

## NCHP019 Mutual Exchange Policy

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## Section 1

### 1. INTRODUCTION

- 1.1. Nottingham City Council (NCC) recognise that promoting mutual exchange of properties encourages tenant mobility and supports sustainable communities through the best use of housing stock.
- 1.2. Tenants may wish to move for a variety of reasons such as to access property that better meets their housing needs including to resolve overcrowding or under-occupation, or to be closer to employment or support networks.
- 1.3. A mutual exchange is the process by which two or more social sector tenants can exchange/swap their tenancies.

### 2. AIMS OF THE POLICY

- 2.1. To ensure mutual exchanges/swaps are carried out in compliance with the law, fairly and efficiently
- 2.2. To assist tenants to resolve their housing need
- 2.3. To contribute to the efficient management of housing stock
- 2.4. To promote social mobility and facilitate moves to overcome under-occupation and overcrowding

### 3. SCOPE OF THE POLICY

- 3.1. **Secure tenancies.** This policy applies to secure tenants of Nottingham City Council (NCC). It does not apply to Nottingham City Council's (NCC's) introductory, demoted or family intervention tenancies none of which has a right to mutual exchange. Nor does it apply to any tenure granted by Nottingham City Council (NCC) pursuant to its homelessness functions or to temporary or non-secure accommodation offered in other circumstances. Applications for mutual exchange from anyone in these categories will not be considered.
- 3.2. **Flexible secure tenancies.** This policy also applies to secure tenants of Nottingham City Council (NCC) who have a flexible (fixed term) tenancy.
- 3.3. **Assured Tenancies.** This policy applies to assured tenants of NCH Ltd and NCH Registered Provider. It does not apply to Starter tenancies. Applications from those on starter tenancies will not be considered.
- 3.4. This policy also applies where;
  - at least one of the tenants who wishes to transfer has a secure or assured tenancy, which began after 1 April 2012, **and**
  - At least one of the tenants has a flexible tenancy or a fixed term assured tenancy.

In such circumstances, the provisions of the Localism Act 2011 apply.

- 3.5. Section 92 Housing Act 1985 gives secure tenants a right to exchange their tenancy with another qualifying tenant of the same landlord or other Local Authority or Registered Provider.
- 3.6. Assured tenants do not have a statutory right to mutual exchange; however, NCH Ltd and NCH Registered Provider's tenancy agreement gives assured tenants the same right to apply as secure tenants.
- 3.7. The policy and procedure is administered by Nottingham City Council (NCC) in respect of secure and secure flexible tenancies and in respect of NCH Ltd and NCH Registered Provider's assured tenancies.
- 3.8. All staff at Nottingham City Council (NCC) who have responsibility for direct management of tenancies will operate it. It will be particularly relevant to Mutual Exchange Officers (MEO), Housing Patch Managers (HPM), Rent Account Managers (RAM), NCC's Building Surveyor and Housing Officers
- 3.9. It covers the following;
  - receiving applications,
  - completing home visits and inspection to identify relevant issues such as items of tenant damage
  - Decisions in respect of applications and illegal/unauthorised mutual exchanges

#### 4. **TIMESCALE**

- 4.1. The law states that NCC has **42 days** within which to confirm in writing refusal, consent, or conditional consent (if applicable) to the application for mutual exchange. If there is no response at the expiry of this period, then Nottingham City Council's (NCC's) right to refuse the mutual exchange is lost. Applicants should not assume consent has been given in these circumstances and must not proceed with the exchange. The tenant's legal remedy is to seek an injunction or a declaration from the County Court to force a reply from Nottingham City Council (NCC).
- 4.2. The 42-day period starts when fully completed application forms from all parties involved in the exchange have been received and formally acknowledged.

#### 5. **RETENTION OF RIGHTS AND MECHANISM FOR EXCHANGE**

- 5.1. In all cases, tenants seeking to mutually exchange must have written permission from their landlords before proceeding.
- 5.2. Other than in the circumstances set out at 5.6 below, tenancies are exchanged/swapped by means of the parties assigning their tenancies to each other by way of deeds of assignment rather than by ending tenancies and entering into new tenancy agreements.
- 5.3. Other than in the circumstances set out at 5.6 below, when a mutual exchange occurs and tenancies are swapped, the exchanging tenant's step into each other's shoes and take on

the rights and responsibilities of the tenant they exchanged with. Examples are set out in the table below;

Tenant 1	Tenant 2	Status after exchange
Secure	Secure	Both remain secure
Assured	Assured	Both remain assured
Secure	Assured	Secure tenant takes on Assured tenancy Assured tenant takes on secure tenancy.

- 5.4. It is important to ensure that the tenants involved in any mutual exchange/swap understand the implications of doing so. They must consider whether they are willing to accept any alterations to their status because of entering into a mutual exchange. They must compare their current rights and responsibilities with those that they will have if the mutual exchange takes place. They should be directed to seek independent legal advice particularly where rights are likely to be diminished (such as losing the right to buy).
- 5.5. The incoming tenant cannot be held responsible for liabilities under the tenancy prior to the date of exchange such as rent arrears.
- 5.6. There are limited circumstances where tenancies are not swapped when a Mutual Exchange takes place. The provisions of the Localism Act 2011 cover those circumstances where: -
- At least one of the tenants who wishes to transfer has a secure or assured tenancy, which began before 1 April 2012, **and**
  - At least one of the tenants has a flexible tenancy or a fixed term assured tenancy.

Such exchanges must be done by surrender and granting of new tenancies.

The new landlord must grant the tenant(s) whose secure or assured tenancy pre-dated April 2012:

- A secure tenancy if they are a local authority tenant or
- An assured tenancy if they are a housing association tenant (NB- not an assured shorthold tenant)

Therefore, such cases are not dealt with by using a Deed of Assignment.

- 5.7. Nottingham City Council (NCC) may refuse permission to exchange in certain circumstances such as if the move would result in them under-occupying their new property. Details of reasons for refusal are set out in for the following and information available on request:
- Secure and Assured tenancies
  - Flexible Tenancies

## Section 2

### 6. THE APPLICATION PROCESS- FINDING A PROPERTY

- 6.1. Exchanges can take place to any part of the UK.
- 6.2. Nottingham City Council (NCC) assists its customers who wish to seek a mutual exchange by providing access to the “Homeswapper” website, [www.homeswapper.co.uk](http://www.homeswapper.co.uk) This website enables customers to register their property and search for properties they may wish to swap to. To use these service customers will need to register online. Applicants may register independently or by obtaining assistance from staff at their local housing office. For those who are unable to register online for any reason such as a vulnerability or disability, support is available from the Mutual Exchange Team who can be contacted by telephone on 0115 7469977 or by email at [Mutual.Exchange@nottinghamcity.gov.uk](mailto:Mutual.Exchange@nottinghamcity.gov.uk)

### 7. THE APPLICATION PROCESS - MAKING THE APPLICATION

- 7.1. It is essential that each party to the proposed exchange views the property they propose to exchange to, in order to satisfy themselves of its suitability for them and its condition/decorative state.
- 7.2. In all cases, tenants seeking to mutually exchange must have written permission from their landlords before a mutual exchange can take place.
- 7.3. Applicants view properties they are interested in and when they wish to proceed should submit an online application form to Nottingham City Council (NCC). A separate Application form should be completed and submitted for each party. Application forms are available via the HomeLink website: - <https://nottinghamhomelink.org.uk/section/hl-mutual-exchanges/mutual-exchange-application-form/> . Mutual Exchange Officers (MEOs) can be contacted by telephone or email as set out at 6.2 above for assistance.
- 7.4. The requirements of any other landlord involved in the exchange will have to be met. This may involve completing more than one application form.
- 7.5. Only the tenant or in the case of joint tenants, both can apply. Family/household members who are not tenants cannot apply.
- 7.6. Where there are joint tenants, both must agree to the exchange. In cases where one joint tenant has left the property (for example, through relationship breakdown), the tenancy must be regulated before an application can be accepted from the remaining joint tenant, such as by way of assignment.

### 8. CHECKING THE APPLICATION

- 8.1. As soon as the Mutual Exchange Officer (MEO) receives the application, an initial review of the application takes place. If there are obvious grounds for refusal, the applicants are notified of those reasons in writing.

- 8.2. If a Nottingham City Council (NCC) tenant confirms on their application they have a furnished tenancy the Mutual Exchange Officer (MEO) needs to refer to the Nottingham City Council Housing Services furnished tenancy procedure and the tenancy records before progressing the exchange, to ensure the correct procedure is followed depending on the date the furniture was issued.

### **Section 3**

#### **9. PROPERTY INSPECTIONS PRE-EXCHANGE**

- 9.1. If all parties to the exchange meet the criteria for mutual exchange, then in respect of Council accommodation or NCH Ltd and NCH Registered Provider assured tenancies, Nottingham City Council (NCC) will arrange for an inspection of the condition of the property and a separate appointment for an initial visual inspection of the electrics prior to any mutual exchange taking place. The Mutual Exchange Officer (MEO) will notify the applicant of the dates and times for the appointments. The Mutual Exchange Officer (MEO) will give the tenant 7 days' notice of the inspections (or less by agreement) and the tenant is required to allow access in order to enable Nottingham City Council (NCC) to consider the application within the statutory 42-day time limit.
- 9.2. A Nottingham City Council (NCC) Building Surveyor will attend the premises to carry out an inspection and document the condition. The Surveyor will take photographs of the condition of the premises for evidential purposes. Inspection will include the interior of the premises including lofts and cellars as well as all external areas including gardens, garages, and outbuildings. An inspection report will be completed following the inspection and emailed to the Mutual Exchange Team.
- 9.3. During the survey process of a property Nottingham City Council (NCC) will usually need to carry out two visits by a Qualified Surveyor the initial visit and reinspection once the tenant notifies Nottingham City Council (NCC) the required work is complete for final reinspection. Therefore, tenants should not arrange the final reinspection by a surveyor until the work they have been advised to carry out is not fully completed as required. The Council reserves the right to recharge the tenant as necessary in order to recover their costs for additional survey checks when on attendance it is very clear the required work is incomplete, and a further reinspection will be required.
- 9.4. The surveyor will list: -
- Any repairs that are the responsibility of the Landlord. In respect of these, the surveyor will contact the repairs centre to arrange for these to be carried out.
  - Any repairs which are the tenant's responsibility. These may be subject to conditional consent, which means they will need to be rectified before the move can take place.
  - Any items being left behind by the tenant for the incoming tenant (e.g., a cooker or fridge). Such items are not Nottingham City Council's (NCC's) responsibility and a form gifting

these items to the incoming tenant must be signed by the incoming tenant at sign up. This will acknowledge receipt of the items and confirm that the incoming tenant is responsible for maintaining these items and that they should be removed by them at the end of the tenancy.

- Any alterations carried out by the outgoing tenant. Where a mutual exchange is to be subject to such alterations, the incoming tenant must sign a form acknowledging the alterations and that they are accepted in their current condition.

- 9.5. If the surveyor notes anything that may amount to a potential hazard (such as potentially dangerous electrics) then they must contact the repairs section to raise an emergency repair. The tenant must co-operate with any arrangements made to carry out the repair.
- 9.6. In addition, a visual inspection of the electrics will take place by a qualified electrician. This will be co-ordinated by the Mutual Exchange Officer (MEO) who will liaise with the electrics team. The applicant will be notified of this appointment. An inspection report will be completed following the inspection and emailed to the Mutual Exchange team.
- 9.7. Should the tenant fail to allow access for the purpose of the inspection then it will be assumed that the tenant no longer wishes to proceed, and the application will be cancelled, and the tenant notified by letter. A Letter should be sent to the other party to the exchange.
- 9.8. Where, following inspection, the tenant has carried out unsafe/unauthorised alterations to the property; or where had it been sought, permission to carry out the alterations would have been refused, the matter will be reported by the Mutual Exchange Officer (MEO) to the Housing Patch Manager (HPM) responsible for the tenancy. A Notice of Seeking Possession may be served on the tenant for breach of tenancy. If this happens, then the application for mutual exchange will be refused using the relevant ground. A new application for mutual exchange may be considered once the breach has been remedied. It is the tenant's responsibility to remedy the breach. Nottingham City Council (NCC) may agree to undertake the work on the basis that the cost is re-charged to the tenant. Repairs are to be completed prior to the exchange and if the work is carried out by Nottingham City Council (NCC), the invoice must be paid before the move is completed.
- 9.9. If the inspection discloses matters which may prevent the exchange (such as outstanding damage/repairs at the premises which are the tenant's responsibility), the Mutual Exchange Officer (MEO) will provide the tenant with a list of items that must be rectified before the exchange can proceed. The Mutual Exchange Officer (MEO) will give timescales for completion/rectification and a further Surveyor inspection arranged so that the Surveyor can confirm that the works have been completed satisfactorily. Nottingham City Council (NCC) may agree to undertake the work on the basis that the cost is re-charged to the tenant. Repairs are to be completed prior to the exchange and if the work is carried out by Nottingham City Council (NCC), the invoice must be paid before the move is completed.
- 9.10. A visual electrical inspection will also be carried out by a qualified operative and the outcome will be reported to the Mutual Exchange team. Any works that must be carried out by Nottingham City Council (NCC) or the tenant (for example where there has been



unauthorised electrical works) must be completed prior to exchange or may form a condition to an exchange.

- 9.11. Once all property inspections have been completed, they will be valid for up to three months from the date that they were carried out. Should the exchange not complete within three months, then, for health and safety reasons the checks will need to be carried out again. The Council reserves the right to recharge the outgoing tenant as necessary in order to recover their costs for the new checks. The Council will not seek to recharge where the Council considers that the delay is out of the control of the outgoing tenant.

## 10. **CONTACTING THE LANDLORD OF INCOMING TENANT (WHERE APPLICABLE)**

- 10.1. If the inspection is satisfactory and in cases where the tenant seeks to exchange to property held by another landlord, a letter and reference/tenancy report request will be sent to the other landlord involved in the exchange requesting information about the other tenancy. Information will be required about the type of tenancy, the occupants/household/size of accommodation and so on.
- 10.2. If no reply is received within 7 working days, the Mutual Exchange Officer (MEO) should contact the landlord by telephone for a reply.
- 10.3. Once received, the report should be checked by the Mutual Exchange Officer (MEO) and may be used in reaching a decision to refuse, confirm or give conditional consent to the exchange. NOTE- It is not possible for Nottingham City Council (NCC) to refuse an exchange or make consent conditional where the incoming tenant is in breach of their tenancy. In these circumstances, the other Landlord can give conditional consent or can refuse permission.
- 10.4. At the same time, the Mutual Exchange Officer (MEO) should also write a report to the other landlord providing the information they request in relation to making a decision to refuse, confirm or give conditional consent to the exchange.

## 11. **GARAGES**

- 11.1. If a tenant rents a garage, which will no longer be required if the exchange is approved, they should be advised by the Mutual Exchange Officer (MEO) of the need to complete a Notice To Quit (NTQ) terminating their tenancy of the garage should the exchange go ahead

## **Section 4**

## 12. **PETS**

- 12.1. In cases where the outgoing tenant is in breach of their existing tenancy by having a pet at their premises, but they are moving to accommodation where this will not be a breach, the Mutual Exchange Officer (MEO) must check with the Housing Patch Manager (HPM) responsible for the tenancy whether any action was taken in respect of the breach. If a notice

seeking possession was served (which gives the right to refuse the exchange), the Mutual Exchange Officer (MEO) should waive the right to refuse

- 12.2. In cases where the outgoing tenant with a pet is moving from accommodation which allows pets, to accommodation which doesn't, advice will be given to the outgoing tenant to rehome their pet. Alternatively, support can be given to enable the applicant to find suitable accommodation, which allows pets. If the outgoing tenant is moving to accommodation managed by Nottingham City Council (NCC), the Mutual Exchange Officer (MEO) will contact the Housing Patch Manager (HPM) to see if discretion can be exercised to allow the pet. The mutual exchange cannot be progressed until the pet is re-homed.
- 12.3. In cases where the outgoing tenant is in breach of their tenancy agreement by having a pet and is moving to Nottingham City Council (NCC) managed accommodation where that will also be a breach, then conditional consent will be given. Note that conditional consent cannot be given for flexible fixed term tenants.

### 13. **GROUNDS FOR WITHHOLDING CONSENT**

- 13.1. **Secure and assured tenancies**; The grounds for withholding assignment by way of mutual exchange are set out in **Appendix 2**.
- 13.2. **Flexible tenancies of 2 years plus**; Schedule 14 Localism Act 2011 sets out the grounds upon which a landlord may rely in withholding consent to a mutual exchange. Conditional consent (see section 14) cannot be granted in respect of these tenancies. The grounds for refusal are set out in **Appendix 3**.
- 13.3. In cases where a decision is taken to refuse consent then the relevant refusal letter must be sent.

### 14. **CONDITIONAL CONSENT (SECURE AND ASSURED TENANCIES ONLY)**

- 14.1. Section 92(5) Housing Act 1985 allows consent to an exchange to be made conditional on any breaches of tenancy being remedied or obligations performed. This applies in respect of NCC Registered Provider & NCH Ltd assured tenancies also. This consent must be given within the statutory 42-day time period and conditions must relate to rectifying a breach of tenancy.
- 14.2. If conditional consent is granted NCC will write to the resident advising of these conditions. The agreement can be made conditional upon rent arrears being paid or repairs that are the tenant's responsibility being rectified prior to the exchange taking place.
- 14.3. Exceptions to this will only be agreed where there is an overwhelming housing management reason to do so, for example urgent domestic violence cases. Any exceptions must be agreed by a senior officer and confirmed in writing.
- 14.4. The Localism Act does not allow for conditions to be imposed to consent in respect of fixed term/flexible tenancies, so a conditional consent option does not apply. Grounds by which a

request to exchange can be refused, or granted conditional consent, are detailed in **Appendix 3**.

## 15. **WAIVER OF RIGHT TO REFUSE EXCHANGE-WELFARE REFORM**

- 15.1. Rent arrears- Nottingham City Council (NCC) will endeavour to work with tenants affected by Welfare Reform, including tenants who are either under-occupying or living in overcrowded conditions.
- 15.2. This means that Nottingham City Council (NCC) will consider waiving its right to refuse the exchange where the exchange would prevent further accrual of existing arrears by agreement of a payment plan.
- 15.3. Nottingham City Council (NCC) will only consider waiving its right to refuse a mutual exchange if:
  - the exchange would improve the tenant's financial situation,
  - resolve under-occupation or overcrowding,
  - result in a repayment of outstanding arrears
- 15.4. If these criteria are not met, Nottingham City Council (NCC) will not consider a waiver and reserves the rights to refuse the exchange on any of the Grounds stated in this policy.
- 15.5. If Nottingham City Council (NCC) exercises a waiver, this would happen prior to completion of the Mutual Exchange by way of approval from the Rent Operations Manager (ROM), and with the requirement that the tenant sign an addendum to the Deed of Assignment which should be dated the same date as the deed.
- 15.6. Waiver will only occur if the tenant accepts liability for the debt on their current property. This will be recorded in an Addendum to the Deed of Assignment or new tenancy agreement, whichever is relevant. This will include the following: -
  - set out the payment plan,
  - confirm that Nottingham City Council (NCC) has informed the tenant of the requirement to pay the debt,
  - confirm that the tenant has been informed that failure to adhere to the terms of repayment of this debt may result in further action being taken against them, in line with the Rents pre action protocol.
- 15.7. In cases where a Notice of Seeking Possession has been served by the rents team and arrears cleared, Nottingham City Council (NCC) may exercise its discretion not to refuse the application on that ground.

## 16. **UNCONDITIONAL CONSENT**

- 16.1. If there are no grounds for refusal and no breaches of tenancy (or where breaches have been rectified following conditional consent), the Mutual Exchange Officer (MEO) should write to the incoming and outgoing tenants advising that the exchange has been approved and arrange a date for the relevant paperwork to be completed.

**Before doing so the MEO must check that;**

- All information has been received from the other landlord.
- All items subject to conditional consent have been rectified and a further inspection carried out.
- Where the exchange is subject to rent arrears, that approval of the Rent Operations Manager (ROM) has been obtained and a payment plan set up.
- Manager final check and approval to proceed to be obtained.

We then advise the tenant to revisit the property, which they wish to move to again to ensure that they still wish to proceed.

## **Section 5**

### **17. MANAGERS APPROVAL**

- 17.1 Once all checks for all tenants **Nottingham City Council (NCC)**, NCH Ltd & NCH Registered Provider tenant are completed a Managers Decision Report will be completed. The Manager will check to ensure the process of checks has been concluded, the Deed of Assignment is correctly issued and will prepare a disclaimer for both outgoing and new (incoming) tenants to sign and must be witnessed at the Sign-up meeting by the Mutual Exchange Officer (MEO). If all checks are concluded correctly the exchange can be progressed. Any issues identified need to be addressed prior to approval being given.

### **18. SIGN UP**

- 18.1. The Mutual Exchange Officer (MEO) should set up an appointment for the documents to be signed by all parties. This will be by text, email, or letter. This should happen at a Nottingham City Council (NCC) office if both tenants are Nottingham City Council (NCC) or NCC Registered Provider tenants, or at the office of the other landlord. All parties to the exchange should attend the appointment at the same time. If this is not possible due to mobility issues, then a home visit can be arranged. The documents must be signed, dated, and witnessed by all parties.
- 18.2. The relevant documents for each property must be signed by all relevant parties and witnessed prior to the agreed date of exchange. The documents should be given that date.
- 18.3. The Mutual Exchange Officer (MEO) will explain that at completion of the exchange documents each property is taken “as seen” with each tenant stepping into the other’s shoes. The incoming tenant will be responsible for all fixtures and fittings in their new home. For example, if the outgoing tenant has replaced a kitchen and been responsible for maintaining it, the incoming tenant takes on this responsibility.

- 18.4. For 6 months after the exchange, Nottingham City Council (NCC) will not undertake repairs or replacements that were noted at the inspection and that were accepted by the incoming tenant as their responsibility prior to the exchange, other than those which pose a risk to the health or safety of the tenant or a member of their household.
- 18.5. Gas and electricity periodic checks are carried out on the day of completion.
- 18.6. There should be three copies of the Deed of Assignment, one for the outgoing tenant, one for the incoming tenant and one for Nottingham City Council (NCC), which should be scanned and stored securely with the original tenancy agreement. The incoming tenant should also be provided with a copy of the original tenancy agreement.
- 18.7. Nottingham City Council (NCC)NCC will require the outgoing and incoming tenant to sign any relevant declarations at the meeting to confirm signed acceptance of any responsibilities in relation to alterations, condition, and responsibility on vacating the premises including a gift form and alterations /conditions form as appropriate. A signed copy of which will be issued to each incoming and outgoing tenant and a signed copy retained on the tenancy file records.
- 18.8. A copy Deed and copy original tenancy agreement will be given to each tenant together with the gas and electric safety certificates. A copy will be retained by Nottingham City Council (NCC) and securely stored with the tenancy agreement. If the gas and electric safety certificates are not available for handover at sign up, then copies will be sent to tenants as soon as they are available.
- 18.9. Where relevant the Mutual Exchange Officer (MEO) will assist in completing the electoral registration document for those applicants who are not registered to vote.
- 18.10. For tenants transferring into Victoria Centre & other Highrise flats, leaflets appropriate to each block of flats will be issued in relation Right to Buy, Pre booking of parking arrangement for removals & fire action leaflets in the case of an emergency. The tenant must ensure they read the leaflets thoroughly and familiarise themselves with the procedure in the event of an emergency.

## 19. **SUCCESSION**

- 19.1. Succession rights stay with the person rather than the tenancy. Where a succession has already taken place on a secure tenancy, the outgoing tenant (who has already succeeded to their tenancy) will take that status with them. No new succession rights are created through mutual exchange. It is important for checks to be made to check the succession status of applicants and the appropriate note made on the system.
- 19.2. Where another landlord is involved in the exchange, Nottingham City Council (NCC) will inform that landlord whether or not a succession has already taken place, so that they can take this into account when processing the exchange.

## 20. **MUTUAL EXCHANGES WITHOUT PERMISSION**

- 20.1. If tenants swap homes without going through the process set out in this policy, this is not a valid mutual exchange/swap and legal action may be taken for breach of tenancy. The incoming tenants will not have security of tenure.
- 20.2. In some circumstances, retrospective consent to an exchange may be given subject to all relevant checks and paperwork being completed.

## **Section 6**

### **21. CONFIDENTIALITY AND DATA PROTECTION**

For access to the latest Nottingham City Council Privacy Notice, please click here: <http://www.nottinghamcity.gov.uk/privacy-statement/>. Alternatively, should you require a copy of the latest Privacy Notice, you can write to: The Information Compliance Team, Nottingham City Council, Loxley House, Station Street, Nottingham NG2 3NG or telephone 0115 915 5555.

### **22. EQUALITY**

Nottingham City Council (NCC) will treat all customers fairly. It will not discriminate on the grounds of disability, gender reassignment, pregnancy and maternity, race, religion and belief, age, sex, sexual orientation or marriage and civil partnerships.

### **23. REASSESSMENTS**

Applicants have the right to be informed of decisions following their application for mutual exchange and may request a reassessment of the following decisions: -

- Whether they are eligible to apply for mutual exchange.
- Any decision to withhold permission for the exchange.
- Any decision not to waive the right to refuse the mutual exchange in cases of arrears.

The purpose of reassessment of the decision would be to ensure that the applicant have been treated fairly and in accordance with this policy.

- 23.1. Requests for reassessments should be submitted in writing within 21 days of the decision.
- 23.2. The request will be acknowledged within 7 days of receipt.
- 23.3. The matter will be dealt with by a senior officer.
- 23.4. The applicant will be notified in writing of the outcome of the reassessment within 21 days of receipt of the application.

### Document Change History

Date	Issue No.	Section/ Page	Details of Change	Authorised by
	7	Whole policy	<ul style="list-style-type: none"> <li>• Review as a result of Nottingham City Homes coming back into Nottingham City Council along with logo changes and job title changes</li>   <li>• Shared for feedback from Tenancy &amp; Estate Management, Repairs and other Housing Services Teams and as a result introduced a final managers check to ensure anything identified by the qualified surveyor is actioned, reducing the risk of issues for the incoming tenant and costly repairs post transfer for NCC</li>   <li>• Introduced a new signed responsibility list for outgoing and incoming tenants so it is very clear who has responsibility to complete action on exchange</li>   <li>• Amended the surveyors visit report and to include photos to evidence and on completion, signed disclaimer added that the tenant signs on site with the surveyor</li>   <li>• Legal check completed to ensure compliance</li> </ul>	Sharon Guest

## APPENDIX 2

### GROUNDS FOR WITHHOLDING PERMISSION SECURE AND ASSURED TENANCIES

- 1.1. **Ground 1-** The tenant or the proposed assignee (person moving in) is subject to a possession order (this includes a suspended possession order)
- 1.2. **Ground 2-** Possession proceedings have commenced against the tenant or the proposed assignee under grounds 1-6 of Schedule 2 to the Housing Act 1985, or there has been served on one of them a notice seeking possession under section 83 or 83ZA Housing Act 1985 which specifies one or more of those grounds and is still in force. (Grounds 1-6 of Schedule 2 Housing Act 1985 are set out at the end of this appendix for reference)
- 1.3. **Ground 2ZA-** Proceedings have commenced against the tenant or the proposed assignee for possession under section 84A (absolute ground for possession for anti-social behaviour), or there has been served on one of them a notice under section 83ZA (notice seeking possession on the absolute ground for possession for anti-social behaviour) which is still in force.
- 1.4. **Ground 2A-** where the tenant or proposed assignee is subject to a specified type of injunction, a demotion order, anti-social behaviour order or a possession order granted on the grounds of nuisance or riot is in force, including suspended orders, or if court action to obtain such an order is pending.
- 1.5. **Ground 2B-** The property of the tenant or proposed assignee is subject to a closure notice or closure order under the Anti-social Behaviour, Crime and Policing Act 2014.
- 1.6. **Ground 3-** The property would be substantially larger than the existing tenant or prospective tenant require.
- 1.7. **Ground 4-** The property of the tenant is not reasonably suitable for the needs of the proposed assignee and their family, or the property of the proposed assignee is not reasonably suitable to the needs of tenant.
- 1.8. **Ground 5 –** 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 to the tenant or a predecessor in connection with employment with the landlord, a local authority, a development corporation, a housing action trust, a Mayoral development corporation, an urban development corporation or the governors of an aided school.
- 1.9. **Ground 6-** The landlord is a charity and if the exchange took place, the occupation of the property would conflict with the objects of the charity.
- 1.10. **Ground 7-** Either property is designed for a physically disabled person and if the exchange took place a disabled person would not be occupying.



- 1.11. **Ground 8-** The landlord is a housing association or housing trust that lets property to people who experience difficulty in meeting their housing need and if the exchange took place, these criteria would not be met. By the new occupant.
- 1.12. **Ground 9-** The property is one of a group let to people with special needs with a special needs or social services facility nearby to assist tenants and if the exchange took place the property would be let to someone without special needs.
- 1.13. **Ground 10-** The property is the subject of a management agreement under which the manager is a housing association of which half the members are tenants of dwelling-houses subject to the agreement, at least half the tenants of the dwelling-houses are members of the association, and the proposed assignee is not, and is not willing to become a member of the association.

## **Grounds 1 - 6 of Schedule 2 Housing Act 1985**

### **Ground 1**

Rent lawfully due from the tenant has not been paid or an obligation of the tenancy has been broken or not performed.

### **Ground 2**

The tenant or a person residing in or visiting the dwelling-house: -

- (a) has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality,  
[(aa) has been guilty of conduct causing or likely to cause a nuisance or annoyance to the landlord of the dwelling-house, or a person employed (whether or not by the landlord) in connection with the exercise of the landlord's housing management functions, and that is directly or indirectly related to or affects those functions,] or
- (b) has been convicted of: -
- (i) using the dwelling-house or allowing it to be used for immoral or illegal purposes, or
- (ii) an [indictable] offence committed in, or in the locality of, the dwelling-house.]

### **Ground 2ZA**

The tenant or an adult residing in the dwelling-house has been convicted of an indictable offence which took place during, and at the scene of, a riot in the United Kingdom.

In this Ground: -

“adult” means a person aged 18 or over;

“indictable offence” does not include an offence that is triable only summarily by virtue of section 22 of the Magistrates' Courts Act 1980 (either way offences where value involved is small);

“riot” is to be construed in accordance with section 1 of the Public Order Act 1986.

This Ground applies only in relation to dwelling houses in England.

### **Ground 2A**

The dwelling-house was occupied (whether alone or with others) by [a married couple, a couple who are civil partners of each other,] a couple living together as husband and wife [or a couple living together as if they were civil partners] and—

- (a) one or both of the partners is a tenant of the dwelling- house,
- (b) one partner has left because of violence or threats of violence by the other towards—
- (i) that partner, or

- (ii) a member of the family of that partner who was residing with that partner immediately before the partner left, and
- (c) the court is satisfied that the partner who has left is unlikely to return.]

**Ground 3**

The condition of the dwelling-house or of any of the common parts has deteriorated owing to acts of waste by, or the neglect or default of, the tenant or a person residing in the dwelling-house and, in the case of an act of waste by, or the neglect or default of, a person lodging with the tenant or a sub-tenant of his, the tenant has not taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.

**Ground 4**

The condition of furniture provided by the landlord for use under the tenancy, or for use in the common parts, has deteriorated owing to ill-treatment by the tenant or a person residing in the dwelling-house and, in the case of ill-treatment by a person lodging with the tenant or a sub-tenant of his, the tenant has not taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.

**Ground 5**

The tenant is the person, or one of the persons, to whom the tenancy was granted and the landlord was induced to grant the tenancy by a false statement made knowingly or recklessly [by—

- (a) the tenant, or
- (b) a person acting at the tenant's instigation].

**Ground 6**

The tenancy was assigned to the tenant, or to a predecessor in title of his who is a member of his family and is residing in the dwelling-house, by an assignment made by virtue of section 92 (assignments by way of exchange) and a premium was paid either in connection with that assignment or the assignment which the tenant or predecessor himself made by virtue of that section.

In this paragraph “premium” means any fine or other like sum and any other pecuniary consideration in addition to rent.

### **APPENDIX 3**

#### **GROUNDS FOR WITHHOLDING CONSENT FOR A MUTUAL EXCHANGE FLEXIBLE (FIXED TERM) TENANCIES**

- 1.14. **Ground 1**- any rent lawfully due from a tenant under one of the existing tenancies has not been paid.
- 1.15. **Ground 2** - an obligation under one of the existing tenancies has been broken or not performed.
- 1.16. **Ground 3** - any of the relevant tenants is subject to an order for possession.
- 1.17. **Ground 4** - If either of the following conditions is met;
- That possession proceedings have begun on a secure tenancy, and possession is sought on one or more of grounds 1 to 6 in Part 1 of Schedule 2 to the Housing Act 1985 (grounds on which possession may be ordered despite absence of alternative accommodation).
  - A notice of proceedings for possession has been served on a relevant tenant under section 83 of that Act, and the notice specifies one or more of those grounds and is still in force.
- 1.18. **Ground 4A**- If either of the following conditions is met;
- That possession proceedings have begun on a secure tenancy and possession is sought under s84A Housing Act 1985 (absolute ground for anti-social behaviour)
  - a notice of proceedings for possession has been served on a relevant tenant under section 83ZA of that Act (NoSP on absolute ground for anti-social behaviour and the notice is still in force).
- 1.19. **Ground 5**- If either of the following conditions is met;
- That possession proceedings have begun on an assured tenancy, and possession is sought on one or more of the grounds in Part 2 of Schedule 2 to the Housing Act 1988 (grounds on which the court may order possession)
  - A notice of proceedings for possession specifying one of those grounds has been served on a relevant tenant under section 8 of that Act (notice of proceedings for possession) and is still in force.
- 1.20. **Ground 5A**- If either of the following conditions is met;

- That possession proceedings have begun on an assured tenancy, and possession is sought on ground 7A in Part 1 of Schedule 2 Housing Act 1988 (absolute ground for possession for anti-social behaviour).
- A notice of proceedings for possession specifying ground 7A has been served on a relevant tenant under section 8 of that Act (notice of proceedings for possession) and is still in force.

1.21. **Ground 6-** If either of the following conditions is met;

- The first condition is that a relevant order, a suspended anti-social behaviour possession order or a suspended riot-related possession order] is in force in respect of a relevant tenant or a person residing with a relevant tenant.
- The second condition is that an application is pending before any court for a relevant order, a demotion order, an anti-social behaviour possession order or a riot-related possession order to be made in respect of a relevant tenant or a person residing with a relevant tenant.

1.22. “relevant order” means;

- an injunction under section 152 of the Housing Act 1996 (injunctions against anti-social behaviour),
- an injunction to which a power of arrest is attached by virtue of section 153 of that Act (other injunctions against anti-social behaviour),
- an injunction under section 153A, 153B or 153D of that Act (injunctions against anti-social behaviour on application of certain social landlords),
- an anti-social behaviour order under section 1 of the Crime and Disorder Act 1998, or
- an injunction to which a power of arrest is attached by virtue of section 91 of the Anti-social Behaviour Act 2003 [or section 27 of the Police and Justice Act 2006],
- an injunction under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014, or an order under section 22 of that Act].

1.23. An “anti-social behaviour possession order” means an order for possession under Ground 2 in Schedule 2 to the Housing Act 1985 or Ground 14 in Schedule 2 to the Housing Act 1988;

1.24. a “demotion order” means a demotion order under section 82A of the Housing Act 1985 or section 6A of the Housing Act 1988;

- 1.25. A “riot-related possession order” means an order for possession under Ground 2ZA in Schedule 2 to the Housing Act 1985 or Ground 14ZA in Schedule 2 to the Housing Act 1988;
- 1.26. **Ground 6A** – property let on an existing tenancy is subject to a closure notice or closure order under the Anti-social Behaviour, Crime and Policing Act 2014;
- 1.27. **Ground 7-** The property would be substantially larger than the existing tenant or prospective tenant require;
- 1.28. **Ground 8-** The accommodation would not be reasonably suitable to the needs of the existing tenant, prospective tenant or their families.
- 1.29. **Ground 9-** if both of the following are met;
  - 1.30. the property is part of or is within a building that is held by the landlord for non-housing purposes and consists mainly of non-housing accommodation or is in a cemetery and
  - 1.31. the property was let to the tenant or a predecessor in connection with their employment with the landlord, a local authority, a development corporation, a housing action trust or the governors of an aided school.
- 1.32. **Ground 10-** The landlord is a charity and if the exchange took place, the occupation of the property would conflict with the objects of the charity.
- 1.33. **Ground 11-** Either property is designed for a physically disabled person and if the exchange took place a disabled person would not be occupying.
- 1.34. **Ground 12-** The landlord is a housing association or housing trust that lets property to people who experience difficulty in meeting their housing need and if the exchange took place, these criteria would not be met by the new occupant.
- 1.35. **Ground 13-** The property is one of a group let to people with special needs with a special needs or social services facility nearby to assist tenants and if the exchange took place the property would be let to someone without special needs.
- 1.36. **Ground 14-** The property is the subject of a management agreement under which the manager is a housing association of which half the members are tenants of properties subject to the agreement, at least half the tenants of the dwelling-houses are members of the association, and the proposed assignee is not, and is not willing to become a member of the association.