MUTUAL EXCHANGE POLICY

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DOCUMENTATION MASTER SHEET

Amendments to this Document are Detailed Below.

Version Number	Date Amended	Comments	Date Approved	Author	Approved By
01	05/12/2006		05/12/06	RSH	RSH
02	29/01/2010		29/01/10	RSH	RSH
03	13/06/2012		21/12/2012 27/03/2013	IH	Customer Forum Resources Committee
04	23/09/2013	Reviewed and updated	23/09/2013	RSH	
05	16/04/2015	Reviewed and updated			
06	23/06/2015	Reviewed and updated		IH	
07	Oct 2017	Reviewed and re-written. Policy to relate to mutual exchanges only, assignments to be dealt with in Tenancy Changes Policy	21/03/18	JK	Tenant Panel
08	Oct 2018	Rent on time & financial check	08/11/18	JH	Tenant Panel
09	Dec 2021	Reviewed & clarification on bedroom eligibility	10/02/22	NB	Tenant Panel
10	November 2024	Scheduled review	November 2024	NB	SLT

11	February 2025	Amendment to appeals process	February 2025	NB	NT

MUTUAL EXCHANGE POLICY

OVERALL AIM/INTRODUCTION

A mutual exchange enables tenants to swap their tenancy with another tenant of a Housing Association or Local Authority.

GCH recognises and encourages mutual exchanges in order to increase the mobility of their tenants, and to support sustainable communities through best use of housing stock.

SCOPE OF POLICY

This policy applies to GCH tenants with an Assured Tenancy or Enhanced Assured Tenancy. Those tenants with an assured Shorthold Tenancy (Starter Tenancy) do not have the right to exchange until their tenancy has been converted to an Assured Tenancy on its anniversary wherein they gain the right to exchange.

Subject to securing permission from GCH, a GCH Assured (or Enhanced Assured Tenant) has the right to exchange with someone who has a tenancy with a Registered Provider (Social Landlord), which includes:

- Any Local Authority within the UK
- Any registered Housing Association
- A charitable housing trust.

LEGAL AND REGULATORY EXPECTATIONS

Section 92 of the Housing Act 1985 – "Assignments by way of an exchange"

- Secure Tenants are able to complete a mutual exchange by way of assignment subject to written permission from the landlord to a secure or assured tenant. GCH grants the same rights to its assured non-shorthold tenants where possible, and in line with the tenancy agreement.
- Permission will not be withheld with the exception of grounds set out in Schedule 3
- Decision to be made within 42 days as to whether the exchange will be authorised. If a decision has not been made within 42 days, the exchange will be deemed to have been approved

Section 15 of the Housing Act 1988 – assured tenancies can only be assigned with consent of the landlord. GCH's Assured and Enhanced Assured Tenancy Agreements allow this as a contractual right.

Section 171 b Housing Act 1985 – Preserved Right to Buy

Schedule 14 of the Localism Act, Section 158 – creates a new mechanism for mutual exchanges based on the granting of new tenancies. The section introduces a protection for assured lifetime tenants who were granted their tenancy prior to 1 April 2012. If Tenant A (a lifetime tenant whose tenancy was granted prior to 1 April 2012) wishes to exchange with Tenant B (a fixed term tenant) then a new tenancy is issued to each and Tenant A is granted another assured tenancy.

The fixed term tenant (B) is granted a new tenancy but there is no particular provision regarding its status which suggests that it will be a matter for the landlord to decide what type of tenancy to offer Tenant B. If the concept of mutual exchange is that each tenant effectively steps into the shoes of the other, there is an argument that Tenant B should be entitled to an assured tenancy which is what Tenant A would have 'left behind' had the mutual exchange taken place under the old legislation.

The Transfer of Tenancies and Right to Acquire (Exclusion) Regulations 2012 (SI 2012/696), excludes fixed term tenancies at an affordable rent.

SERVICE STANDARDS

We will respond to all mutual exchange applications promptly, fairly and efficiently.

We will make a decision about whether or not a mutual exchange has been approved and we will confirm this decision in writing. Where a mutual exchange request has been refused we will give the reasons for this.

Permission will generally be withheld by GCH where:

- The tenancy has been demoted
- On specific grounds set out in the relevant legal and regulatory framework as detailed below:

Schedule 3 of the Housing Act 1985:	Schedule 14 of the Localism Act 2011	Grounds for refusing consent to the exchange:
-	Ground 1	Any rent lawfully due from a tenant under one of the existing tenancies has not been paid
-	Ground 2	Any obligation under one of the existing tenancies has been broken or not performed
Ground 1	Ground 3	A possession order (whether outright or suspended) has been made in relation to one of the existing tenancies

Ground 1	Ground 3	A possession order (whether outright or suspended) has been made in relation to one of the existing tenancies.
Ground 2	Grounds 4 and 5	The landlord has served a Notice of Seeking Possession and the notice is still in force, or possession proceedings have commenced.
Ground 2A	Ground 6	A relevant order (a possession order made on ground 2 of schedule 2 of the Housing Act 1985 or ground 14 of Schedule 2 the Housing Act 1988, a demotion order pursuant to section 82A of the Housing Act 1985 or section 6A of the Housing Act 1988, a riot related possession order pursuant to ground 2ZA of Schedule 2 of the Housing Act 1985 or 14ZA of Schedule 2 to the Housing Act 1988 or an injunction pursuant to sections 152 or 153 of the Housing Act 1996, or an Anti-Social Behaviour Order pursuant to section 1 of the Crime and Disorder Act 1988 or an injunction section 91 Anti-Social Behaviour Act 2003) is in force against a relevant tenant or a person residing with a relevant tenant or an application is pending for a relevant order against a relevant tenant or a person residing with the tenant.
Ground 3	Ground 7	The accommodation afforded by the dwelling house proposed to be let on the new tenancy is substantially more extensive than is reasonably required by the existing tenant or tenants to whom the tenancy is proposed to be granted.
Ground 4	Ground 8	The extent of the accommodation afforded by the dwelling-house proposed to be let on the new tenancy is not reasonably suitable to the needs of the existing tenant or tenants to whom the tenancy is proposed to be granted; and the family members of that tenant or those tenants.
Ground 5	Ground 9	The dwelling-house proposed to be let on the new tenancy form part of or is within the curtilage of a building that, or so much of it, is held by the landlord mainly for purposes other than housing purposes, and consists mainly of accommodation other housing accommodation or is situated on a cemetery and was let in connection with being in the employment of the landlord or with a local authority, a development

		corporation, housing action trust, an urban development corporation or the governors of an aided school.
Ground 6	Ground 10	The landlord is a charity and the occupation of the dwelling-house proposed to be let on the new tenancy by the relevant tenant or tenants to whom the new tenancy is proposed to be granted would conflict with the objects of the charity.
Ground 7	Ground 11	The dwelling-house proposed to be let on the new tenancy has features that are substantially different from those of an ordinary dwelling-house, and are designed to make it suitable for occupation by a physically disabled person who requires accommodation of the kind provided by the dwelling-house and if the tenancy was granted there would no longer be such a person residing in the dwelling-house.
Ground 8	Ground 12	The landlord is a housing association or housing trust which lets dwelling-houses only for occupation (alone or with others) by persons whose circumstances (other than merely financial circumstances) make it difficult for them to meet their need for housing and if a new tenancy were granted there would no longer be such a person residing in the dwelling-house proposed to be let on the new tenancy.
Ground 9	Ground 13	The dwelling-house proposed to be let on the new tenancy is one of a group of dwelling-houses which it is the practice of the landlord to let for occupation by persons with special needs and in close proximity to these dwellings are services provided by social services or a special facility to assist the people within those dwellings; and if a new tenancy were granted there would no longer be a person with those special needs residing in the dwelling-house.
Ground 10	Ground 14	That the dwelling-house proposed to be let on the new tenancy is the subject of a management agreement under which the manager is a housing association and at least half of the members of the association are tenants of dwelling houses subject to that agreement and at least half of the members of the association are tenants of dwelling-houses are members of

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		the association, and no relevant tenant to whom the new tenancy is proposed to be granted is, or is willing to become, a member of the association

Affordability

Whilst an exchange cannot usually be refused on affordability grounds an affordability check will be done as good practice to allow the customer to make an informed decision.

Under Occupation

Where the relevant grounds for refusal apply in relation to under occupation if the property is 'substantially larger' than required, GCH will only allow under occupation by up to one bedroom and will require the incoming tenant to demonstrate that they have sufficient income to cover the rent.

CONSULTATION

Homes & Neighbourhood, Independent Living and Tenancy Sustainment have been consulted.

APPEALS

Any customer who is not satisfied with our decision regarding their mutual exchange application can appeal in writing.

REVIEW

This policy will normally be reviewed triennially to ensure that it reminds fit for purpose, unless an earlier review is required due to regulatory, statutory or other requirements.