

## **Introduction and Overview**

The purpose of this procedure is to guide Housing Management and Maintenance Services staff through the processes that should be followed when an application for mutual exchange is received by the Association. These procedures comply with current legislation, the Scottish Social Housing Charter (SSHC), statutory instruments and good practice and should be read in conjunction with the Association's Mutual Exchange Policy.

This procedure should be followed in cases where a tenant is looking to exchange after finding a match themselves or a tenant has found a match after registering with through the Homeswapper Scheme.

## **Mutual Exchange Procedures**

The document outlines the Association's procedures in relation to the following sections:

- Applying for Mutual Exchange
- Outcome to the Mutual Exchange
- Mutual Exchange Register
- Allocations to Governing Body / Staff Members
- Appeals Process

## **Applying for Mutual Exchange**

Under the terms of their tenancy agreement, tenants have a right to apply for a mutual exchange with either a tenant of the Association or a tenant of another registered social landlord.

Where tenants contact the Association with a view to applying for a mutual exchange then Housing Management should issue an acknowledgement letter and application forms within two working days for completion. If one of the applicants is a tenant of another registered social landlord they must be advised to notify their landlord of their intention to apply for a mutual exchange and comply with that landlord's application procedures.

Once the application forms have been received by the Association, Housing Management may arrange a home visit to both properties to confirm the condition of the property and whether or not outstanding repairs are required to the property prior to an exchange taking place.

During the home visit staff should undertake the following:

- Confirm that all parties have fully explained their reasons for wanting to exchange and understand that approval is subject to acceptable property inspection / tenancy reports and that permission is granted by the other landlord.
- Complete a Property Inspection form and advise of any actions require to bring the property up to a reasonable standard (eg damage to fixtures / fittings). Explain that it is recommended that all parties view each other's properties and that the exchange will be subject to each applicant accepting the property in its current condition.
- Explain that if approval is granted then all tenancy debt must be cleared at the point of exchange and that the removal and exchange of keys will be the responsibility of applicants.
- Explain that the Association will not be held responsible for the provision of false or misleading information being provided in the process.

Following the Visit staff should undertake the following:

- Liaise with Maintenance Services to discuss condition of the property.
- Check EPC status.
- Request tenancy report.

### **Outcome to the Mutual Exchange**

After considering the information provided in the application forms, tenancy reports and home visits, staff will then decide on whether or not to grant permission for the exchange. The Association must confirm their decision within one month of the date of an application form being received. If a decision is not issued within one month, the Housing (Scotland) Act 2001 states that the Association would have consented to the application for mutual exchange.

The Association will not unreasonably refuse permission for a mutual exchange, however, reasonable grounds for refusing permission include:

- There is a notice served against an applicant warning that the landlord may seek eviction on certain grounds because of their conduct;
- The landlord has obtained a court order for eviction against the applicant;
- The house was allocated to an applicant because of their employment with the Association;
- The applicant has rent arrears or any other tenancy debts. Tenancy related debts include service charges, rechargeable repairs, costs of clearing an abandoned house, heating charges and property management charges;
- There is a history of harassment and / or anti-social behaviour, on the part of the applicant or members of their household, until such times as the Association is satisfied that the applicant has demonstrated that no further breaches will occur. No set time limit will be applied to suspensions from harassment or anti-social behaviour. Each case will be judged on individual merit;
- There is evidence of a breach of tenancy relating to repairs, maintenance, improvements and alterations, e.g. vandalism, wilful damage, negligence, alterations or improvements carried out without permission;
- The exchange will result in overcrowding or excessive under-occupation;
- Applicants found to have deliberately provided false or misleading information or have deliberately withheld information relevant to the application.
- The house was designed or adapted for persons with particular needs and if the exchange was allowed, there would be no person living in the property who required those designs or adaptations;
- 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.
- 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.
- An applicant is required to register with the police under the Sex Offender Act 1997 and / or the Sexual Offences Act 2003. In such cases the Association will consult with other relevant authorities under the National Accommodation Strategy for Sex Offenders (NASSO) about the suitability of the application. Relevant authorities will include the police, the local authority and the Scottish Prison Service. If the Relevant authorities do not agree that the exchange is appropriate the application will be refused.

The grounds for withholding permission are not exhaustive and the Association may refuse to grant permission where it believes that there are other reasonable grounds for doing so.

Provided that all the above conditions are satisfied the exchange will be formally approved to take effect as soon as it is mutually acceptable for both applicants and if applicable, both landlords. Exchanges should normally take effect on the first of a month and a full month's rent must be paid in advance or at the sign up.. Applicants will be advised in writing once approval has been granted.

Once an exchange has been granted the tenants will be required to call at the Association's office to sign the relevant tenancy termination notices and tenancy agreements. On the day of the exchange but prior to the signing of the relevant tenancy documentation Maintenance Services will arrange for the locks to be changed and for a gas safety inspection and electrical safety inspection to be carried out. The new gas safety certificate and electrical inspection certificate will be issued to the incoming tenant at the point of sign-up.

Where the conditions of the exchange are not fully satisfied the Association will not approve the exchange. Applicants will be advised in writing of the Association's decision and given the reasons why approval has not been granted. Applicants will be advised of their right to appeal.

### **Mutual Exchange Register**

When an application for mutual exchange is received all details must be reported in the Mutual Exchange Register. The outcome of the mutual exchange and details when permission is granted / refused should also be recorded in the Mutual Exchange Register.

### **Allocations to Governing Body / Staff Members**

The Association may grant a tenancy, including mutual exchange, to Committee members, employees, members of the governing body, former Committee members, former employees and close relatives of the aforementioned.

In accordance with Communities Scotland Guidance Note 2003 / 02 the proposed mutual exchange must be brought to the attention of the Management Committee at the first subsequent meeting and details of the allocation entered in the minute of that meeting and recorded in a register designated for this purpose.

Once the exchange has been presented to Management Committee, staff should write to the applicants advising them of the decision within one working day of the meeting.

### **Appeals Process**

Tenants wishing a review of the decision should write to the Association's Housing Management Department within fourteen days of the decision giving their reasons for appeal. The decision will then be reviewed by housing staff not involved with the original decision. A written response will be provided within five working days of the appeal outlining any new decision.

If the tenant is still dissatisfied then he / she should write to the Association's Director who will investigate all circumstances and will respond to the applicant in writing within five working days.

If the tenant is still dissatisfied then the Association's Complaints Handling Procedure will apply.