



Mutual Exchange

If you have difficulty with reading this policy, including any difficulties with sight or hearing, or if you require this document translated into another language, please contact us and we will be happy to provide this information in a format that suits your needs.

Our Vision, Our Mission, Our Values

Our Vision

Elderpark Housing will lead the way in delivering outstanding customer services and great places to live.

Our Mission

To provide quality, affordable homes and excellent services which place a focus on our customers and enhancing our communities.

Our Values



Equality and Diversity Statement

Elderpark Housing are committed to ensuring people or communities do not face discrimination or social exclusion due to any of the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex or sexual orientation.

This document complies with our Equality and Diversity Policy.

We will regularly review this Policy and consider any equalities implications taking the necessary action to address any inequalities (either directly or indirectly) that result from the implementation of this Policy.

Executive Summary

Policy Author

The Housing Manager has developed this policy on behalf of the organisation. It applies to all requests for a mutual exchange.

Purpose of the Policy

The mutual exchange policy aims to ensure that we have an accountable process to identify, record and put in place procedures to deal with mutual exchange requests, in accordance with legal provisions and contractual terms contained within the tenancy agreement.

Aims and Objectives of the Policy

The keys aims and objectives of this policy are:

- To give clear guidance on the process for dealing with mutual exchange requests
- To ensure that all requests are dealt with in line with and in accordance with legal provisions and contractual terms contained within the tenancy agreement
- To ensure that any requests are dealt with in accordance with our equality and diversity policy
- To advise customers of the complaints process

In addition, we will meet the outcomes and standards contained within the Scottish Housing Regulator's Regulation Framework.

- **Outcome 1: Equalities** - Social landlords perform all aspects of their housing services so that every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services.
- **Outcome 2: Communication** - Social landlords manage their businesses so that tenants and other customers find it easy to communicate with their landlord and get the information they need about their landlord, how and why it makes decisions and the services it provides.
- **Standard 2** - The landlord 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. In addition, its primary focus is the sustainable achievement of these priorities.
- **Standard 5** - The RSL conducts its affairs with honesty and integrity

Legislative and Regulatory Compliance

We will seek to meet all of our legal obligations as set out in the following legislation:

- The Housing (Scotland) Act 1987
- The Housing (Scotland) Act 2001
- Equality Act 2010

Equalities

We will ensure there is a consistent approach in promoting equality and diversity across all areas and this policy will be administered in accordance with this policy.

Privacy

This document fully complies with General Data Protection Regulations (2018) and once approved will be published on our website to ensure transparency of how we will seek to ensure Equality and Diversity across everything we do.

Related Policies

| Policy Title | Location |
|-------------------------------|---|
| Allocations policy | V:\Elderpark Policy Suite\Housing Management Policies\H2 Allocations Policy.pdf |
| Equality and Diversity Policy | V:\Elderpark Policy Suite\Governance Policies\G13 Equality and Diversity Policy.pdf |
| | |

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1 Introduction

- 1.1 Elderpark Housing Association (EHA) is a registered social landlord, established in 1975. We have strived to improve the lives of our residents, create opportunities and build a safe and secure environment. The Association is a 'not for profit' organisation, registered and regulated by the Scottish Housing Regulator and is governed by a voluntary Management Committee of up to 15 people who employ a team of staff to manage the Association on a day-to-day basis.
- 1.2 The Management Committee is responsible for approving this Policy, and for overseeing its implementation. The Chief Executive and Management Team have operational responsibility for policy implementation, and for reporting to the Management Committee on areas relevant to sublet and lodger requests.

2 Purpose of Policy

- 2.1 The mutual exchange policy aims to ensure that we have an accountable process to identify, record and put in place procedures to deal with mutual exchange requests, in accordance with legal provisions and contractual terms contained within the tenancy agreement.
- 2.2 This policy is written in accordance with our Equality and Diversity Policy to ensure that tenants and residents in our community do not face discrimination, victimisation, harassment or social exclusion due to any of the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex or sexual orientation.

3. Aims and Objectives

- 3.1 This policy is a key document within the Association. Its underlying objectives are:
 - To give clear guidance on the process for dealing with requests for a mutual exchange
 - To ensure that all requests are dealt with in line with and in accordance with legal provisions and contractual terms contained within the tenancy agreement
 - To ensure that any requests are dealt with in accordance with our equality and diversity policy
 - To advise customers of the complaints process

4. Legal and Regulatory Framework

- 4.1 Legal provisions exist that govern mutual exchange requests by Scottish Secure Tenants. Housing (Scotland) Act 2001, section 33(1).

5. Request for a Mutual Exchange

5.1 Scottish Secure Tenants have a legal right to exchange their tenancy with other Scottish Secure Tenants provided they have our written consent. Consent will only be refused where we have reasonable grounds for refusal. This also applies where the tenants are tenants of different landlords.

6. Grounds for Refusing Consent

6.1 There is no definitive list of grounds for refusing consent. Each case will be assessed on its merits. Specific reasons mentioned in the Act where it is deemed reasonable to refuse consent are now detailed followed by commentary on interpretation. The list below is not definitive and other reasons may exist for refusing exchange applications, for instance, inability by the new tenant to meet the terms of tenancy such as payment of rent.

- A Notice of Proceedings has been served that specifies any of grounds 1 to 7 (Schedule 2)
- An order for recovery has been made against the tenant
- The house occupied by the tenant has been provided by the landlord for employment purposes
- The house has been designed/adapted for occupation by a person whose special needs require such accommodation and, following the exchange, no person with these special needs would occupy the house
- The accommodation of the other house is either substantially larger than that required by the tenant and her/his family, or it is not suitable to the needs of the tenant and the tenant's family
- The exchange would result in statutory overcrowding

Notice of Proceedings in Force

Where we have served a Notice of Proceedings and are considering raising court action for recovery of possession we will refuse a mutual exchange. Before refusing, we will check whether the terms of the notice are still applicable for example, a Notice may be in force for rent arrears but the debt has been repaid. In such cases, we will proceed with the exchange request accordingly.

Order for Recovery of Possession

Where we have been granted an order for recovery of possession, no exchange request will be granted as we will be seeking to evict the tenant(s) by (or close to) the date specified in the extract decree.

Tied Accommodation

Where the tenant occupies accommodation as part of her/his contract of employment, exchange requests will be refused, as this would have adverse effects upon the tenant's ability to fulfil work duties. One example of this situation would be wardens who reside within sheltered housing in order to carry out their duties more effectively.

Housing Designed/Adapted for Person with Special Needs

This provision is intended to ensure that accommodation provided for people with special needs continues to be reserved for this purpose. The Act does not specify that it must be the tenant who has special needs. For example, the house could have been adapted for a member of the tenant's family with special needs such as a wheelchair user. When considering requests, therefore, it is necessary to check if any members of the incoming tenant's household may have the special needs requiring such accommodation.

Substantially Larger Accommodation

The legislation empowers landlords to refuse applications where, as a result of the exchange, the accommodation being taken up would be substantially larger than that required by the tenant and the tenant's family. There is no definition of 'substantially larger' and each case must be assessed on its merits. For example, a single person wishing to exchange into a 5 apartment sized house would satisfy this criterion.

Accommodation Unsuitable to Tenant's (and Tenant's Family) Needs

This is not defined in statute and Housing Officers will assess each case on its merits. In carrying out this assessment, objective criteria will be applied as follows:

- Medical Factors - House not suitable because of its location, for example, a member of the incoming tenant's household has serious medical problems and is unable to manage stairs.
- Special Needs - House not suitable because of its location and the person's particular needs, for instance, a wheelchair user unable to negotiate stairs. Remember, however, that landlords are legally required to make reasonable adjustments to premises to ensure that service provision does not discriminate on grounds of disability. Thus, in the case of a ground floor flat, provision of a ramp may enable the exchange to proceed. Before refusing applications on these grounds, therefore, Housing Officers must explore what steps could be taken to make the accommodation suitable to the needs of the tenant and the tenant's family.

Effects of the Exchange on the Tenant (and Tenant's Family)

The tenant may specify that they seek accommodation where there is less noise. Moving to a tenement property with a high ratio of children may entail that such a property is potentially unsuitable for such a tenant. We will base any refusals on accurate information provided by the tenant, as well as explore options. For example, a high percentage of children in flatted property does not mean that noise levels will be necessarily high, particularly where property has been given adequate sound insulation.

Overcrowding

The statutory overcrowding standard is laid down by the Housing (Scotland) Act 1987, sections 135-137. When applications to exchange are received, we will assess household size to evaluate whether it fails to meet the legal standard.

7. Timescale for Responding to Requests

7.1 Any mutual exchange requests will be responded to within one calendar month from the date of receipt otherwise consent will be deemed to have been granted.

8. Implementation of the Policy

8.1 This policy will be implemented in line with our mutual exchange procedures. Staff will be fully conversant and trained to carry out all aspects of the policy and procedures in a fair and equal manner.

9. Monitoring of the Policy

9.1 In order to comply with our service commitments, we will monitor aspects of mutual exchange requests, for example, complaints. We will also record the number of mutual exchanges as part of our annual ARC submission.

10. Appeals and Complaints

10.1 Tenants will be advised of their appeal rights in event of refusal. In cases of refusal tenants can appeal to the sheriff.

10.2 Any complaints will be dealt with under our Model Complaints Handling procedure. We monitor the effectiveness and efficiency of current practice by recording the following:

- The number of complaints received
- The types of complaints

- The outcome of complaints
- Satisfaction levels through CX Feedback

11. Review

11.1 This policy will be reviewed every three years or as good practice and legislation dictate.

Equality Impact Assessment

| | | | |
|---|---|--|-----------------------------|
| Name of Policy to be assessed | Mutual Exchange | New policy or revision of existing? | Revision of existing policy |
| Person(s) responsible for assessment | | Elaine Somerville | |
| Briefly describe the aims, objectives and purpose of the policy. | <p>The keys aims and objectives of this policy are:</p> <ul style="list-style-type: none"> To give clear guidance on the process for dealing with mutual exchange requests To ensure that all requests are dealt with in line with and in accordance with legal provisions and contractual terms contained within the tenancy agreement To ensure that any requests are dealt with in accordance with our equality and diversity policy To advise customers of the complaints process <p>The purpose of this policy is to:</p> <ul style="list-style-type: none"> The mutual exchange policy aims to ensure that we have an accountable process to identify, record and put in place procedures to deal with mutual exchange requests, in accordance with legal provisions and contractual terms contained within the tenancy agreement. | | |
| Who is intended to benefit from the policy? (e.g. applicants, tenants, staff, contractors) | Tenants will benefit from this policy | | |
| What outcomes are wanted from this policy? (e.g. the measurable changes or benefits to members/ tenants / staff) | The outcomes wanted from this policy is to ensure that we have a robust, accountable procedure in place to deal with any mutual exchange requests. | | |
| Which groups could be affected by the policy? (note all that apply) | | | |
| Age | | Disability | |
| Gender reassignment | | Marriage and Civil Partnership | |
| Pregnancy and Maternity | | Race | |
| Religion or Belief | | Sex | |
| Sexual Orientation | | | |
| If the policy is not relevant to any of the equality groups listed above, state why and end the process here. | | | |
| The policy pertains to everyone and does not affect one particular group | | | |

| | | |
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| Have those affected by the policy / decision been involved? | | |
| Tenants were previously consulted through our newsletters | | |
| Describe the likely positive or negative impact(s) that the policy could have on the groups identified above. | Positive Impact(s) | Negative Impact(s) |
| | | |
| What actions are required to address the impacts arising from this assessment? (This might include: additional data, putting monitoring in place, making adjustments, taking specific action to mitigate any potentially negative impacts) | Satisfaction/dissatisfaction will be recorded through our complaints procedure and any necessary policy/procedural changes implemented following this. | |

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|----------------|-------------------|
| Signed: | Elaine Somerville |
| Dated: | 10/8/21 |

GDPR Impact Assessment

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|---|--|--|-----------------------------|
| Name of Policy to be assessed | Mutual Exchange | New policy or revision of existing? | Revision of existing policy |
| Person(s) responsible for assessment | Elaine Somerville | | |
| Briefly describe the aims, objectives and purpose of the policy. | <p>This policy is a key document within the Association. Its underlying objectives are:</p> <ul style="list-style-type: none"> • To give clear guidance on the process for dealing with requests for a mutual exchange • To ensure that all requests are dealt with in line with and in accordance with legal provisions and contractual terms contained within the tenancy agreement • To ensure that any requests are dealt with in accordance with our equality and diversity policy • To advise customers of the complaints process <p>The purpose of this policy is to:</p> <p>To ensure that we have an accountable process to identify, record and put in place procedures to deal with mutual exchange requests, in accordance with legal provisions and contractual terms contained within the tenancy agreement.</p> | | |
| Which type of data will be used by implementation of this policy? (e.g. personal, sensitive or special category) | Personal data will be used in the implementation of this policy | | |
| What outcomes are wanted from this policy? (e.g. necessary to meet legal obligations) | The mutual exchange policy aims to ensure that we have an accountable process to identify, record and put in place procedures to deal with mutual exchange requests, in accordance with legal provisions and contractual terms contained within the tenancy agreement. | | |
| Which groups could be affected by the policy? (note all that apply) | | | |
| Tenants | X | Committee | |
| Employees | | Contractors | |
| If the policy is not relevant to any of the data groups listed above, state why and end the process here. | | | |
| | | | |
| Have those affected by the policy / decision been involved? | | | |
| Tenants have previously been consulted on our mutual exchange policy through newsletters | | | |

| Describe the likely positive or negative impact(s) that the policy could have on the groups identified above. | Positive Impact(s) | Negative Impact(s) |
|---|---|--------------------|
| What actions are required to address the impacts arising from this assessment? (This might include: additional data, putting monitoring in place, making adjustments, taking specific action to mitigate any potentially negative impacts) | The Association has robust systems and checks in place to ensure that personal data remains confidential. | |

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| Signed: | <i>Elaine Somerville</i> |
| Dated: | 10/8/21 |