

# MUTUAL EXCHANGE POLICY

## 1. INTRODUCTION

This policy sets out ISHA's approach to dealing with requests from tenants who wish to do a mutual exchange. A mutual exchange is where a tenant swaps their home with another tenant who has a tenancy with a local authority or housing association. At ISHA, we are keen to promote mutual exchanges as a means of tenant mobility. In the current climate, where housing demand far outweighs housing supply, this is often a very successful method for tenants who wish to move home.

## 2. AIMS

This policy aims to ensure that tenants have easy access to apply for a mutual exchange and are given advice on the process for successfully registering, applying and completing a mutual exchange. We also aim to support customers during this process, where required

## 3. DETAILS

### 3.1 Who can apply for mutual exchange

Secure and assured tenants have the right to exchange their tenancy with a secure or assured or flexible tenant from another housing association or local authority.

ISHA assured shorthold tenants and market rent tenants DO NOT have the right to exchange their tenancy.

A mutual exchange can be granted where there are more than two tenants who wish to exchange. Therefore, an exchange can be approved for three, four or more parties who wish to exchange.

### 3.2 Landlord's consent for a mutual exchange

The consent of all landlords involved in a mutual exchange is required. The landlord cannot refuse consent unless specific criteria apply. Section 158 of the Localism Act 2011, Schedule 3 of the Housing Act 1985 and Ground 6 of the Housing Act 2004 set out the grounds under which a landlord can refuse a mutual exchange. The following table summarises what grounds apply under these Acts.

<b>Housing Act 1985 Schedule 3</b>	<b>Localism Act 2011 Schedule 14</b>	
	Ground 1	Any rent lawfully due from a tenant under one of the existing tenancies has not been paid.
	Ground 2	An obligation under one of the existing tenancies has been broken or not performed.
Ground 1	Ground 3	Any of the relevant tenants is subject to an order of the court for possession of the dwelling-house let on that tenant's existing tenancy i.e. a possession order or suspended possession order has been granted.
Ground 2	Ground 4 & 5	A court order or a suspended possession order has been served and is still in force or possession proceedings have commenced.
Ground 3	Ground 7	The property is substantially larger than is reasonably required by the mutual exchange applicant.
Ground 4	Ground 8	The property is not suitable for the needs of the mutual exchange applicant e.g. accommodation designed for the elderly where the applicant is below the minimum age.
Ground 5	Ground 9	The property is adjacent to a building which is intended for non-housing use e.g. a school caretaker's flat, or a property in a cemetery which was let in connection to employment with the landlord or authority.
Ground 6	Ground 10	The landlord is a charity, and the applicant would conflict with the objects of the charity.
Ground 7	Ground 11	The property has been adapted for a physically disabled person and if the exchange 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 applicant would not fulfil this criterion.
Ground 9	Ground 13	The property is let to people with special needs and there is a social service or special facility nearby the property to assist people with those special needs and if the exchange went ahead no person with these special needs would be living in the property.
Ground 10	Ground 14	The property is subject to a management agreement where the manager is a housing association, and members are tenants who are subject to this agreement and the applicant is not a member and does not intend to become one.

<b>Housing Act 2024</b>	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 applicant or a member of their household.
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Where a mutual exchange is to be refused, a decision must be made within 42 days. If we fail to decide within this timescale, then we cannot rely on one of the aforementioned grounds for withholding consent.

### 3.3 Overcrowding & under-occupation

ISHA will only withhold consent for a mutual exchange on the grounds of under-occupation if the incoming tenant would be under-occupying by more than one bedroom in line with ISHA's allocation policy.

Where the incoming tenant would be overcrowded, ISHA will only give consent where the overcrowding does not exceed one bedroom in line with ISHA's allocation policy. In these circumstances, ISHA will require a written undertaking from the incoming tenant that they will not apply or be granted a transfer on the grounds of overcrowding unless they have had a change in their circumstances that would qualify them for a transfer under ISHA's allocation policy. In these circumstances, any transfer will be to a property of the same bedroom size as that which they currently occupy.

### 3.4 Under-occupation incentives

ISHA tenants applying for a mutual exchange to a smaller property will be entitled to a payment of an under-occupation incentive available at the time of the exchange, subject to meeting the criteria for the payment.

### 3.5 Mutual exchanging with rent arrears

Where there are outstanding rent arrears on ISHA's tenant's rent account, we will withhold consent until the arrears are cleared, unless these arrears are a result of the bedroom tax. In this case, consent to move with arrears can be approved by a head of service, and in this instance, ISHA must be satisfied that the tenant has the means to clear the arrears once they have moved.

### 3.6 Pre-exchange inspections

Before consent for a mutual exchange can be given, a property inspection must be carried out by the Tenancy Officer. The tenant will be advised of when this inspection will take place.

Any damage to the property or its fixtures and fittings that is not because of normal wear and tear will need to be put right by the tenant before consent is given. Any repairs which are ISHA's responsibility will be noted and repair orders raised accordingly.

Where the property has a garden or any external space which is solely for the use of the household, then the tenant will be expected to ensure that all trees, shrubs, grass and other external planting and/or vegetation and footpaths and paving have been maintained to a satisfactory standard.

### **3.7 Mutual exchanges and property condition**

Incoming tenants who do a mutual exchange are expected to accept the property in its current condition. This includes where decoration may have deteriorated over time, or accepting responsibility for any outstanding repairs which are the tenant's responsibility. Where this applies, this must be identified by the Tenancy Officer at the property inspection, and the incoming tenant should be notified of their responsibility before the exchange takes place.

### **3.8 Gas and electrical test**

Prior to consent being granted, ISHA will carry out a gas and electrical test at our property.

### **3.9 Exchanges without consent**

If a tenant exchanges their home without the written consent of ISHA, then the exchange will be deemed to be unlawful. The occupants will be treated as unlawful occupiers. ISHA can take one of the following actions in these instances:

- Insist that the tenants return to their original properties, giving seven days for them to move back.
- Agree to the exchange, subject to both parties complying with the criteria above.
- Terminate the tenancy by serving a Notice To Quit (NTQ) and Notice of Seeking Possession (NOSP).

### **3.10 Types of tenancy to be granted in mutual exchange**

Secure and assured tenants whose tenancy started before 1 April 2012 keep their security regardless of who they exchange with. In these circumstances, the exchange must be by surrender and regrant.

Secure and assured tenants whose tenancy started after 1 April 2012 will lose their security of tenure if exchanging with a flexible or fixed-term assured shorthold tenant and the exchange continues to be achieved by Deed of Assignment. ISHA does not have any fixed-term tenancies, but many landlords do, and these tenants have the right to do a mutual exchange with an ISHA tenant. Therefore, if an ISHA tenant is exchanging with a fixed-term or assured tenant with an affordable rent, then they will take on the rights of the tenant who they are exchanging with, and the incoming tenant will take on their rights by Deed of Assignment.

### **3.11 Appeals**

Any tenant who wishes to appeal against a decision to refuse a mutual exchange can do so by appealing to Head of Housing Management or the Director of Housing & Neighbourhoods. Appeals will be investigated and a decision made within two working days.

## **4. HEALTH AND SAFETY**

This policy will be carried out in line with ISHA's health and safety policy

## **5. EQUALITY AND DIVERSITY**

It is sometimes necessary to share sensitive, private and special category data to facilitate the delivery of this policy. We will ensure that the processing of this data is in accordance with the principles of the Data Protection Act 2018 UK GDPR and our Data Protection Policy.

We will only share a person's data where they have given us permission to do, but refusal can lead to the mutual exchange request being declined.

## **6. TRAINING**

All operations staff involved in the processing of mutual exchange applications will receive appropriate training for dealing with mutual exchanges.

## **7. DATA PROTECTION CONSIDERATIONS**

It is sometimes necessary to share sensitive, private and special category data to facilitate the delivery of this policy. We will ensure that the processing of this data is in accordance with the principles of the Data Protection Act 2018 and our data protection policy.

We will only share a person's data where they have given us permission to do so, but refusal can lead to the mutual exchange request being declined.

## **8. STATUTORY AND REGULATORY FRAMEWORK**

This policy is covered by the following legislation:

- Housing Act 1985
- Local Government Act 1985
- Localism Act 2011
- Housing Act 2004
- General Data Protection Act 2018

Assured tenants do not have a statutory right to a mutual exchange but are granted a contractual right through their tenancy agreements.

The Housing Act 1985 gives secure tenants a statutory right to a mutual exchange.

## 9. MONITORING

We will monitor the number of mutual exchanges completed each year and report annually to the Housing Services Sub-Committee.

## 10. REVIEW

This policy will be reviewed in three years' time to ensure it still complies with best practice unless there are any changes in legislation which would require the policy to be reviewed at an earlier date.

## 11. ASSOCIATED DOCUMENTS

- Allocation policy
- Health and safety policy
- Privacy policy

Reference	Version	Created	Author	Review	Board Approved
Mutual Exchange Policy	1	November 2025	Deeion Sharpe, Head of Housing Management	January 2029	January 2026