

## 5. ELIGIBILITY

5.1 In effect, any Scottish Secure Tenant has a right to mutually exchange their property with another property provided that property is governed by a Scottish Secure Tenancy. However to do so both tenants must have written consent from their landlords.

5.2 The Policy outlines reasonable grounds for the refusing a Mutual Exchange Application, and these are contained in Section 7 of this Policy. These grounds will be considered prior to approving any application. Unless there is a recognised housing need, tenants will not be considered for a Mutual Exchange Policy. If you need this publication in larger print, audio form, Braille, or in another language, please contact our office and we will try to help you.

Mutual Exchange Policy approved by OVHA Board on

Next review by March

2021 ORE VALLEY HOUSING ASSOCIATION

### MUTUAL EXCHANGE POLICY

#### 1. INTRODUCTION

- 1.1 The purpose of this policy is to outline the criteria by which we will assess any application from two tenants to mutually exchange their homes.
- 1.2 Most Registered Social Landlords (RSLs) and Local Authorities have policies to allow the exchange of properties between tenants who wish to pursue housing options with their current landlord or with other landlords without having to apply for a transfer.

We recognise the value of this as it opens up choice to our tenants where a move may be aspirational rather than based on housing need and it can reduce under occupation and overcrowding where someone's current home does not meet their needs. Ore Valley have a mutual exchange policy which is fair, meets all current statutory obligations and offers tenants who wish to mutually exchange properties a quick, user-friendly system in order to meet their housing needs and aspirations.

- 1.3 We are committed to the principles of good corporate governance and sustainability and will endeavour to develop fair and consistent policies, procedures and practices.
- 1.4 In line with our commitment to equality and diversity, this policy can be made available in a variety of formats, including large print, translated into another language or other media. We will make any reasonable adjustments to assist you if you have a disability.

#### 2. Eligibility

- 2.1 Under the following terms and conditions, we will permit tenants who have a Scottish Secure Tenancy (SST) or a Short Scottish Secure Tenancy (SSST) to exchange properties, both with each other and with the tenants of other RSLs and Local Authorities. This will extend to tenants currently living in England and Wales due to the introduction of national internet based exchange schemes such as [HomeSwapper](#).
- 2.2 Section 33 of the Housing (Scotland) Act 2001 makes it a term of every SST that the tenant may exchange a house which is subject to a SST for another house which is the subject of a SST, but only with the consent in writing of the landlord and (if different) the landlord of the other house.
- 2.3 All applications for mutual exchanges must be in writing from both parties on the correct organisational forms depending on their current landlord and location. Both parties must submit the forms, together with a clear instruction that they are requesting a mutual exchange. All joint tenants must indicate on the form that they are willing for the exchange to go ahead.
- 2.4 We will either grant or refuse the exchange in writing within 28 days of receiving the application although, depending on the applicants' circumstances, the exchange may not physically take place within that timescale. If the exchange is refused for minor reasons which, in our opinion can be quickly addressed, this will be outlined in the refusal and a re-submission will be invited on the basis of the existing application forms. Applicants should be aware that rules relating to mutual exchanges may vary between places and landlords and there may be cases, especially outwith Fife, where Ore Valley is willing to consent to an exchange but another landlord is not. In these cases the applicants must take this up with the landlord concerned and use their policies and procedures if they wish to complain about or appeal the decision

### 3. Reasons Why an Application May be Refused

3.1 Although the list is not exhaustive, below are some of the grounds under which a mutual exchange request may be refused:

- a) A Notice of Proceedings for Possession has been served on the tenant on any of the conduct grounds set out in paragraphs 1-7 of Schedule 2 of The Housing (Scotland) Act 2001.
- b) An order for Recovery of Possession of the property has been made against the tenant under s16(2) of the 2001 Act.
- c) The exchange would lead to the OVHA property becoming overcrowded or under-occupied based on our Allocation Policy.
- d) The house has been designed or adapted for occupation by a person with particular needs and, if the exchange took place, there would no longer be a person with those needs occupying the house.
- e) There is substantial damage or disrepair to the property caused by the tenant, a member

of the household or an invited visitor to the property.

- f) The property has been provided by OVHA as part of a project or protocol with other agencies or where the property has been specifically designed for person(s) with physical disabilities and the new tenant does not need the adaptations/facilities in the property.
- g) The parties have exchanged properties before written permission to do so has been granted by both landlords and a date agreed for their new tenancy to commence. h) The house has been provided by OVHA in connection with the tenant's employment with the landlord, i.e. it is a tied house.
- i) If one party does not complete the exchange, OVHA reserves the right to require the other party to return to their original property.
- j) Either tenant has deliberately omitted, distorted or given false information on their application.
- k) The house is unsuitable for either of the mutual exchange applicant's needs, or for the needs of anyone in their household.
- l) We will not normally consent to a mutual exchange where either applicant has outstanding housing debt at the point of application. Housing debt includes rent arrears, outstanding legal costs, and rechargeable repairs.
- m) Either applicant has been evicted in the last three years for anti social behaviour or the applicant or a member of their household has had an Antisocial Behaviour Order granted against them in the past three years.
- n) We have clear evidence that either of the applicants or a member of their household, has behaved in an antisocial manner in and around their tenancies, causing alarm and distress to others, within the five years prior to the application.
- o) An applicant is required to register with the police under the Sex Offender Act 1997 and/or the Sexual Offences Act 2003 we will consult with other relevant authorities under the National Accommodation Strategy for Sex Offenders (NASSO) about the suitability of the application and any associated risks. Such authorities will include the police, the local authority and the Scottish Prison Service. If the other authorities do not agree that the exchange is appropriate the application will be refused.

In most instances the application will be suspended for 12 months and will be reviewed at the end of this period. Where the 12 month time period for review does not apply, the applicant will be advised of the time period being applied and the reasons for this.

#### 4. Notification of Decision

We will notify the tenants in writing of our decision within 28 days of receiving their mutual exchange application. Where an application for a mutual exchange has been refused we will advise the tenant of the reason/s for the refusal. If we have not notified the applicant of our decision to refuse or to consent to the mutual exchange within 28 days of receiving the written application OVHA will be deemed to have consented to the same under and in terms of Schedule 5, Part 2, Para 13 of the Housing Scotland 2001 Act. 5. HomeSwapper 5.1 We are currently members of the HomeSwapper scheme. HomeSwapper is a national internet based register which allows people looking to exchange accommodation to search on line and link up

to find alternative accommodation. Mutual Exchange Policy Approved by KHA Committee 18/03/2013 Page 5 of 7 Next review by March 2018

5.2 You can use HomeSwapper to identify someone you wish to swap properties with and, if after making contact you decide to proceed, the application will be processed in the same way as a mutual exchange and you will be required to complete the relevant forms applying for a mutual exchange

5.3 The HomeSwapper website can be located at [www.HomeSwapper.co.uk](http://www.HomeSwapper.co.uk). If you have difficulty accessing the site or have any queries about using it, our Customer Services Team will be happy to help you. They can be contacted on 01592 630922.

6. The Role of the Housing Services Department

6.1 The recording of applications for a mutual exchange is the responsibility of Customer Services Team. They will also give general advice on HomeSwapper.

6.2 The appropriate Housing Officer is responsible for the processing of all applications for a mutual exchange.

7. Appeals Process

7.1 Any applicant unhappy about a decision relating to a mutual exchange must submit a written appeal to the Area Manager within 28 days of receiving the decision. The Area Manager will review the decision and may reverse any aspect which is felt to be unfair or contrary to this policy. A decision following such a review will be issued to the applicant within 10 days. If the decision remains the same, the applicant will be given written reasons for this.

7.2 If the applicant is still dissatisfied they may wish to follow our Complaints, Comments and Compensation procedure, a copy of which is available at any of our offices. This does not prejudice the tenant's right to raise a Court action by way of Summary Application in the Sheriff Court under Part 2 of Schedule 5, paragraph 14 of the Housing (Scotland) Act 2001.

8. Civil Partnership Act 2004 For the purposes of a mutual exchange of tenancies Kingdom will take into consideration the above legislation where a civil partnership has been registered in the terms of the Act.

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9. Condition of Properties at Exchange

9.1 All Kingdom properties will be subject to a comprehensive inspection prior to consent being granted for a mutual exchange. As part of this process a gas safety check and electrical safety check will be carried out. If any Kingdom tenant does not comply with this inspection and allow reasonable access to the property for the inspection, the mutual exchange will be refused.

9.2 A mutual exchange is not the same as being allocated either a new property or relet, different standards in terms of the condition of the house apply. At mutual exchange in some instances tenants may have made authorised alterations to the properties. They will also have decorated properties to their own taste. At inspection our main concern will be unauthorised alterations, damage and items which pose a risk to health and safety.

9.3 Where applicants wish to proceed with a mutual exchange it is a condition of the mutual exchange that they accept the property in the condition as it is at the point of exchange. In terms of decorative standards and taste, authorised alterations and floor coverings, we will not take any responsibility for such matters. Otherwise tenants will have the same rights to repairs as other tenants.

10. Monitoring and Review This policy will be reviewed 5 years from the date of implementation or latest review, which will be the date the policy is approved by the Committee of Management or earlier if deemed appropriate. In the event this policy is not reviewed within the above timescale, the latest approved policy will continue to apply.

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KINGDOM HOUSING ASSOCIATION LIMITED

MUTUAL EXCHANGE POLICY

Policy drawn up with reference to: Housing Scotland (2001) Act Civil Partnership Act 2004 Data Protection Act (1998) The Sex Offenders Act 1997 The Sexual Offences Act 2003

Reference made to the following sources and other guidance:

The Chartered Institute of Housing website The Scottish Federation of Housing Association website. HomeSwapper Website Fife Housing Association Mutual Exchange Procedure Hillcrest Housing Association Mutual Exchange Procedure Glen Housing Association Mutual Exchange Policy Ore Valley Mutual Exchange Policy and Procedure Dunedin Canmore Housing Association Mutual Exchange Policy Fife Housing Register Mutual Exchange Protocol Reference made to the following sources and other guidance. Performance standards AS 1.1 Access to Housing AS 1.2 Lettings As 1.3 Tenancies A3 1.5 Void Management GS 2.1 Equal Opportunities GS 1.1 Planning and Performance GS3.3 Responsiveness to Service users Prepared by: Alexander McLaren Current Policy dated March 2007 Draft 1 Circulated to Directors: October 2012 Policy audited by Kingdom's solicitors: September 2012 Sub Committee Review: 25 February 2013 Presented for approval to Committee of Management: 18 March 2013 Policy Approved: Yes Next review date: March 2018hange unless they have tenanted their property for at least 12 months.