

## APPENDIX A

### North Yorkshire Council Landlord Services – Mutual Exchange Policy

Version	Development Stage	Descriptions	Key Changes Implemented
1	Initial draft	Preliminary version of the policy document developed by the Service Improvement Team.	Baseline content created outlining the policy's purpose, scope and initial provisions.
2	Internal Consultation	Circulated for internal review, including legal and departmental stakeholders.	Amends to the review process to state only complaints route. Also, a section added on implications of exchanges involving flexible tenancies.
3	Second internal consultation	Edited draft with implemented feedback re-circulated to internal officers for approval.	Minor changes to language, with key policy points approved.

#### 1. Introduction

North Yorkshire Council (NYC) is committed to supporting tenant mobility and ensuring that residents have fair opportunities to move to homes that better meet their needs. Mutual exchange is a key route for tenants to achieve a move without waiting for a transfer or bidding for available properties. It enables two or more social housing tenants to legally swap homes and tenancies with their landlords' consent, provided all legal criteria are satisfied.

NYC recognises the important role mutual exchanges play in:

- enabling residents to move for work, support needs, family circumstances, affordability or lifestyle reasons
- improving the use of housing stock
- supporting the creation of sustainable communities

#### 2. Policy Purpose and Scope

The purpose of this policy is to set out North Yorkshire Council's approach to receiving, assessing and deciding mutual exchange applications in accordance with relevant legislation and the Tenancy Standard. This policy ensures North Yorkshire Council:

- meets all legal duties around tenant mobility rights
- provides clear guidance to staff and tenants
- processes exchanges lawfully, fairly and within statutory timeframes
- supports residents by making mutual exchange accessible and transparent

This policy applies to:

- Secure tenants of North Yorkshire Council who hold a statutory right to mutual exchange.

- Flexible (fixed term) tenants of North Yorkshire Council who hold a statutory right to mutual exchange.
- Secure or assured tenants of other social landlords who have a statutory or contractual right to assign their tenancy by way of mutual exchange and who are seeking to exchange into a North Yorkshire Council property.
- Joint tenants, provided that all named tenants give their consent for the mutual exchange to proceed.

This policy does not apply to tenants who do not hold a statutory or contractual right to mutual exchange. This includes, but is not limited to:

- Introductory tenants
- Starter tenants
- Assured shorthold tenants
- Licence holders
- Shared owners

The policy covers the full process from application to decision and subsequent legal completion of an exchange.

### 3. Policy Aims

The aims of this Mutual Exchange Policy are to:

#### *Improve mobility and housing outcomes*

- Promote mutual exchange as a viable option for residents seeking a move
- Support tenants to consider exchanges where this may offer quicker or more suitable rehousing than a transfer or waiting list position

#### *Ensure fair, transparent and lawful decision making*

- Make decisions in line with statutory grounds only
- Provide decisions in writing and within the statutory 42-day timeframe

#### *Support efficient use of the housing stock*

- Enable households to move into homes of appropriate size and type
- Increase turnover of properties without creating additional voids

#### *Provide accessible and supportive services*

- Offer help to households unable to complete processes online
- Provide clear information on responsibilities, legal steps and expectations

### 4. Legal and Regulatory Framework

NYC recognises and complies with the statutory requirements relating to mutual exchanges, particularly:

- Housing Act 1985 – Section 92 establishes the right to exchange for secure tenants and sets the statutory grounds for refusal.
- Localism Act 2011 – Sections 158–159 apply where lifetime secure tenants (pre-2012) exchange with flexible/fixed-term tenancies.
- Regulator of Social Housing – Tenancy Standard, requiring landlords to provide mobility options and fair, transparent decision making.

These legislative requirements guide this policy and the Council's processes.

#### 4.1 Exchanges Involving Flexible Tenancies

The Localism Act 2011 introduced additional statutory provisions for mutual exchanges involving flexible (fixed-term) tenancies. These requirements apply where one or more tenants in an exchange hold a flexible or fixed-term tenancy.

Where a flexible tenant exchanges with a secure tenant, the tenancy type held after the exchange is determined by legislation. A secure tenant whose tenancy began on or after 1 April 2012, who moves into a property let on a flexible tenancy, will normally become a flexible tenant, and a flexible tenant moving into a secure property will normally become a secure tenant, provided the receiving landlord grants secure tenancies for that property type. A secure tenant whose tenancy began before April 2012 will retain their secure status, even when moving into a property let on a flexible tenancy.

Where an exchange results in a secure tenant becoming a flexible tenant, that tenant may experience changes to the length and review of their tenancy and may not retain the lifetime security associated with a secure tenancy. Conversely, a flexible tenant moving into a secure tenancy may gain increased security of tenure. These changes take effect from the date of the exchange and cannot be altered by the Council, as they are set out in legislation.

Additional statutory grounds for refusal apply to exchanges involving flexible tenancies, as set out in Schedule 14 of the Localism Act 2011 and listed in Appendix A.

Given the implications for future security of tenure, tenants involved in an exchange that includes a flexible tenancy will be encouraged to ensure they understand the tenancy type they will hold following completion and may wish to seek independent legal or housing advice before proceeding.

#### 5. Accessing the Mutual Exchange Service

North Yorkshire Council provides a mutual exchange service for secure tenants who wish to move home by exchanging their property and tenancy with another social housing tenant. Tenants can use HomeSwapper, the national online exchange platform, to advertise their property and search for potential matches. This service is provided free of charge

Information about mutual exchange is available on the Council's [website](#). Housing Officers can offer guidance to tenants considering a mutual exchange, including explaining the process, the checks involved and the responsibilities of all parties. This ensures tenants understand what is required before submitting an application.

Tenants may identify exchange partners through informal routes, including community links or online platforms. These are not monitored by the Council. Regardless of how a match is found, every exchange must be processed through the Council's formal application, assessment and approval procedures.

Tenants who are unable to access online services independently will be offered appropriate support to ensure fair access to the mutual exchange process.

#### 6. Eligibility

Mutual exchange is only available to tenants who hold a tenancy with a statutory or contractual right to exchange. This includes NYC secure tenants, NYC flexible (fixed-term) tenants who retain a statutory right and most secure or assured tenants of other social landlords.

Introductory, starter and assured shorthold tenants, as well as licence holders and shared owners, do not have the right to exchange. Joint tenants may only apply where all named tenants have given consent.

Eligibility to exchange does not guarantee approval - all applications are subject to statutory checks.

### 6.1 Section 106 Requirements

Tenants may only exchange into a property where the Council is legally able to grant the tenancy. Some North Yorkshire Council homes are subject to Section 106 planning obligations, which may include requirements such as local connection criteria, residency restrictions or other conditions attached to the property. Where an exchange involves a home affected by an S106 agreement, the incoming household must meet the specific requirements set out in that agreement. The Council will be unable to approve a mutual exchange where an incoming tenant does not meet these requirements, as doing so would place the Council in breach of a legally binding planning obligation.

In limited circumstances, an S106 agreement may allow exceptions or provide scope for discretion. Where this applies, the Council may consider an exchange in exceptional cases, such as where there are significant safeguarding or welfare concerns, including domestic abuse or situations involving care leavers. Any decision to apply discretion must remain fully compliant with the terms of the individual S106 agreement. Tenants may be asked to provide evidence of eligibility before the exchange can proceed.

### 6.2 Allocations Policy

Suitability for a mutual exchange will be assessed using the principles of the Council's Allocations Policy. This includes consideration of household composition, bedroom entitlement and the efficient use of the housing stock.

## 7. Applying for an Exchange

Tenants who wish to complete a mutual exchange must submit a formal application form to North Yorkshire Council. The Council can only begin assessing an application once all households involved have provided the required information.

Tenants may find an exchange partner through HomeSwapper or any other method, but every exchange must still follow the Council's formal process.

Applications must:

- include details of all household members
- be signed by all joint tenants
- include any documents requested by the Council

A mutual exchange cannot proceed without consent from every named tenant.

Once an application is received, the Council will check it is complete. If anything is missing, such as documents, signatures or landlord details, the application will pause until the information is provided. The 42-day statutory decision period only begins once the application is complete.

During the assessment, tenants may be asked to clarify information or give consent for the Council to contact other landlords involved. The Council will request tenancy references, rent account details and other relevant information for applicants from other social landlords.

The Council will explain the next steps, including inspections and tenancy checks. Tenants must not move or exchange keys until written approval has been issued and all legal documents have been signed.

## 8. Processing Applications

The formal assessment begins once the Council has received a complete mutual exchange application. A complete application includes all required information, documents and signatures from every tenant involved.

The Council will acknowledge receipt and begin the 42-day statutory timeframe for issuing a decision.

During this period, the Council will carry out checks to ensure legal and tenancy requirements are met. These include:

- tenancy record checks (e.g. rent arrears, breaches, anti-social behaviour)
- confirmation of tenancy details for applicants from other social landlords
- property suitability checks, including household size and bedroom needs
- applying allocations policy to ensure the home is appropriate

The Council will also arrange a property inspection to assess condition, identify repairs or health and safety concerns, and review any alterations. Tenants may be required to complete repairs or pay for rechargeable works before the exchange can proceed. These may form part of a conditional approval.

Throughout the process, the Council will keep applicants updated on progress and any actions required. To reduce delays, particularly those caused by postal correspondence, the Council will use email or telephone as the primary methods of communication where possible, unless a tenant requires an alternative method.

Tenants must provide access for inspections and respond to requests for information.

Once all checks and inspections are complete, the Council will issue a written decision confirming whether the exchange is approved, conditionally approved or refused. The decision will include reasons where applicable. After this, the legal steps to complete the exchange can begin.

## 9. Property Inspections and Condition Requirements

As part of the mutual exchange process, North Yorkshire Council will carry out a full inspection of the outgoing tenant's home. This is required before any exchange can be approved and ensures the property meets the standards expected at the point of assignment.

The inspection will check:

- the overall condition and cleanliness of the property
- any repairs needed
- health and safety concerns
- authorised or unauthorised alterations
- any tenant-caused damage

If issues are identified that are the tenant's responsibility, the Council may require repairs to be completed or payment for rechargeable works before the exchange can proceed. These actions must be completed before approval can be given.

The Council will also record any authorised improvements or fixtures the tenant intends to leave. Tenants must make the incoming household aware of any features that are not provided or maintained by the Council. Incoming tenants accept the property in its current condition, except where works fall under the Council's repair responsibilities.

If the property contains adaptations or specialist equipment, the Council will check whether the incoming household needs and can appropriately use these features. This ensures adapted homes are allocated to households that require them. Further assessment may be needed where adaptations do not meet the incoming tenant's needs.

Statutory safety checks, including gas and electrical checks, must be up to date before the exchange takes place. Tenants must provide access for these checks. An exchange cannot proceed until all compliance requirements have been met.

After the inspection, the Council will confirm in writing any works or actions required. Where necessary, a follow-up inspection will take place to ensure the work has been completed to an acceptable standard. The exchange will not be approved until all identified issues have been resolved.

## 10. Decision Making

Once all tenancy checks, property inspections, and verification steps have been completed, North Yorkshire Council will formally determine the outcome of the mutual exchange application. A decision will be issued in writing within the statutory 42-day period from the date a complete application was received.

Decisions on mutual exchange applications will be made in line with the Council's Allocations Policy where suitability, household composition and bedroom need are relevant. Where an exchange would result in significant overcrowding, under-occupation, or where the accommodation is otherwise unsuitable for the incoming household, the Council may refuse the application on statutory grounds.

The Council may approve, conditionally approve, or refuse an application. Refusals can only be made on the statutory grounds set out in housing legislation. These grounds are prescribed in Schedule 3 of the Housing Act 1985 and Schedule 14 of the Localism Act 2011, depending on the type of tenancy involved. A full list of these grounds is provided in Appendix A – Statutory Grounds for Refusal.

### 10.1 Approval

Approval will be granted where all legal requirements are met, no statutory grounds for refusal apply, and all property condition and tenancy checks have been satisfactorily completed. When approval is issued, the Council will begin the process of arranging the legal documentation required to complete the exchange, including agreeing an exchange date with all parties.

### 10.2 Conditional Approval

Conditional approval may be given where a mutual exchange cannot be approved immediately but may proceed once specific actions have been completed. Conditions may include, but are not limited to:

- clearing outstanding rent arrears
- remedying a breach of tenancy
- completing outstanding repairs the tenant is responsible for

- resolving issues identified during the property inspection

All conditions will be set out clearly in writing, along with the steps the tenant must take and any deadlines. The exchange will not proceed until all conditions have been met to the Council's satisfaction. A follow-up inspection or tenancy review may be required before final approval is issued.

### 10.3 Refusal

The Council may refuse a mutual exchange where one or more statutory grounds apply. These grounds are established in law and relate to factors such as possession proceedings, tenancy breaches, inappropriate or unsuitable accommodation, specialist or adapted housing, charitable restrictions, and other matters defined in legislation.

The statutory grounds applicable to mutual exchange refusals are listed in Appendix A – Statutory Grounds for Refusal.

In addition to the statutory grounds, the Council may also refuse an exchange where there are significant safeguarding concerns, including situations where an exchange may place a household at risk of harm, exacerbate known vulnerabilities, or undermine the Council's duties to protect children or adults at risk.

Where an application is refused, the Council will provide a written explanation of the specific ground(s) applied and outline the applicant's right to request a review of the decision.

### 10.4 Timeliness and Communication

Throughout the decision-making process, the Council will ensure tenants are informed of progress and any outstanding actions. If a decision cannot be made because required information has not been provided or conditions have not been met, delays will be communicated to the applicant. However, the statutory 42-day timescale will only apply where the application is complete and all necessary information is available.

A decision marks the end of the assessment phase and allows the Council, and any other landlords involved, to begin preparing the legal paperwork required for the exchange, including the Deed of Assignment or arrangements for surrender and regrant where applicable.

## 11. Legal Completion of the Exchange

A mutual exchange can only take place once formal written consent has been given by North Yorkshire Council and, where relevant, any other landlords involved. Tenants must not move, exchange keys or make arrangements to occupy each other's homes until all legal documentation has been completed and the agreed exchange date has been confirmed in writing.

Most exchanges are completed using a Deed of Assignment, which transfers the existing tenancy from the outgoing household to the incoming household. A separate deed is required for each property involved in the exchange.

In some circumstances, the legal process may need to be completed using an alternative mechanism where a tenancy cannot be assigned. In these cases, the Council will explain the legal process that applies and ensure that all required tenancy rights and protections are maintained.

Before legal completion, the Council will check that any conditions attached to the approval have been met. This may include completing required repairs, providing access for inspections or resolving tenancy-related matters such as rent arrears. If these actions are not completed, the exchange may be delayed or prevented.

The Council will arrange a sign-up appointment for all households involved at a local Council office. Tenants must attend in person and provide identification. During this appointment, the Council will explain the terms of the tenancy, outline rights and responsibilities, and confirm any specific obligations that apply to the incoming tenant.

On the agreed exchange date, the legal documents will take effect. From that date, each household becomes responsible for their new tenancy, including rent, utilities and compliance with all tenancy conditions. Incoming tenants should take meter readings and arrange for utilities to be transferred into their name.

After legal completion, the Council will update its systems, close outgoing tenancy records and ensure that all compliance documentation is in place. The exchange is only considered fully complete once these administrative steps are finished.

Tenants are reminded that moving before the agreed legal completion date, or without landlord consent, is not permitted and may result in the occupants being treated as unauthorised. Enforcement action may be taken where necessary.

## 12. Tenant Responsibilities

Tenants who wish to complete a mutual exchange have a number of responsibilities throughout the process to ensure that the application can be assessed properly and that the exchange, if approved, is completed legally and safely.

All tenants involved in the exchange are responsible for providing accurate and complete information when submitting their application. This includes supplying all documents required by the Council and promptly responding to any requests for additional information. Tenants must ensure that all joint tenants on their tenancy agreement provide their consent, as an application cannot proceed without agreement from every named tenant.

Tenants are responsible for allowing reasonable access to their home for inspections, compliance checks and any follow-up visits required before the exchange can be approved. This includes providing access for gas and electrical safety checks where these are required prior to completion. Delays in providing access may delay or prevent the exchange from progressing.

Outgoing tenants must ensure that their current property is maintained to an acceptable standard for the incoming household. This includes carrying out any repairs that fall within their responsibility, rectifying any damage caused during their tenancy, reinstating unauthorised alterations where required, and ensuring that all areas of the property, including lofts, gardens, sheds or outbuildings, are cleared of personal belongings. Any items agreed to be left in the property must be clearly communicated to the incoming tenant.

Incoming tenants are responsible for viewing the property they intend to move into and for accepting it in its existing condition, except where works fall under the Council's statutory repair obligations. Incoming tenants must ensure they understand the condition of the property at the point of exchange and accept responsibility for any tenant-responsible issues not resolved by the outgoing household.

All tenants are responsible for ensuring that rent accounts, are in good order. Where conditional approval is granted, tenants must fulfil any conditions stated in the decision letter before the exchange can proceed. Failure to do so will prevent completion of the exchange.

Tenants must not move home, exchange keys, or take possession of another property before written consent has been issued and all legal documents have been signed. Moving without permission will be treated as an unauthorised exchange and may result in enforcement action, including the loss of security of tenure or possession of the property.

Finally, tenants are responsible for meeting all tenancy obligations from the date their new tenancy takes effect, including paying rent from the correct date, updating utility accounts and complying with all conditions set out in their new tenancy agreement.

### 13. Unauthorised Exchanges

A mutual exchange can only take place with the formal written consent of North Yorkshire Council and, where applicable, any other landlords involved in the exchange. Tenants must not move into another property, exchange keys, or make any arrangements to occupy a new home until the Council has issued approval and all legal documentation has been completed. Moving prior to this point constitutes an unauthorised exchange.

Where an unauthorised exchange occurs, the move is not legally valid. Tenants who move without consent do not acquire the rights and responsibilities associated with the tenancy of the property they have moved into. Instead, they will be treated as unauthorised occupiers, and the Council may take enforcement action to protect its housing stock and ensure that tenancy law is properly applied.

In the event of an unauthorised exchange, the Council may require the households involved to return to their original homes. If this is not possible or practical, the Council may serve notice to end the occupancy and take possession proceedings. Any person occupying a property without a valid tenancy or without the Council's consent may also be liable for charges equivalent to use and occupation of the home for the period of unauthorised occupation.

Tenants who undertake an unauthorised exchange will also lose any protections associated with their original tenancy. This may include losing security of tenure or other rights associated with their former tenancy type. In addition, any repairs, damage, or changes made by unauthorised occupiers will be the responsibility of those individuals, and the Council may recharge costs where appropriate.

Tenants must follow the proper process and await formal written permission before moving home. This ensures that all legal rights are protected, the exchange is carried out safely, and both households enter their new tenancies on a secure, lawful basis.

### 14. Complaints

Tenants who are dissatisfied with a decision made in relation to their mutual exchange application, including a refusal or the application of conditions they believe to be unreasonable, may challenge the decision through the Council's corporate complaints procedure.

Complaints will be reviewed in accordance with the Council's corporate complaints process. This ensures that the decision is considered by an officer who was not involved in the original decision, providing an appropriate level of independence and oversight.

The Council will provide a response in line with its corporate complaints timescales. Submitting a complaint does not pause the statutory 42-day period for determining the mutual exchange application.

If the matter remains unresolved after the Council has issued its final complaint response, the tenant may refer their complaint to the Housing Ombudsman Service for independent consideration.

#### 15. Performance monitoring

We are committed to transparency, accountability, and continuous improvement in the delivery of our services. Performance in relation to the implementation of this policy will be monitored through the Housing Revenue Account Performance Framework.

#### 16. Communication and tenant's voice

A copy of this policy can be found on our website and can be requested in PDF format or hard copy. An easy read version will also be available. If needed in a different format, please let us know and all reasonable efforts will be made to provide this. The policy will regularly be promoted to tenants via our communication channels including via the tenant's newsletter.

#### 17. Equalities Statement

North Yorkshire Council is committed to ensuring that this policy is applied fairly, consistently and without discrimination. An equality assessment has been carried out during the development of this policy, and no negative impacts have been identified.

The Council recognises that each household's circumstances are different, and that the application of this policy must take account of individual needs, vulnerabilities and personal situations. While the mutual exchange process must operate within the requirements of housing legislation and tenancy law, the Council will take reasonable steps to ensure that tenants with diverse needs are supported to access the process and are not placed at a disadvantage.

Where appropriate, reasonable adjustments will be considered to assist tenants in navigating the mutual exchange process. This may include providing information in alternative formats, offering additional support with the application process, or making adjustments to communication methods to meet individual needs.

The Council is committed to promoting equality, eliminating discrimination and ensuring that all tenants are treated with dignity and respect throughout the mutual exchange process

#### 18. Policy Review

This policy will undergo an initial review after one year, followed by a review every three years by the Service Improvement Team to ensure alignment with legislative, regulatory, and best practice developments. Where necessary, interim updates may be made outside of the scheduled review cycle to maintain the policy's relevance, fairness, and effectiveness, particularly in response to new legislation or regulatory changes.

Last updated: X

Approved: X

Review date: X

## 19. Contact

For enquiries, comments or complaints about a service, please contact us via the [website](#), phone: 0300 131 2131, or in person at any of the Council offices.

Appendix

Statutory Grounds for Refusal

Schedule 3 – Housing Act 1985 (Secure Tenancies)

<b>Ground</b>	<b>Summary of Legal Reason</b>
Ground 1	A possession order (including a suspended possession order) is in force for the tenant or the proposed assignee.
Ground 2	A Notice Seeking Possession has been served and is still in force, or possession proceedings have begun under Grounds 1–6 of Schedule 2 Housing Act 1985.
Ground 2ZA / 2A	An injunction, anti-social behaviour order, demotion order, riot-related order, or similar court order is in force or an application for one is pending against the tenant, proposed assignee or a household member.
Ground 2B	The property is subject to a closure notice or closure order.
Ground 3	The accommodation is substantially larger than is reasonably required by the incoming household.
Ground 4	The accommodation is not reasonably suitable to the needs of the incoming household.
Ground 5	The property was provided in connection with employment (e.g., caretaker or tied accommodation), forms part of a building mainly used for non-housing purposes or is situated in a cemetery.
Ground 6	The landlord is a charity and the incoming household's occupation would conflict with the charity's objectives.
Ground 7	The home is substantially adapted for a physically disabled person, and the incoming household does not require those adaptations.
Ground 8	The landlord provides housing for persons with special needs (other than financial), and the incoming household does not meet those criteria.

Ground 9	The home is part of a group of dwellings let to persons with special needs, supported by nearby facilities, and the incoming household does not meet those needs.
Ground 10	The home is subject to a tenant-management agreement requiring association membership, and the incoming tenant is not (and will not become) a member.

Schedule 4 – Localism Act 2011

Applies to exchanges involving a pre-April 2012 'lifetime' secure/assured tenant and a fixed-term or flexible tenant.

<b>Ground</b>	<b>Summary of Legal Reason</b>
Ground 1	Rent lawfully due under either tenancy has not been paid.
Ground 2	A tenancy obligation has been breached or not performed.
Ground 3	A possession order or suspended possession order is in force.
Ground 4	A Notice Seeking Possession is in force for a secure tenancy (including absolute ASB grounds), or possession proceedings have begun.
Ground 5	A Notice Seeking Possession is in force for an assured tenancy (including ASB grounds), or possession proceedings have begun.
Ground 6	An injunction, ASB order, demotion order, riot-related order, or similar order is in force or pending for the tenant, proposed assignee, or household member.
Ground 6A	The dwelling is subject to a closure notice or closure order.
Ground 7	The accommodation to be assigned is substantially larger than reasonably required by the incoming tenant.
Ground 8	The accommodation to be assigned is not reasonably suitable to the needs of the incoming tenant and their household.

Ground 9	The home is tied to employment or is located in a cemetery and was originally provided in connection with employment.
Ground 10	The landlord is a charity and occupation by the incoming tenant would conflict with the charity's objectives.
Ground 11	The home has features designed for a physically disabled person, and if the exchange went ahead no such person would live there.
Ground 12	The landlord provides housing only to persons with particular special non-financial needs, and the incoming household does not meet these needs.
Ground 13	The home is part of a group of dwellings for persons with special needs supported by nearby facilities, and the incoming household does not meet those needs.
Ground 14	The home is subject to a tenant-management agreement requiring membership, and the incoming tenant is not (and will not become) a member.

Additional Grounds – Housing Act 2004

<b>Ground</b>	<b>Summary of Legal Reason</b>
Additional ASB Ground	An injunction, ASBO, demotion order, or possession order relating to anti-social behaviour is in force or pending for the tenant, proposed assignee, or household member.