



WIGAN COUNCIL'S
MUTUAL EXCHANGE POLICY
& PROCEDURE

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INTRODUCTION

A mutual exchange is an exchange of 'rented' property and can be effected with a number of tenants mutually agreeing to swap properties, with the permission of their landlord.

Wigan Council encourages mutual exchanges between Council and / or private tenants and recognises the various benefits to households who wish to exchange homes.

Wigan Council encourages mutual exchanges except where there are circumstances which prevent the exchange being approved.

Wigan Council tenants who apply to exchange with private tenants should be advised of their potential loss of security of tenure and all associated rights.

RULES

The Councils' Secure Tenancy agreement section 3.6 (a), (b), (c), and (d), and Introductory Tenancy Agreement section 9.6 (a), (b), (c) and (d)

The Tenant agrees:

- | | | |
|--------|--------|---|
| 3.6(a) | 9.6(a) | Not to assign the tenancy or exchange tenancies with any other party before receiving the written permission of the Council. |
| 3.6(b) | 9.6(b) | Not to give or receive any money or other inducement in connection with an exchange of tenancies. |
| 3.6(c) | 9.6(c) | To notify the Council in writing in advance of the date when the assignment or exchange will take place and to complete any exchange on the same day. |
| 3.6(d) | 9.6(d) | Immediately notify the Council of any change in plan concerning the assignment or exchange either on the part of the tenant or the other party. |

LEGISLATION

Housing Act 1985 - Part IV, Section 92. Assignments by way of exchange.

(1) It is a term of every secure tenancy that the tenant may, with the written consent of the landlord, assign the tenancy to another secure tenant who satisfies the condition in subsection (2).

(2) The condition is that the other secure tenant has the written consent of his landlord to an assignment of his tenancy either to the first mentioned tenant or to another secure tenant who satisfies the condition in this subsection.

(3) The consent required by virtue of this section shall not be withheld except on one or more of the grounds set out in Schedule 3, and if withheld otherwise than on one of those grounds shall be treated as given.

(4) The landlord may not rely on any of the grounds set out in Schedule 3 unless he has, within 42 days of the tenant's application for the consent, served on the tenant a notice specifying the ground and giving particulars of it.

(5) Where rent lawfully due from the tenant has not been paid or an obligation of the tenancy has been broken or not performed, the consent required by virtue of this section may be given subject to a condition requiring the tenant to pay the outstanding rent, remedy the breach or perform the obligation.

(6) Except as provided by subsection (5), a consent required by virtue of this section cannot be given subject to a condition, and a condition imposed otherwise than as so provided shall be disregarded.

GROUND FOR WITHHOLDING CONSENT TO ASSIGNMENT BY WAY OF EXCHANGE

Housing Act 1985 -Part IV, Section 92, Schedule 3 -

Ground 1

The tenant or the proposed assignee is obliged to give up possession of the dwelling-house of which he is the secure tenant in pursuance of an order of the court, or will be so obliged at a date specified in such an order.

Ground 2

Proceedings have been begun for possession of the dwelling-house of which the tenant or the proposed assignee is the secure tenant on one or more of grounds 1 to 6 in Part I of Schedule 2 (grounds on which possession may be ordered despite absence of suitable alternative accommodation), or there has been served on the tenant or the proposed assignee a notice under section 83 (notice of proceedings for possession) which specifies one or more of those grounds and is still in force.

Ground 3

The accommodation afforded by the dwelling-house is substantially more extensive than is reasonably required by the proposed assignee.

Ground 4

The extent of the accommodation afforded by the dwelling-house is not reasonably suitable to the needs of the proposed assignee and his family.

Ground 5

The dwelling-house-

(a) forms part of or is within the curtilage of a building which, or so much of it as is held by the landlord, is held mainly for purposes other than housing purposes and consists mainly of accommodation other than housing accommodation, or is situated in a cemetery, and

(b) was let to the tenant or a predecessor in title of his in consequence of the tenant or predecessor being in the employment of-

the landlord,

a local authority,

a new town corporation,

the Development Board for Rural Wales,

an urban development corporation, or

the governors of an aided school

Ground 6

The landlord is a charity and the proposed assignee's occupation of the dwelling-house would conflict with the objects of the charity.

Ground 7

The dwelling-house has features which are substantially different from those of ordinary dwelling-houses and which 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 assignment were made there would no longer be such a person residing in the dwelling-house.

Ground 8

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 especially difficult for them to satisfy their need for housing and if the assignment were made there would no longer be such a person residing in the dwelling-house.

Ground 9

The dwelling-house 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 a social service or special facility is provided in close proximity to the group of dwelling-houses in order to assist persons with those special needs and if the assignment were made there would no longer be a person with those special needs residing in the dwelling-house.

GENERAL COMMENT

Mutual exchanges can take a maximum of 6 weeks (**42 days**) to be approved / refused.

Mutual exchanges can only be refused where there is a legal ground for refusal as set down in Schedule 3 of the Housing Act 1985 (see above for details).

Mutual exchanges can be two way, three way or even more provided:

- each secure tenant has the permission of the landlord to assign,
- each assured tenant has the permitted landlord i.e. the landlord must be either the Housing Corporation, Housing for Wales, a registered housing association or a housing trust which is a charity.
- We may apply discretion and agree to a mutual exchange where a tenant of Wigan Council has rent arrears but these have arisen as a result of financial hardship caused by Welfare Reform such as the under occupancy charge and where moving would demonstrably alleviate the hardship.

All tenants must be fully aware of the Conditions of Mutual Exchange.