapping of tenancies at the same time as homes are exchanged. The incoming tenant will take on the rights and responsibilities of the tenant they have swapped with. This is used when those exchanging homes hold tenancies with a **similar security of tenure, either secure or assured**.
- 4.6 **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. This was introduced by the Localism Act 2011 to allow existing secure or assured tenants (i.e. those granted before April 2012) to be granted a new secure or assured tenancy if they exchange with a tenant who has a fixed term social tenancy. This means they will keep their existing level of security. This protection does not apply if an existing secure or assured tenant exchanges with a tenant who has a fixed term affordable tenancy. The landlord may choose to offer a secure or assured tenancy - but this is up to the landlord.
- 4.7 The **Mutual Exchange Procedure** includes a guide to how different types of tenancies may change when a mutual exchange takes place.

5. How SHC supports the use of mutual exchanges

- 5.1 It is the responsibility of the SHC tenant to identify another tenant they want to exchange homes with. Ways they might do this include:
- Searching websites such as [Exchange Locata](#)
 - Local advertising
 - Placing their details on the local authority exchange register.
- 5.2 SHC staff should give advice about where mutual exchanges are advertised and offer support with accessing relevant websites, particularly for tenants who do not have access to the internet.
- 5.3 The tenants must organise viewing each other's properties between themselves and make sure they are happy with the property they're exchanging into.
- 5.4 Vulnerable tenants may be more open to being taken advantage of when mutually exchanging. For example being offered cash to exchange, bullied by the other person into exchanging or accepting a property that isn't suitable for their needs. Staff should try to prevent this from happening and should communicate any concerns they have to the appropriate authorities and the other landlord involved in the exchange.

6. Equality and diversity

- 6.1 SHC's **Equality and Diversity Policy** states its commitment that:

'SHC takes positive and effective action to provide access to our housing for people who may feel disadvantaged because of their age, disability, race, religion or belief, gender, sexual orientation, gender re-assignment, marriage or civil partnership.'

- 6.2 An Equalities Impact Assessment has been carried out to assess the impact of this policy and procedure.