



clydebank housing association

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# **CLYDEBANK HOUSING ASSOCIATION LIMITED**

## **Mobility and Mutual Exchange Policy**

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## **1. Aims and Objectives**

This policy is supplementary to the Allocation Policy and aims to maximise housing opportunities for tenants by supporting mutual exchanges and by having a nominations agreement with other local housing providers.

It also assists the Association in meeting strategic objective 2.1 (1) of our Internal Management Plan – “To provide good quality, affordable housing, which meets the changing needs of our customers and to widen and facilitate access to housing within our area”.

## **2. Legal Framework**

The Housing (Scotland) Act 2001 (Section 33) provides every Scottish secure tenant with the right to exchange their home with another Scottish secure tenant (whether or not the landlord is the same), with the landlord(s) written consent. Landlords may only refuse such requests if there are reasonable grounds for refusal.

The Matrimonial Homes (Family Protection) (Scotland) Act 1981 (Section 6) prohibits mutual exchanges with the matrimonial home which affect the rights of occupation of the 'non-entitled' spouse without the consent of the entitled spouse.

## **3. Mutual Exchanges**

### **3.1 Definition**

The policy allows transfers between two or more tenants requesting a mutual exchange. Exchanges can take place between tenants of this Housing Association and tenants elsewhere who have a Scottish Secure Tenancy Agreement (SST).

### **3.2 Information Regarding Applications**

3.2.1 We will not refuse consent for a mutual exchange unless we have reasonable grounds for doing so. The grounds for refusal will be as follows:-

- A current Notice of Proceedings has been served on either tenant under grounds 1 – 7 as detailed in the Housing (Scotland) Act 2001.
- An order for recovery of possession has been granted against either tenant
- Either of the houses were provided by the landlord in connection with the tenant's employment
- The house has been designed or adapted for a person whose special needs require this type of accommodation and if the exchange were to proceed there would no longer be a person with such special needs occupying the house

- The accommodation in the other house is substantially larger than that required by the tenant and the tenant's family
- The accommodation is not suitable to the needs of the tenant and the tenant's family
- The exchange would lead to overcrowding
- The Association's tenant has rent arrears or rechargeable repair arrears
- Where the prospective tenant has a history of anti-social behaviour unless supporting documentary evidence can be provided from a professional source stating that they are unlikely to commit further anti-social acts and support is or has been provided.
- An ASBO has been served on the prospective tenant
- The information provided by any of the applicants is insufficient to process the exchange request.
- Where the property to be exchanged is the matrimonial home and the non entitled spouse has not granted permission, or where such permission has not been received by the Association.
- Where required repairs have been identified, but the tenant has failed to make good the repairs within an agreed timescale.

The grounds for refusal taken from legislation are not exhaustive. There is no definitive list of grounds for refusing consent and each case will be assessed on its own merits.

Discretion will require to be used by the Housing officer on the above. For example reasonable grounds for refusal in a situation where someone is fleeing violence would be different to grounds for refusal from two adequately housed tenants. Therefore the above grounds should generally apply however circumstances may arise which would override these reasons for refusal.

If the property to be exchanged is the matrimonial home the rights of occupation of the spouse will be affected by the mutual exchange therefore the Association must gain consent of the spouse, irrespective of whether they are a joint tenant or not.

3.2.2 All applicants must complete the Association's standard forms and any forms required by another landlord.

3.2.3 Applications will be accepted from tenants aged 16 years and over.

3.2.4 The Association will display a Mutual Exchange board in the reception area which will show details of all tenants wishing to exchange. Details will be removed after a six month period.

### 3.3 Information on Tenancies Created Through Mutual Exchange

#### 3.3.1 Tenancy Type

Incoming tenants will generally be offered a Scottish Secure Tenancy (SST). In certain circumstances a Short SST may be offered.

#### 3.3.2 Property Size

Under-occupation by one bedroom will be permitted. No overcrowding will be allowed.

### 3. **National HOMESWAP Register and HOMES Mobility Register**

Since the breakup of the governments national Homeswap register there has been no national replacement service for HOMES or HOMESWAP. There are a number of privately funded registers available via the internet information on these can be found via the government website [www.direct.gov.uk/socialhousing](http://www.direct.gov.uk/socialhousing)

### 4. **Nominations With Other Local Housing Providers**

#### 4.1 Definition

The policy allows all local Housing Associations to nominate a tenant to another local landlord.

Nominations can be made where a tenant requires urgent rehousing but the existing landlord cannot offer suitable accommodation in the short term. The decision to accept will lie with the Senior Housing Officer. This provision is also outlined in the Allocations Policy and the management transfer from other RSL's policy.

#### 4.2 Information Regarding Applications

4.2.1 The nominating landlord should fax to the relevant landlord details of the applicant's household and reasons for wishing to move. The nominating landlord should state the reason they are unable to offer suitable accommodation. Relevant documents should be forwarded where appropriate.

4.2.2 An applicant must complete the Association's application form.

4.2.3 Tenancy references will be requested. Generally no more than one months rent or the equivalent amount in rechargeable repairs should be outstanding\*\*. There should be no recent history of anti-social behaviour.

\*\* Where a tenant has rent or rechargeable repairs arrears of more than one month they should have made and kept to an arrangement to pay the arrears by instalments for a minimum of 3 months. In cases where a current legal notice has been served and it states there have been persistent arrears, arrears should generally be one month or less.

## **5. Response Times**

The Association undertakes to acknowledge all applications within 28 days of receipt.

## **6. Applications from Committee Members, Employees etc.**

The Association may grant a mutual exchange to employees, Committee members, former employees, former Committee members and close relatives of the above. Guidelines as laid down by The Scottish Government's Regulation and Inspection team must be complied with in these instances.

## **7. False Information**

Action, with the possibility of court action, will be taken in cases where a mutual exchange was awarded based on information provided by the applicants which subsequently proves to be false.

## **8. Decision Taking and Appeals**

The Housing Management staff of the Association will deal with all allocations.

Any individual who is dissatisfied with the way their application has been dealt with may appeal, in writing, to the Housing Management Sub-Committee.

## **9. Confidentiality**

All information provided by applicants will be treated as strictly confidential. Where Committee members are required to discuss an appeal, the identity of the applicants will not be revealed.

## **10. Equal Opportunities**

The Association will ensure that in implementing its Mobility Policy it will not unfairly discriminate against any individual, household or group on the grounds of gender, gender identity or marital status, on race grounds, or on the grounds of disability, age, sexual orientation, language or social origin, other personal attributes, including beliefs or opinions such as religious beliefs or political opinions.

## **11. Monitoring & Reporting**

The Housing Management Sub Committee has delegated responsibility from the Management Committee to monitor the management of mutual exchanges. It will be the responsibility of the Senior Housing Officer to provide a monthly report to the Housing Management/Maintenance Sub Committee on the number of mutual exchanges completed.

A record of progress will be kept of each mutual exchange to ensure that every stage of the process is followed and completed to the target times set. A separate procedure for Mutual Exchanges is also in place and staff involved have received training based on this.

## **12. Complaints Procedure**

Any applicant who has a complaint about the way they or their application have been dealt with can ask for a copy of the Association's Complaints Policy.

## **13. Related Policies and Documents**

- Allocation Policy and procedures
- Equal Opportunities Policy and procedures
- Internal Management Plan
- Management transfer agreement (other RSL's)
- Void Management Policy

## **14. Review**

The targets for monitoring the progress of mutual exchanges will be reviewed where necessary, taking into account any legislative or other changes.

The Mobility and Mutual Exchange Policy will be reviewed every three years or sooner if legislation changes dictate this.

## **15. References**

- Performance Standards for Social Landlords and Homeless Function - COSLA, Communities Scotland and Scottish Federation of Housing
- Housing Management Standards Manual – Chartered Institute of Housing.
- Raising Standards in Housing – SFHA July 2002.
- Housing (Scotland) Act 2001