

# FAREHAM

## BOROUGH COUNCIL

### Report to the Executive for Decision 15 July 2024

<b>Portfolio:</b>	Housing
<b>Subject:</b>	The Draft Fareham Housing Mutual Exchange Policy
<b>Report of:</b>	Director of Housing
<b>Corporate Priorities:</b>	Providing Housing Choices

**Purpose:**

To seek Executive approval for the draft Fareham Housing Mutual Exchange Policy to go forward for consultation.

**Executive summary:**

Under Part IV of the Housing Act 1985, all eligible tenants of social housing have the right to exchange their tenancies with one another. This is referred to as 'mutual exchange'.

The draft Mutual Exchange Policy provides comprehensive information regarding the mutual exchange process, the background and relevant legislation, including the recent changes made by the Regulator of Social Housing.

This updates the information already outlined on the Council's webpages.

A period of 6 weeks public consultation will be undertaken on the draft Policy before it returns to Executive for formal adoption.

At its meeting of 27 June 2024, the Housing Scrutiny Panel considered the Policy and no comments or suggestions were made.

**Recommendations:**

It is recommended that the Executive:

- (a) approves the draft Fareham Housing Mutual Exchange Policy for a period of public consultation; and
- (b) agrees that authority is delegated to the Director of Housing, following consultation with the Executive Member for Housing, to make any minor changes to the Policy prior to public consultation.

**Reason:**

To enable the delivery of Fareham Housing's Mutual Exchange scheme in line with all relevant legislation and guidance, and to allow the fair and consistent application of the process.

**Cost of proposals:**

The costs involved with the preparation and adoption of the policy are covered in the existing operational budgets.

**Appendices:**

- A - Fareham Housing Mutual Exchange Policy
- B – Fareham Housing Mutual Exchange Frequently Asked Questions (FAQs)
- C – Fareham Housing Mutual Exchange Process Chart.
- D – Equalities Impact Assessment

**Background Papers:** None

**Reference Papers:** None

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## BOROUGH COUNCIL

### Executive Briefing Paper

<b>Date:</b>	Housing
<b>Subject:</b>	The Draft Fareham Housing Mutual Exchange Policy
<b>Briefing by:</b>	Director of Housing
<b>Portfolio:</b>	Housing

#### INTRODUCTION

1. The Housing Act 1985, as amended, provides all eligible tenants with the right to exchange their home with another eligible tenant in a process known as 'mutual exchange'. This exchange can only take place with the written permission of all landlords and is subject to several provisions which are outlined in the policy.
2. Increasing housing mobility can provide a number of benefits to tenants and providers alike. Mutual exchange also has an important contribution to make toward achieving our wider strategic aims, such as providing the 'right home in the right place'.
3. The new draft Mutual Exchange Policy ('the Policy') provides comprehensive information on the mutual exchange process, background and brings it up to date with all relevant legislation and the new Consumer Standards introduced by the Regulator of Social Housing.
4. This report provides information on the Policy and its' associated documents. It presents information on the consultation process prior to adaption, and updates Members on comments and observations made by the Housing Scrutiny Panel at their meeting of 27 June 2024.

#### LEGISLATION

5. The draft Policy includes the rules governing mutual exchanges. These are set out in the Housing Act 1985, as amended, and by the Localism Act 2011. This gives tenants of social housing the right to exchange with another, subject to certain provisions.
  - Both parties must have a lifetime (secure or assured) tenancy or have a flexible tenancy.
  - They must not be in breach of their tenancy conditions, as set out in Schedule 14 of the Localism Act 2011.
  - Both parties need the permission of their respective landlords to go ahead, but this can only be withheld in the circumstances mentioned above.

6. The Regulator of Social Housing has recently introduced a new set of requirements, or Consumer Standards, governing how tenants are to be treated in all their dealings with the Council.
7. The Tenancy Standard states that *'registered providers must support relevant tenants ... to mutually exchange their home'*. Fareham Borough Council already subscribes to an online provider that manages this service on its' behalf. The Policy brings together and updates existing information and seeks to serve as a central reference point for tenants and Officers alike, making the process clearer and more efficient for all.
8. Clear, accessible information is also a requirement of the Transparency, Influence and Accountability Standard. The Policy is supported by an FAQ and process chart to facilitate this. A key aspect of the consultation / tenant engagement will be to confirm that the information provided is clear and accessible.

## **THE PROCESS**

9. The draft Policy explains that the mutual exchange process is 'tenant led', meaning tenants are responsible for finding a mutual exchange, which they can do through the 'HomeSwapper' service provided, any other mutual exchange service (although there may be a fee for this), or by utilising social media.
10. Tenants are also responsible for ensuring any checks to the property are made, and that they are clear on any alternations that they will be taking on responsibility for at any new property.
11. When tenants have identified a potential exchange, they will need to complete a mutual exchange application form with their Neighbourhood Officer. The Officer will ensure that the tenant is aware that the potential property is taken on 'as seen' and any other implications for the security of their tenancy, for example.
12. The Neighbourhood Officer will also arrange an inspection of the property and advise the tenant if they are required to carry out any works prior to the move being approved. Tenants will be given a further opportunity to have any questioned answered at this point to ensure that they are clear on the process and any implications.
13. When the move is approved, both tenants will be required to sign a 'Deed of Assignment'. It is at this point that moving dates etc. can be arranged.
14. All decisions must be approved within 42 days of receipt of application, unless it is being refused due to one of the exemptions listed in Schedule 14 of the Localism Act 2011. This is reflected in the draft Policy.

## **REFUSALS**

15. There is no automatic right of review if an application is refused. Tenants will be given the decision in writing, detailing the reasons for refusal and will need to pursue the Council's Complaints Procedure if they feel the process was not followed correctly.
16. Where an external landlord has refused the application, it is for their tenant to take up the appeal directly with them., following their own processes.

## **MATTERS ARISING FROM SCRUTINY PANEL**

17. The Housing Scrutiny Panel considered the Policy at the 27 June meeting. The Panel were provided with a report by the Director of Housing that gave an overview of the Fareham Housing Mutual Exchange Policy and a copy of the draft Policy. Members of the Scrutiny Panel were invited to put forward any comments for the Executive to consider in any subsequent decisions about the document. No comments or suggestions were made.

## **NEXT STEPS**

18. It is recommended the Executive approve the draft Policy going forward for public consultation for a period of six weeks, together with any comments or observations that Members may wish to make at this point.
19. Consultation will be focused on ensuring the information is clear and accessible for tenants, and also carried out in accordance with the draft Tenant Engagement Strategy.
20. Once consultation has ended, the report, with details analysis of feedback and representations, will be brought to the Executive to consider. Appropriate adjustments will also be made to the Policy and the EIA, if required.

## **EQUALITY IMPACT ASSESSMENT**

21. An Equality Impact Assessment (EIA) has been commissioned for the draft Policy. This is included as Appendix D. The EIA has not identified any detrimental equality impacts as a result of the proposed policy.

## **RISK ASSESSMENT**

22. There are no significant risk considerations in relation to this report.

## **ENVIRONMENTAL CONSIDERATIONS/CARBON IMPACT ASSESSMENT**

23. The Policy covers tenants moving to and from existing residential properties. No detrimental environmental or carbon impacts are anticipated in relation to the Policy.

## **Enquiries:**

For further information on this report please contact Fleur Allaway – Tel: 01329 824304