



**Melton  
Borough  
Council**

# Mutual Exchange Policy

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## 1. Policy Principles

- 1.1 Melton Borough Council 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 council or housing association tenants exchange (swap) their homes. Mutual exchanges encourage tenant mobility and supports 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 secure tenancy. All other tenure types do not have the right of exchange.

## 2. Summary

- 2.1 Mutual exchanges are carried out fairly and efficiently.
- 2.2 Tenants and Melton Borough Council staff have clear and accessible information on:
  - the requirements for a mutual exchange of properties,
  - the grounds for refusing an exchange of properties, and
  - the process for requesting a review of a refusal of an exchange of properties via this document.
- 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 Details

### **Consent for a Mutual Exchange**

- 3.1 Tenants must ask their landlord for permission for an exchange.
- 3.2 Melton Borough Council's consent is required for an exchange to/from a Melton Borough Council property or tenancy.
- 3.3 Melton Borough Council will not withhold consent without good reason.
- 3.4 Melton Borough Council may refuse the exchange were permitted by law or may withhold consent until a condition is satisfied.

- 3.5 Melton Borough Council may take legal action to reverse an exchange if consent has not been granted from all landlords.

### **Eligibility**

- 3.6 A tenant's right to a mutual exchange depends on the type of tenancy agreement.
- 3.7 Legislation gives secure tenants the right to exchange with secure or assured tenants of another housing association, local authority or trust.
- 3.8 Certain types of tenants and residents do not have any right to an exchange, including:
- tenants in an introductory period (including any extension periods),
  - certain types of assured shorthold tenancies,
  - demoted tenancies,
  - intermediate tenancies,
  - Non-secure tenancies,
  - Non assured / contractual tenancies,
  - Temporary (decant) tenancies,
  - Leaseholders,
  - Shared Owners, and
  - Licensees.

### **Suitable Exchange Partners**

- 3.9 Tenants who are eligible to exchange can do so with another eligible Melton Borough Council tenant, a tenant of another registered non-profit social housing provider, or a local authority tenant.
- 3.10 Eligible tenants can search for an exchange partner through the Home Swapper website or via other suitable website searches. Home Swapper 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. Information on this can be found on the Council's website ([Mutual exchange \(melton.gov.uk\)](https://www.milton.gov.uk/mutual-exchange)).
- 3.11 Tenants may also advertise their wish to exchange for example via a local paper, notice board, by word of mouth or via social media.

### **Types of Mutual Exchange**

- 3.12 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. They should also check what rights (e.g., Right to Buy) they might lose.

- 3.13 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.
- 3.14 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. Melton Borough Council will regrant tenancies in accordance with the Melton Borough Council Mutual Exchange right to exchange table in the Mutual Exchange Procedure.

### **Applying for a Mutual Exchange**

- 3.15 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 Melton Borough Council.
- 3.16 We will consider each application and provide a written decision within 42 days of receipt, otherwise consent is deemed to be given.
- 3.17 During these 42 days, Melton Borough Council 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.

### **Grounds for Refusing a Mutual Exchange**

- 3.18 We approve or refuse all mutual exchanges within 42 days of receiving a full application with supporting documents from a Melton Borough Council tenant. The grounds for refusing an exchange vary according to the tenancy types of mutual exchange applicants.
- 3.19 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' in appendix one.
- 3.20 For clarification, Melton Borough Council 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 Adaptions 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 installed 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 the tenant has broken any terms of the tenancy including, but not limited to, non-payment of rent, or other housing debt or, unsatisfaction property conditions. Melton Borough Council may at its discretion grant conditional consent if the breach has been remedied (grounds 1 & 2 of the Localism Act 2011).

### **Reasons for a Conditional Mutual Exchange**

3.21 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.
- where there is a notice of seeking possession in place and there are less than six weeks before it is due to expire.

### **Requesting a review of a refusal to grant an exchange**

3.22 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.

3.23 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.

3.24 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.

4.6 Melton Borough Council Mutual Exchange right to exchange table.

## 5. Monitoring, Evaluation and Review

- 5.1 The Assistant Director of Housing Management is responsible for monitoring the implementation of this policy.
- 5.2 Monthly audits will be completed to monitor compliance, and regular checks will be completed by our auditor
- 5.3 This policy will be reviewed every three years. In addition, it will be reviewed:
  - Following information/ suggestions that the policy is not effective.
  - To reflect any service enhancements; and/ or,
  - Following the introduction of any relevant new legislation, regulations or guidelines.



## Appendix One - Mutual Exchange Table of Grounds for Refusal

Schedule 3 of the Housing Act 1985	Schedule 14 of the Localism Act 2011	Grounds for refusing consent to the 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	Grounds 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 these 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 was to go ahead no person with those special needs would be living there.
Ground 10	Ground 14	The dwelling is the subject of a management agreement where the manager is a housing association of which at least half the members are tenants subject to the agreement and at least half of the tenants of the dwellings are members of the association, and also that the proposed assignee is not such a member nor is willing to become one.
Additional Ground (Housing Act 2004)	Ground 6	An injunction order under section 153 of the Housing Act 1996 or an anti-social behaviour order or a Demotion Order or a possession order under Ground 2 for secure tenancies or Ground 14 for assured tenancies is in force or an application for one of those is pending either against the tenant, the proposed assignee or a person who resides with either of them.

