
Mutual Exchange Policy



**April 2026 | This policy relates to Elmbridge Borough
Council Residential Properties**



Elmbridge
Borough Council

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1. Introduction

The council is committed to delivering a high-quality service to tenants in relation to mutual exchanges. A mutual exchange is where social housing tenants swap homes, either within the same landlord or across different landlords anywhere in the UK.

This policy supports tenants living in eligible accommodation to mutually exchange their homes. Where an exchange involves another landlord, the council will work in partnership with that landlord to ensure a consistent and effective process.

Mutual exchanges provide an alternative route to rehousing outside of the council's allocation scheme. They can enable tenants to move closer to family and support networks, access employment, education or other opportunities, and move to accommodation that better reflects their household size.

The council may support tenants to access national mutual exchange services, including online platforms, where available, to support tenants in identifying suitable exchange opportunities.

2. Scope

This policy applies to all residents occupying properties owned by Elmbridge Borough Council, where the council is the landlord:

This policy applies to:

- Secure tenancies
- Flexible fixed term tenancies (2-year and 5-year)

This policy does not apply to:

- Introductory tenancies
- Non-secure tenancies, including temporary accommodation

3. Objectives

The objectives of this policy are to:

- Ensure that all mutual exchange applications are dealt with consistently, fairly, in accordance with legislation and, where appropriate, the council's Housing Allocation Scheme
- Provide clear guidance to tenants on the mutual exchange process, including eligibility, requirements and implications
- Ensure tenants understand their rights and responsibilities, including any impact on tenancy type, rent and security of tenure
- Support the effective use of the council's housing stock by facilitating appropriate exchanges
- Ensure properties remain suitable for the needs of incoming households
- Provide a clear and transparent decision-making process, including the grounds for refusal and the right to request a review

4. Eligibility for Mutual Exchange

Tenants with a secure tenancy or a flexible fixed term tenancy may apply to exchange their home with another social housing tenant who holds a compatible tenancy, subject to the council's written consent.

Where a mutual exchange involves another landlord, the incoming tenant must hold a tenancy that is compatible with the council's tenancy framework.

Tenants are not eligible to exchange where they:

- Hold an introductory tenancy
- Occupy temporary accommodation under a non-secure tenancy
- Are subject to possession proceedings or have a Notice of Seeking Possession in force

Where a tenant has rent arrears or is in breach of their tenancy conditions, the

council may consider granting consent subject to conditions. This may include a requirement to clear arrears or demonstrate that a repayment arrangement has been maintained over a sustained period.

The council will respond to requests for advice or guidance on mutual exchanges within 10 working days. Once all required information has been received to assess the application, a decision will be made within 42 calendar days, in line with statutory requirements.

5. Types of Mutual Exchange Agreements

Mutual exchanges will be completed using one of two legal methods, depending on the tenancy types involved.

Assignment

An assignment is where the existing tenancies are transferred between tenants. The incoming tenant takes on the rights and responsibilities of the tenancy, and no new tenancy is created. Each tenant will be required to sign a Deed of Assignment.

Where the tenancy is a flexible fixed term tenancy, the incoming tenant will take on the remaining term of that tenancy, even where less than two years remain.

Surrender and Regrant

A surrender and regrant will be used where tenancy types differ or cannot legally be assigned. In these circumstances, the existing tenancies are ended, and new tenancies are issued to reflect the appropriate level of security at the new property.

This may result in a change to tenancy type, including the length and terms of the tenancy.

The new tenancy will be granted in line with the council's current tenancy policy and any applicable legislation.

Succession and Tenancy Rights

Where a tenant has previously succeeded to a tenancy or had it assigned to them by a family member, the succession status transfers with the tenant and does not reset.

This means the tenant will not gain a further right to succeed to a tenancy following a mutual exchange.

Tenants should also be aware that the ability to retain the same level of tenancy security may be limited. In some cases, a mutual exchange may result in a change to tenancy type or rights, particularly where new tenancies are issued in line with current legislative requirements.

6. Grounds for Refusal

The council will not unreasonably withhold consent to a mutual exchange. Decisions to refuse an exchange will be made in line with the relevant statutory provisions and this policy.

The council may refuse a mutual exchange based on:

- Schedule 3 of the Housing Act 1985 (see Appendix 1)
- Schedule 14 of the Localism Act 2011 (see Appendix 2)
- This policy, including where the criteria set out below are not met

Schedule 3 applies to exchanges completed by way of assignment. Schedule 14 applies to exchanges completed by way of surrender and regrant.

The council can only refuse a mutual exchange solely on the basis of rent arrears where the statutory grounds under Schedule 14 apply. In other circumstances, where a tenant has rent arrears or is in breach of their tenancy, the council will normally grant conditional consent, requiring the breach to be remedied before the exchange takes place.

To ensure a fair and consistent approach, the council will assess whether the property is suitable for the incoming household. This will include consideration of household composition and whether the exchange would result in overcrowding or significant under-occupation, in line with the council's Housing Allocation Scheme.

Where a property has been adapted, the council will only refuse the exchange where the adaptations are substantial and the incoming tenant, or a member of their household, has no identified need for them. Minor or common adaptations will not, on their own, prevent an exchange.

Where a property is not currently adapted but the incoming tenant requires adaptations, the exchange will not be refused on this basis alone. However, the council may require confirmation that, in principle, the necessary adaptations and funding can be supported under the council's Aids and Adaptations Policy before

consent is granted. Any formal application for adaptations will only be considered once the exchange has been completed and the property is occupied as the tenant's main home.

In addition, the council may refuse an exchange where:

- Either party is subject to a possession order or ongoing possession proceedings
- A Notice of Seeking Possession is in force
- There is evidence of serious tenancy breaches, including anti-social behaviour

7. The Mutual Exchange Process

The day-to-day administration of mutual exchange applications will be managed by the council's managing agent, Pinnacle. The council will retain responsibility for the final decision on whether to grant or refuse applications.

Once a completed mutual exchange application has been received, the council will issue a decision within 42 calendar days. The council will either approve the exchange as has been applied for, approve the exchange subject to conditions, or refuse the application with reasons provided.

Where there are no immediate grounds for refusal, the property will be inspected to assess its condition and identify any unauthorised alterations or non-standard fittings. Any issues identified may need to be remedied prior to the exchange taking place.

Both parties will be advised that they are responsible for making arrangements regarding any items left in the property, including within the garden or any outbuildings. The council will not be responsible for the removal of any items left behind by the outgoing tenant.

A copy of the inspection findings will be shared with both parties. The incoming tenant will be required to confirm that they accept the property in its current condition prior to the exchange proceeding.

Where appropriate, safety checks, including gas and electrical inspections, will be arranged as close as possible to the date of exchange.

Where consent is granted, all parties will be notified in writing. The exchange will then be formalised through the appropriate legal process, either by assignment or surrender and regrant, and the relevant documentation will be completed.

Tenants will be advised that a mutual exchange may result in a change to tenancy type, rent or associated rights. These implications will be clearly explained before the exchange is completed.

8. Repair Responsibilities

As part of the mutual exchange process, the council will ensure the property is inspected to confirm it is in a reasonable condition and free from significant disrepair, including issues such as damp and mould.

Inspections will be carried out on the council's behalf by Pinnacle, as its managing agent.

Following the inspection, the council will confirm which repairs are the responsibility of the landlord, and which are the responsibility of the tenant, in line with the tenancy agreement. The incoming tenant will also be informed of any planned landlord works or property improvements.

Where minor tenant responsibility repairs are identified, the council may grant conditional consent to the exchange on the basis that:

- the repairs are completed before the exchange takes place; or
- the incoming resident agrees to take responsibility for completing them

All other tenant responsibility repairs must be completed before the exchange is approved.

If, after approval but before the exchange is completed, the outgoing tenant causes damage to the property, removes items that should remain, or leaves items behind, the council may recharge the outgoing tenant for any costs incurred in putting this right. This will be in accordance with the council's Recharge Policy.

9. Review of Decisions

Where a tenant is dissatisfied with a decision relating to a mutual exchange application, they may request a review of that decision.

Requests for a review must be made in writing within 14 calendar days of the decision and should set out the reasons why the tenant believes the decision is incorrect or has not been made in line with this policy or relevant legislation.

Requests for review should be sent to:

Email: EBCLandlord@elmbridge.gov.uk

Telephone: 01372 474 474

In person or write to us at: Housing Services Team, Elmbridge Borough Council, Civic Centre, Esher, Surrey, KT10 1SD

A review will be carried out by an officer of the council who was not involved in the original decision. The review will consider whether the decision was made fairly, consistently and in accordance with the relevant legislation and this policy.

The outcome of the review will be confirmed in writing within 20 working days of the request being received.

If the tenant remains dissatisfied following the review, they may raise a complaint through the council's complaints procedure.

10. How We Use and Share Your Information

As part of the mutual exchange process, we may need to use and share personal information with other landlords to assess applications and confirm whether an exchange can proceed.

We will handle personal information in line with the UK General Data Protection Regulation and the Data Protection Act 2018. This means we will only use information where it is necessary for the mutual exchange process and will make sure it is kept accurate, relevant and secure.

To support decision-making, we may share information such as:

- rent payment history
- tenancy breaches, including anti-social behaviour
- any relevant safeguarding concerns
- other information needed to assess the suitability of the exchange

We will seek consent to share this information as part of the application process. Information will only be shared where it is appropriate to do so, or where there is a

legal basis.

Where information is shared, we will take reasonable steps to ensure it is transferred securely and only accessed by those who need it for the purpose of the mutual exchange.

11. Equality and Diversity

We are committed to ensuring fair and equal treatment for all residents. Accordingly, no person will be discriminated against during the implementation of this policy on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

We are committed to helping you access information about your homes and services in a way that suits your individual needs.

In delivering this policy, we confirm our staff will fully comply with the requirements of the Equality Act 2010 and the Human Rights Act 1998.

12. Monitoring and review

The council will monitor mutual exchange applications to ensure this policy is applied consistently and fairly. This includes monitoring the time taken to reach decisions to ensure compliance with the statutory 42-day deadline. Responsibility for monitoring, compliance, and implementation sits with the Housing Services team.

This policy will be reviewed every three years, or sooner, where required due to legislative or operational changes. From April 2027, following Local Government Reorganisation, responsibility for reviewing this policy will transfer to East Surrey Council. Any future review may also form part of a wider consolidation of housing policies across the new authority.

13. Legislation

This policy is informed by relevant legislation, including but not limited to:

- Housing Acts 1985, 1988 and 1996
 - Localism Act 2011
 - Housing and Planning Act 2016
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- Housing and Regeneration Act 2008
- Welfare Reform Act 2012
- Equality Act 2010
- Human Rights Act 1998
- Data Protection Act 2018
- Immigration (Residential Accommodation) (Prescribed Requirements and Codes of Practice) (Amendment) Order 2016

Appendix 1- Grounds for Refusal (Schedule 3 Housing Act 1985)

The council may refuse a mutual exchange where one or more of the following statutory grounds apply:

Ground 1

Where the tenant or proposed assignee is subject to a possession order of the property that is the subject of the mutual exchange application, whether or not it has come into effect.

Grounds 2, 2ZA, 2A and 2B

Where the tenant or proposed assignee is subject to ongoing possession proceedings, or a Notice of Seeking Possession remains in force, based on one or more of the following:

- Breach of tenancy conditions, including rent arrears
- Anti-social behaviour, nuisance or illegal use of the property
- Damage to the property
- Providing false information in relation to the tenancy
- Payment or receipt of a financial incentive in connection with a previous exchange

Where the tenant or proposed assignee is subject to ongoing possession proceedings following being found guilty of a serious offence relating to anti-social behaviour, such as, but not limited to, offences connected to a riot.

Where the tenant or proposed assignee is subject to ongoing possession proceedings in circumstances where a tenant (in the case of joint tenancies and occupation) has had to leave the home because of violence by the remaining tenant.

Where the tenant or proposed assignee is subject to ongoing possession proceedings following being convicted of a domestic violence offence.

Ground 3

Where the incoming tenant would significantly under-occupy the property.

Ground 4

Where the accommodation would not be suitable for the needs of the incoming tenant or their household, taking into account factors such as size, layout or accessibility.

Ground 5

Where the property forms part of, or is associated with, accommodation that is not primarily residential, or is linked to employment (for example, tied accommodation).

Ground 6

Where the landlord is a charity and the proposed exchange would conflict with the organisation's charitable objectives.

Ground 7

Where the property has been specifically and substantially adapted or designed for a person with a disability and no member of the incoming household has a need for those adaptations.

Ground 8

Where the property is intended for occupation by households with particular needs, and following the exchange no such need would be present.

Ground 9

Where the property forms part of a group of dwellings intended for persons requiring support or specialised services (for example, sheltered housing), and the incoming tenant does not meet those criteria.

Appendix 2 - Grounds for Refusal (Schedule 14 of the Localism Act 2011)

The council may refuse a mutual exchange application where one or more of the following statutory grounds apply:

Ground 1

Where any rent lawfully due under the tenancy has not been paid.

Ground 2

Where a tenant has breached a term or condition of their existing tenancy.

Ground 3

Where a tenant is subject to a possession order relating to their current tenancy.

Ground 4

Where possession proceedings have begun for the existing tenancy on grounds 1 to 6 of Schedule 2 of the Housing Act 1985; or a valid notice seeking possession has been served and remains in force, based on grounds under sections 83 or 83ZA of the Housing Act 1985.

Grounds 5 and 5A

Where possession proceedings have started, or a valid notice seeking possession has been served and remains in force, based on grounds under the Housing Act 1988.

Grounds 6 and 6A

Where a tenant, or a person residing with them, is subject to legal action relating to anti-social behaviour, including but not limited to, riot related offences. This may include injunctions, demotion orders, or possession proceedings, or where such action is currently being considered by the courts.

Where a property subject to the mutual exchange application is subject to a closure notice or closure order under the Anti-social Behaviour, Crime and Policing Act 2014.

Ground 7

Where the property is substantially larger than is reasonably required by the incoming tenant and their household.

Ground 8

Where the property would not be suitable for the needs of the incoming tenant and

their household.

Ground 9

Where the property is part of a building or area that is mainly used for non-residential purposes, or where it is located in a setting such as a cemetery and is not appropriate for general housing use.

Ground 10

Where the landlord is a charity and the proposed exchange would conflict with the organisation's charitable objectives.

Ground 11

Where the property has been specifically features different to an ordinary dwelling-house or has been designed for a person with a physical disability and no member of the incoming household has a need for those features.

Ground 12

Where the property is intended for occupation by households with particular needs, and following the exchange no such need would be present.

Ground 13

Where the property forms part of a group of dwellings intended for persons requiring support or specialised services (for example, sheltered housing), and the incoming tenant does not meet those criteria.