

Yorkhill Housing Association Ltd

Mutual Exchange Policy

Reviewed and Approved by Management Committee 11th October 2018

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 general 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.
- 2.2 Requests for mutual exchanges will be considered using the same criteria as within the general 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. 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 Senior Housing Assistants 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

4. 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.

5. 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.

6. 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 over-crowded under the terms of its general allocations policy
- The exchange would lead to the Association's property becoming under-occupied under the terms of its general 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 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.

7. 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.

8. 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.

9. Policy Review

This Policy will be reviewed by Yorkhill Housing Association's management Committee no later than October 2022, unless legislative compliance requires earlier amendments.