

SUBJECT: REVIEW OF MUTUAL EXCHANGE POLICY

DIRECTORATE: HOUSING AND REGENERATION

REPORT AUTHOR: KAREN TALBOT – ASSISTANT DIRECTOR OF HOUSING

1. Purpose of Report

- 1.1 To provide Policy Scrutiny Committee with information relating to mutual exchange applications since the introduction of the Council's Mutual Exchange Policy in July 2015.
- 1.2 To discuss possible amendments for referral to Executive, to include;
 - Addition of a clarifying comment that grounds for refusal because a property is "substantially larger" than they need (Ground 3) means that an incoming tenant would have more than one additional bedroom
 - Addition of a comment that if the mutual exchange could potentially mean that incoming tenants may be subject to a reduction in housing benefit because of under occupation by one bedroom, Housing Officers will make this clear at the point of application, although it cannot be grounds for refusal.

2. Executive Summary

- 2.1 The Council's Mutual Exchange Policy was approved by Executive on 26 October 2015 (included as Appendix A)
- 2.2 Whilst section 3 of the policy outlines the legal framework which determines who can exchange (secure tenants with our consent) and the grounds within which the landlord can refuse a mutual exchange, section 4 allowed some discretion around rent arrears. This was for those tenants who had been adversely affected by spare room subsidy and for whom an exchange would provide a more affordable option and for all tenants arrears who had maintained a repayment schedule reducing their arrears to an amount less than four weeks net rent.
- 2.3 Policy Scrutiny Committee have asked for information surrounding the implementation of the policy to enable further discussion at their meeting on 20 June 2017.

3. Grounds for refusal of a mutual exchange request

- 3.1 Secure tenants have a legal right to exchange their home with other social housing tenants with the consent of their landlord. Grounds for withholding this consent are prescribed in law within schedule 3 of the Housing Act 1985 (and its subsequent amendments).
- 3.2 These grounds are as follows:

Ground 1 – the tenant or proposed assignee is subject to an order of the court for the possession of their home.

Ground 2 (and 2ZA) – Proceedings for possession have begun but an order has not yet been granted.

Ground 2A – an order for anti-social behaviour, such as an injunction or demotion order has been applied for or is in force.

Ground 2B – the property is subject to a closure notice or order.

Ground 3 – the property is substantially larger than they need.

Ground 4 – the property isn't large enough to accommodate the household.

Ground 5 refers specifically to excluding properties that were let as part of someone's employment or are part of a larger building that is used predominantly for none housing purposes.

Ground 6 applies restrictions to tenants wanting to exchange with tenants of properties owned by a charity.

Ground 7 – the property has been substantially adapted to meet the needs of an occupant who has physical disabilities and these adaptations would not be required by the proposed incoming tenant.

Ground 8 refers to housing associations and housing trusts only.

Ground 9 - the property is part of a group of properties let to people with specific needs, ie our sheltered housing stock, and for which the proposed incoming tenant does not have these needs.

Ground 10 refers specifically to housing associations only.

4. Mutual Exchange applications received in in 2016/17

4.1 Throughout the last financial year we received 119 applications for a mutual exchange. 29 of these with later withdrawn by one or both parties. 11 are currently being processed.

4.2 Of the remaining 79 applications, 12 were refused;

- 1 was refused because one of the applicants was an Introductory tenant and therefore did not have the right to exchange
- 2 refused under Ground 1 because they were in rent arrears for which the court had granted orders
- 4 refused under Ground 2 because Notice of Intention to Seek Possession had been served.
- 2 refused under Ground 3 because the property they would be going into was substantially larger than they needed
- 2 refused under Ground 4 because the property they would be going into was too small for their housing need
- 1 refused under Ground 7 because the property had adaptations that were

not required by the proposed incoming tenant

5. Strategic Priorities

5.1 Let's deliver quality housing

- 5.1.1 Promotion of mutual exchange as a housing option can provide a quicker solution to a household to address their housing need or enable them to move to another location if they are already adequately housed.
- 5.1.2 Grounds for refusal of a mutual exchange are in place to enable the Council to manage these moves, enabling best use of the Council's housing stock.

6. Organisational Impacts

- 6.1 Finance - none
- 6.2 Legal Implications - the policy and procedures ensure correct application of the grounds to withhold consent for a mutual exchange.
- 6.5 Equality, Diversity & Human Rights – effective management of the Council's housing stock ensures that the most vulnerable and those in housing need are prioritised for housing.

7. Risk Implications -not applicable

8. Recommendation

- 8.1 To discuss the effectiveness of the Mutual Exchange Policy and consider minor amendments which will be referred to Executive for approval, to include;
 - Addition of a clarifying comment that grounds for refusal because a property is "substantially larger" than they need (Ground 3) means that an incoming tenant would have more than one additional bedroom.
 - Addition of a comment that if the mutual exchange could potentially mean that incoming tenants may be subject to a reduction in housing benefit because of under occupation by one bedroom, Housing Officers will make this clear at the point of application, although it cannot be grounds for refusal.

Is this a key decision? No

Do the exempt information categories apply? No

Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply? No

How many appendices does the report contain?

one

List of Background Papers:

None

Lead Officer:

Karen Talbot, Assistant Director of Housing
Telephone (01522) 873734