



# Mutual Exchange Policy

## **Introduction**

Yorkhill Housing Association operates in an area of high demand for social housing. With relatively low supply of accommodation, the great majority of waiting list and transfer applicants are unsuccessful. The Mutual Exchange Policy is designed to support the Association's Allocations Policy in helping to meet local housing need.

### **1. Policy Objectives and Principles**

- 1.1 To maximise effective use of Association stock
- 1.2 To promote tenant choice
- 1.3 To provide open and transparent information on the exchange process
- 1.4 To increase tenant satisfaction levels
- 1.5 To comply with current legislation and good practice.

### **2. Legal and Policy Framework**

- 2.1 The Mutual Exchange Policy is primarily governed by Section 33 of the Housing (Scotland) Act 2001. This provides every Scottish Secure Tenant with the right to exchange their home with another Scottish Secure Tenant. Such exchanges need not be with the same social landlord. Written consent must be obtained from the landlord(s). Landlords may only refuse consent if there are reasonable grounds to do so. Some residency requirements and allocations criteria were updated within the Housing (Scotland) Act 2014.
- 2.2 Requests for mutual exchanges will be considered using the same criteria as within the Association's Allocations Policy in relation to:
  - Appropriate occupancy levels for flat sizes
  - Previous tenancy history and current position
  - Previous rent history and current rent account status
- 2.3 Consideration may also be given to requests arising from exceptional medical or social circumstances that do not fit with standard assessment processes.

### 3. Relationships to Other Policies

This policy exists in relation to other Yorkhill Housing Association policies:

- Allocations Policy
- Void Policy
- Standard Repairs Policy

### 4. Scottish Social Housing Charter

The Scottish Social Housing Charter sets standards that the Association should meet and the following are relevant to mutual exchanges:

- 1 – Equalities  
Social landlords perform all aspects of their housing services so that:
  - they support the right to adequate housing
  - every tenant and other customer has their individual needs and rights recognised, is treated fairly and with respect, and receives fair access to housing and housing services.
- 4 – Quality of Housing  
Social landlords manage their businesses so that:
  - tenants' homes, as a minimum, when they are allocated are always clean, tidy and in a good state of repair, meet the Scottish Housing Quality Standard (SHQS), and any other building quality standard in place throughout the tenancy; and also meet the relevant Energy Efficiency and Zero Emission Heat Standard.
- 5 – Repairs Maintenance and Improvements  
Social landlords manage their businesses so that:
  - Tenants' homes are well maintained, with repairs and improvements carried out when required, and tenants are given reasonable choices about when work is done.
- 10 – Access to Housing:  
Social landlords ensure that:
  - people looking for housing find it easy to apply for the widest choice of social housing available and get the information they need on how the landlord allocates homes and on their prospects of being housed.

### 5. Application Process

Applications for mutual exchanges must be in writing from all parties, including all tenants who have joint tenancies.

Mutual Exchange Application Forms are available from the Association's office or website and must be used.

Prior to submitting completed application forms, tenants are encouraged to speak to one of the Association's Housing Officers for advice and information about the process.

The Association will consider the application by

- Assessing the circumstances of both applicants and the impact the exchange would have on their respective housing positions
- Reviewing the tenancy history of the applicants. For an applicant who is not a YHA tenant, appropriate references will be sought from the current landlord
- Undertaking home visits to each party

## **6. Consent**

The Association will notify the tenants in writing of its decision within 28 days of receiving their mutual exchange application. This timescale may be extended if an applicant has not provided sufficient information to allow the Association to fully consider the request.

If the Association has not made a decision to refuse or to consent to the mutual exchange within 28 days of receiving the written application and has not requested additional information, it will be deemed to have consented to the same under and in terms of Schedule 5, Part 2, Para 12 of the Housing Scotland 2001 Act.

## **7. Refusal of Consent**

In cases where the Association does not consent to the exchange, applicants will be informed in writing with an explanation of why consent has been refused. Appropriate information on the right to appeal will be included in the letter of refusal.

## **8. Grounds for Refusal**

Some of the grounds under which a mutual exchange request may be refused:

- 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.
- An order for Recovery of Possession has been made against the tenant.
- The exchange would lead to the Association's property becoming overcrowded under the terms of its Allocations Policy
- The exchange would lead to the Association's property becoming under-occupied under the terms of its Allocations Policy
- 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

- Where 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.
- Where the property has been provided by the Association 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.
- Where parties have exchanged properties before written permission had been granted by both landlords and a date agreed for their new tenancy to commence
- Where the house has been provided by the Association in connection with the tenant's employment with the landlord, i.e. it is a tied house
- If one party does not complete the exchange, the relevant Association reserves the right to pursue proceedings to require the other party to return to their original property
- Either tenant has deliberately omitted, distorted or given false information on their application.
- The house is unsuitable for either of the mutual exchange applicants' needs.
- Should either tenant have any outstanding liability or debt attributable to any tenancy in the 5 years prior to their application which exceeds one month's rent unless an agreement to repay this debt is being maintained and has been for a minimum of 3 months.
- There is a record of complaints about anti-social behaviour by the applicant or a member of their household during the three years period prior to the application.
- If there is clear evidence that applicants have caused problems in their tenancies in the five years prior to the application. This will include breaches of the tenancy agreement where action has been taken by the Association to remedy the situation and may or may not have involved legal proceedings.

## **9. Appeals Process**

An applicant who has been refused consent from the Association to proceed with a mutual exchange may appeal against the decision. The appeal must be made in writing within 28 days of the decision and must state the grounds on which the appeal has been made.

The Association will review the decision and may reverse any aspect which is felt to be unfair or contrary to this policy.

If the decision remains the same, the applicant will be given a written explanation.

If the applicant is still dissatisfied they may revert to the Association's formal Complaints Handling Procedure which includes recourse to the Scottish Public Services Ombudsman Service. This does not prejudice the tenant's right to raise a Court action under Part 2 of Schedule 5 of the Housing (Scotland) Act 2001.

#### **10. Mutual Exchange Register**

The Association will maintain a register of tenants who are interested in the possibility of a mutual exchange. The register will be open to tenants of any social landlord.

Hard copies of the register will be available for viewing at the Association's office. An electronic version will be maintained on the Association's website for online viewing.

Only property details and locations are included on the registers; personal details are retained by YHA staff.

#### **11. Policy Review**

This Policy will be reviewed by Yorkhill Housing Association's management Committee every three years, unless legislative compliance requires earlier amendments.