

- 6.5 Schedule 14 of the Localism Act 2011 under Section 158 and Schedule 3 of the Housing Act 1985 under Section 92 lists the grounds under which a landlord can refuse consent for a mutual exchange to take place.
- 6.6 The policy was aligned to the Welfare Reform Act 2012 when determining the appropriate size of accommodation. We believed this would allow us to make best use of our housing stock; preventing under-occupation and non-statutory overcrowding and that it would not restrict mobility or choice. It also sought to reduce the circumstances where properties may be unaffordable due to welfare reform and to prevent future rent arrears.
- 6.7 Since adopting the policy, the council has received several appeals as the size criteria differs from the size criteria within the Allocations Policy.
- 6.8 Learning from the appeals that we have received, the conflicting policies are confusing for residents who may have been assessed as having a greater bedroom need under the Allocations Policy, but who were prohibited to move to a property of that size under the Mutual Exchange Policy.
- 6.9 It is therefore proposed that the Mutual Exchange Policy is revised at section 7 to allow an applicant that is registered or who would qualify to be registered on the council's Housing Needs Register (HNR) to exchange in accordance with the size criteria set out in the Allocations Policy.
- 6.10 Those applicants that do not have access to the HNR or who would not qualify to be on the HNR, will be able to exchange using the room size criteria of the Welfare Reform Act 2012 and as set out in the Mutual Exchange Policy.
- 6.11 These changes ensure that residents of Welwyn Hatfield have wider choice and opportunities to move and reduces the conflict of both relevant policies for those tenants on the Housing Needs Register.
- 6.12 Applicants from out of Borough will generally not be able to access housing stock larger than their need as set out in the Welfare Reform Act 2012, thus protecting the council's housing stock for residents of Welwyn Hatfield.

7 Legal Implications:

- 7.1 To comply with legislation, the council must allow social housing tenants the opportunity to exchange properties under certain circumstances.
- 7.2 Failure to complete the mutual exchange process and notify the decision of consent, consent with conditions or refusal, within 42 days means that the council would lose the ability to rely on statutory grounds for refusal.
- 7.3 The grounds under which a mutual exchange can be refused are listed under Schedule 14 of the Localism Act 2011 under Section 158 and Schedule 3 of the Housing Act 1985 under Section 92.

8 Financial Implications:

- 8.1 Failure to complete the mutual exchange process and notify the decision within 42 days of a completed application means that the council could lose the ability to rely on statutory grounds for refusal. The implications are that a mutual exchange may be able to take place where rent arrears are due, unsatisfactory property conditions, unauthorised alterations or other breaches of tenancy. The council is then at risk of increased costs in relation to the above.
- 8.2 Failure to allow mutual exchanges to take place without following the new policy guidelines could create future arrears, with an increased risk of court action and associated costs.

8.3 There is a financial risk of not making best use of the council's housing stock, which could have a direct impact on homeless families and the need for temporary accommodation

9 Risk Implications:

9.1 Failure to manage mutual exchanges effectively means that we may inadvertently allow mutual exchanges to take place that could have been refused, which does not demonstrate the best use of housing stock.

9.2 These risks are significantly mitigated by having a robust policy and clear procedure in place.

9.3 Other Implications (including communications, security and terrorism, human resources, procurement, climate change, human rights, health and wellbeing, equality and diversity)

10 Security and Terrorism Implication(s)

10.1 There are no obvious implications arising from this policy.

11 Procurement Implication(s)

11.1 There are no procurement implications arising from this policy.

12 Climate Change Implication(s)

12.1 There are no climate change implications arising from this policy.

13 Human Resources Implication(s)

13.1 There are no human resources implications arising from this policy.

14 Health and Wellbeing Implication(s)

14.1 Effectively managing mutual exchange applications with reference to a clear policy and making best use of housing stock could have a positive impact of tenants health and wellbeing due to being allowed to exchange to a property that more meets their needs, particularly in terms of size or access to a garden, etc.

15 Communication and Engagement Implication(s)

15.1 There are no implications arising from this policy.

16 Alternative options considered and reasons for their rejection (if any):

16.1 None.

17 BACKGROUND PAPERS USED TO INFORM THE DECISION

- Appendix 1 – Revised Mutual Exchange Policy with tracked changes.
- Appendix 2 - Mutual Exchange Policy – EMDN July 2020

18 DETAILS OF ANY MEMBERS OR OFFICERS WHO HAVE DECLARED AN INTEREST IN THIS MATTER AND NATURE OF ANY SUCH INTEREST AND ANY DISPENSATIONS GRANTED

18.1 None.

19 ADDITIONAL CONFIDENTIAL OR EXEMPT INFORMATION CONSIDERED

19.1 None.

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