



"Offering our community more than a home"

Mutual Exchange Policy

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CHA Objectives:

- To provide quality, affordable housing that meets the changing needs of our customers and to ensure fair access to housing within our area.
- To manage the houses provided, in a professional and cost effective manner, for the benefit of our local community and the environment.
- To provide a first class maintenance service which offers value for money and ensures the comfort and safety of our residents while achieving high levels of satisfaction

Regulatory Standards:

- The governing body leads and directs the RSL to achieve good outcomes for its tenants and other service users.
- The RSL is open about and accountable for what it does. It understands and takes account of the needs and priorities of its tenants, service users and stakeholders. And its primary focus is the sustainable achievement of these objectives.
- The RSL manages its resources to ensure its financial well-being and economic effectiveness.
- The governing body bases its decision on good quality information and advice and identifies and mitigates risks to the organisation's purpose.

This policy can be made available on request in a variety of different formats, such as on tape, in large print and translated into other languages.

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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 include, but are not limited to the following:-

- 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 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
- Either tenant has unaddressed rent arrears or rechargeable repair arrears or where any arrears are greater than one month and an agreement has been broken within the last three months.
- Where either 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 either 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.
- Where all tenants within any of the households fail to agree to the exchange

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 in consultation with the Head of Housing Services or Housing Services Manager. 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. Up to date and relevant data protection legislation will apply to the management of all information contained within the applications. The Association's fair processing notice will apply.

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

3.2.4 The Association will make available a Mutual Exchange Folder in the reception area which will show details of all tenants wishing to exchange.

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 for MSF properties at Radnor Park will be permitted. No overcrowding will be allowed under any circumstances.

4. **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

4.1 Homeswapper

The Association are full members of the Homeswapper website, which enables tenants to seek and advertise for a mutual exchange with other tenants across the UK. Clydebank HA tenants can advertise on the site for free provided the Association approves their advert. This offers an additional means to seek an exchange outwith the office based system and also covers the whole of the United Kingdom. The Homeswapper website is www.homeswapper.co.uk

5. **Nominations With Other Local Housing Providers**

5.1 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 Head of Housing Services or the Housing Services Manager. This provision is also outlined in the Allocations Policy and the management transfer from other RSL's policy.

5.2 Information Regarding Applications

5.2.1 The nominating landlord should email or post 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.

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

5.2.3 Tenancy references will be requested. Generally no more than one month's rent or the equivalent amount in rechargeable repairs/any other housing debt 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 a reasonable 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.

6. Response Times

The Association undertakes to acknowledge all applications within 24 hours of receipt and give a written decision to the applicant(s) no later than 28 days after receipt. Applications with insufficient information, or where requested information has not been provided with the 28 day timescale will be refused.

7. 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 Housing Regulator must be complied with in these instances.

8. 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.

9. 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.

10. 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.

11. 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 in line with the Disability & Equalities Act 2010. The equalities impact assessment within the allocations policy applies.

12. Monitoring & Reporting

The Housing Services Sub Committee has delegated responsibility from the Management Committee to monitor the management of mutual exchanges. It will be the responsibility of the Head of Housing Services to provide a quarterly 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 members involved have received training based on this.

13. Complaints Procedure

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

14. Related Policies and Documents

- Allocation Policy and procedures
- Equal Opportunities Policy and procedures
- Internal Management Plan
- Void Management Policy

15. 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.

16. 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.
- Housing (Scotland) Act 2001
- The Disability & Equalities Act 2010