

<b>Policy title</b>	Mutual Exchange Policy
<b>Directorate</b>	Neighbourhood and Wellbeing
<b>Author</b>	Shaheen Yousaf, Neighbourhood Manager North
<b>Date First Approved</b>	2018
<b>Latest Date of Approval</b>	November 2022
<b>Next Review Date</b>	November 2024
<b>Policy Scope/Users</b>	To provide a means for tenants of Mosscare St Vincent's to exchange their tenancy, either with another Mosscare St Vincent's tenant, with that of another Registered Social Landlord or a tenant from a Local Authority. Exchanges should be conducted fairly and in line with regulations and legislation.
<b>Date EIA done</b>	November 2022

## **1 Introduction/policy purpose**

Mosscare St Vincent's recognises that our customers' needs change throughout their lives and tenancies and this may result in a need to move homes. Exchanging homes is often the easiest and quickest way to move and this policy will outline how this service can be maximised for this purpose. Mosscare St Vincent's encourages Mutual Exchanges as an effective way of increasing customer mobility.

### **Tenancy Types**

#### **1.1 Secure Tenancies**

The law relating to mutual exchanges is contained within Section 92 of the *Housing Act 1985* and provides that it is a term of every secure tenancy that the tenant may, with the consent of the landlord, assign the tenancy to another secure tenant who also has the written consent of their landlord.

#### **1.2 Assured Tenancies**

The Local Government and Housing Act 1985 extended the right allowing secure tenants to exchange with assured tenants of Social Registered Landlords. Assured tenants do not have a statutory right to exchange, but are granted the right through their tenancy agreement.

Not every customer has the right to Mutually Exchange. Tenancy type, customer circumstances all influence whether a customer is eligible for a Mutual Exchange.

## **2 Description of the Policy**

There are many ways that a customer can find a property and prospective tenants to Mutually Exchange with. Mosscare St Vincent's assists its customers who are interested in mutually exchanging their properties by providing free access to "House Exchange". In order to access this service, customers will need to register on-line.

Customers can mutually exchange to any part of the UK, but all tenants may be restricted from moving to a property not suited to their housing needs.

#### **2.1 Customer Circumstances**

Customers may not be eligible to Mutual Exchange into a different property due to their circumstances. Mosscare St Vincent's makes several checks to make sure customers are eligible; these checks are explained below.

#### **2.2 Verification Checks**

Prospective tenants joining Mosscare St Vincent's via Mutual Exchange will be subject to the same verification checks as other prospective tenants.

### **2.3 Tenancy Sustainment Checks**

All Mutual Exchanges will be dealt with in line with the requirements set out in our Allocations Policy. A thorough sustainability assessment will be carried out in order to determine that the incoming resident will be able to successfully sustain a tenancy.

Monies should not be exchanged by the parties involved to facilitate the Mutual Exchange.

### **2.4 Landlords Consent**

Consent of all landlords involved with an exchange is required before the exchange takes place. MSV will aim to provide a decision to all parties if the exchange can take place within **42 days** from when receiving both completed forms ie from MSV's customer and the exchanging tenant.

Homes and Communities Agency have made it a requirement that all registered providers give consent by means of a Licence to Assign.

If consent is to be withheld, a notice must be served within **42 days** of the tenant's application to exchange. The notice must specify the ground for withholding consent and give reasons for it.

### **2.5 Grounds for withholding consent: Secure and Assured Tenancies**

The grounds for withholding consent to assignment by way of Mutual Exchange are detailed in full in Schedule 3 the *Housing Act 1985*, as amended by *the Housing act 2004* for secure tenancies. These also apply for Assured tenancies plus any other additional grounds.

### **2.6 Waive the right to refuse a Mutual Exchange**

Mosscares St Vincent's will endeavour to work with tenants affected by Welfare Reform, and including customers who are either under-occupying or overcrowding.

This means that Mosscares St Vincent's may choose to waive our right to refusal of an exchange where there are rent arrears, and where the exchange would prevent further accrual of arrears by agreement of a payment plan.

Mosscares St Vincent's will only consider waiving its right to refuse a mutual exchange if the exchange would improve the tenant's financial situation or resolve under-occupation.

### **2.7 If the other landlord refuses to assign the tenancy**

If one landlord, without reasonable grounds, refuses to allow the Mutual Exchange to go ahead, it will be the responsibility of the customer to take their landlord to court and the court determines if it will compel the landlord to give consent.

The mutual exchange should only go ahead with the agreement of both landlords. The right to assign a secure or assured tenancy exists only to effect exchanges: if both tenancies are not assigned, neither of them can be.

## **2.8 Consent**

Any party in a Mutual Exchange can choose to halt the exchange at any time. Furthermore, prospective tenants circumstances may alter at any point during the 42 day period which could mean that the exchange has become unsuitable.

## **3 Roles, Responsibility and Policy implementation**

3.1 The Lettings Assistant/Team are responsible for verifying tenants on the House Exchange website.

3.2 The Officer will be responsible for obtaining the information required in order to decide whether a Mutual Exchange can take place.

3.3 The Landlord of the other tenant is responsible for providing information regarding the incoming tenant.

3.4 Customer Support Team roles are to support Neighbourhoods and customers by carrying out an eligibility calculation.

3.5 Technical Inspectors will be responsible for conducting a property inspection.

3.6 The Manager will be responsible for the overall decision as to whether the mutual exchange can take place.

3.7 All staff must ensure all attempted contacts with a customer are recorded and relevant documents are available on the housing document management system.

## **4 Related documents**

4.1 Allocations Policy & Procedure

4.2 Starter Tenancy

4.3 Financial Inclusion Strategy

4.4 Rent Arrears Procedure

4.5 Hardship Fund Policy and Procedure

4.6 Succession Procedure

## 5 Appendix

### 5.1 Equality Impact Assessment

#### **5.1 EQUALITY IMPACT ASSESSMENT**

**Name of Policy: Mutual Exchange**

**Date of Assessment / Review: November 2022 Author: Shaheen Yousaf**

Who are the main stakeholders in relation to the function?	Tenants, applicants, staff, partner agencies and Committee	
Who will be consulted and what types of consultation will be carried out?	Staff Customers Tenants Committee	
Could the function have a differential impact on:		What evidence exists to support your analysis?
	<b>Yes / No</b>	
Racial Groups	YES	We are aware that some customers may have a language barrier
Gender or gender reassignment	NO	
Disabled people	YES	Accessibility maybe an issue for those who are housebound or with severe disability. Customers with mental health issues may struggle with the internet
Age	NO	
Sexuality	NO	
Religion or belief	NO	
Any other protected or vulnerable characteristic including marriage or civil partnerships, pregnancy or maternity?	NO	
<p>If the answer is <b>NO</b> to <u>all</u> questions and no differential treatment has been found there is no requirement for a full Equality Impact Assessment. Please go back regularly and review the cycle. If the answer is <b>YES</b> to any of the questions please complete the rest of the form.</p>		
In what areas could the differential identified be considered to have an adverse impact in this function and what solutions will be introduced to overcome these adverse impacts?	<ul style="list-style-type: none"> <li>• Availability of language line to address translation issues and front line staff with valuable language skills</li> <li>• Support customers with their budgeting and debt concerns</li> <li>• Officers will visit customer in their home if requested</li> <li>• Access to digital services</li> </ul>	

	<ul style="list-style-type: none"> <li>• Identify customers who have issues with reading and writing.</li> </ul>
<p>In what areas could the differential identified be considered a positive impact in this function and what strategies will be introduced to safeguard and spread these positive impacts?</p>	
<p>Which Action Plans have these solutions/strategies been transferred into?</p>	

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**Ratified by: Committee/ Board / Delegated Approval**

**Date:**