



Your Homes  
Newcastle

**APPLICATION FOR A DIRECT EXCHANGE**

I .....

as the tenant of

.....

hereby apply for the Council's consent to the assignment of my tenancy to

.....

as the tenant of

.....

If you have not already done so, as well as filling in this form you must complete a standard application form for a transfer/direct exchange, because your application must be registered on the computer.

I have\*/have not\* made application for a transfer\*/direct exchange\* from my present address.

My transfer application number is \* .....

\* not known.

*\*Cross out whichever does not apply.*

Signature .....

Date .....

Signature .....

Date .....

(Note: In case of a joint tenancy all joint tenants must complete and sign this form)

Please return this form to: *(insert name & address here)*

# **GUIDANCE NOTES ON DIRECT EXCHANGES (BY ASSIGNMENT)**

## **Introduction**

Under Section 92 of the Housing Act 1985, all Council tenants as secure tenants have the right to effect a direct exchange by assigning their secure tenancy to another tenant from a Housing Association, the private rented sector or another Local Authority. However, for tenants in other tenures it must be established that they have the right to exchange. There are a limited number of specific reasons for refusing such direct exchanges and these are listed below.

It should be noted that if the Local Authority does not respond to a written application within 42 days, the applicant is entitled to assume that permission has been granted. However, they are not entitled to effect the exchange until after they have applied to the Courts to compel the Local Authority to give a decision.

If an exchange goes ahead without permission, the tenants become unauthorised occupants as they have no legal right to occupy the property they have exchanged into.

## **Applications to Exchange**

After receiving an application the landlord will visit each applicant at home in order to verify the family details and check the condition of the property. A list of repairs will be compiled and the tenant will be told whether they are the responsibility of the landlord or the tenant as defined in the Tenancy Agreement. The direct exchange partner will also be advised of responsibility for any repairs on exchange. Before formal consent is given to the direct exchange the Estate Officer should again inspect the property(ies) to ensure that the repairs have been carried out.

## **Assessing the Application**

The Local Authority must not withhold consent unreasonably, and the majority of applications are accepted.

Reasons for refusal are as follows:

- If possession proceedings have been begun (i.e. a Notice of Seeking Possession served) against an applicant, and the breach of tenancy the proceedings were based upon has not been remedied the application will be refused.
- A property is considered to be more extensive than is reasonably required or if there will be overcrowding unless the property is the same size or larger than the one they are leaving. If a property has been designed, or adapted to have, features which are specifically suited to a disabled person, or a person with special needs and the exchange will result in a family without such a person occupying the property, the exchange will not be allowed.
- If a tenant is in breach of a Tenancy Agreement, but possession proceedings have not been started, it is possible to approve their application subject to the breach being remedied. It is the responsibility of the applicant to advise the Community Housing Office when the breach has been remedied, so that their application can be reconsidered. The reconsidered decision should be given within 42 days of the applicant advising that the breach has been remedied.

## **Action If An Application Is Approved**

If the application is to be approved then a letter will be sent to both applicants. If the application is to be approved subject to certain conditions being met, a letter will be sent giving the conditions. The tenants must then arrange to attend an appointment with each landlord in order to sign the appropriate documents.

When a tenancy is assigned, the new tenant takes over the rights and obligations of the tenant they have exchanged with. This means that any necessary repairs which are the tenant's responsibility become the responsibility of the new tenant. It should be noted, however, that the new tenant is entitled to have repairs carried out where they are the landlord's responsibility.

## **Action If An Application Is Refused**

Applications can only be refused if one of the grounds listed above is identified. The specific ground will be given in a letter within the required 42 day period.

Where one of the tenants is given consent and the other is not (or is only receiving conditional consent) a letter will also be sent to the tenant getting consent. This is to make the tenant aware their circumstances are in order but that landlord's consent has not been forthcoming in respect of the other tenants and, therefore, the assignment cannot proceed.