

Cernach Housing Association

Mobility & Mutual Exchange Policy



1. INTRODUCTION

- 1.1 This policy outlines the right of tenants to apply for and carry out a Mutual exchange under the provision of the Housing (Scotland) Act 2001. The main aim of this policy is to clarify to tenants how this legislation is carried out in practice.
- 1.2 A Mutual Exchange takes place when two tenants agree to exchange houses with each other. Those wishing to exchange must be tenants of a Registered Social Housing Landlord i.e. a Local Authority, Housing Association, Housing co-operative, or Fully Mutual co-operatives. Tenants do not need to have the same landlord, but the exchange requires the approval of both landlords involved
- 1.3 Registered Social Landlords are expected to have a mobility policy, which includes participation in H.O.M.E.S. (Housing Organisations Mobility and Exchange Services). This policy sets out the guidelines for the Association's participation in H.O.M.E.S. and the role of Mutual Exchanges in assisting tenants to move home.
- 1.4 The aim of H.O.M.E.S. is to enable tenants who require to move to another area because of social, medical or employment reasons to be re-housed quickly. In most cases applicants are adequately housed and would be penalised by allocations policies as a result. The H.O.M.E.S. scheme aims to address this by ensuring that each local authority and registered social landlord participating in the scheme accepts applications and can also nominate tenants who apply to be re-housed.
- 1.5 The minimum criteria for assessing H.O.M.E.S. eligibility are:
 - a) receiving support
 - b) giving support
 - c) taking up employment beyond reasonable travelling distance
 - e) other specified social reasons

2. RISK MANAGEMENT

- 2.1 By having a written detailed Mutual Exchange Policy the Association is able to ensure that a uniform and professional approach is adopted throughout the organisation and the service delivered is compliant with law, best practice and internal policy.
- 2.2 The risk of not having this Policy in place is the potential for inconsistent treatment of applications for exchanges, and consequential poor performance.

3. EQUAL OPPORTUNITIES

Cernach Housing Association seeks to promote equal opportunities and other legislation on race, disability and gender and eliminate any unlawful discrimination in all areas of our work.

In line with the Associations commitment to equal opportunities, this policy can be made available free of charge in a variety of formats, including large print, translated into another language or on audio tape.

In implementing the Policy we shall ensure that we achieve fairness towards all tenants and local residents. Our commitment to equal opportunities and fairness will apply irrespective of factors such as gender or marital status, race, colour, disability, age, sexual orientation, language or social origin, or other personal attributes.

4. PERFORMANCE AND LEGAL FRAMEWORK

In considering mutual exchanges the association must comply with the Housing (Scotland) Act 2001. This is embodied in the Association's Scottish Secure Tenancy Agreement. In implementing this policy the Association will be complying with the Performance Standards listed below.

- 4.1 AS1.1
We ensure that people have fair and open access to our housing list and assessment process. We work with others to maximise and simplify access routes into our housing.

- 4.2 AS1.2

We let houses in a way that gives reasonable preference to those in greatest need: makes best use of available stock: maximises choice: and helps to sustain communities.

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 unless they have tenanted their property for at least 12 months.

6. GROUNDS FOR REFUSAL

- 6.1 The Association is required to provide written consent or refusal on a Mutual Exchange Application. Permission will only be withheld where there are reasonable grounds for doing so. Grounds for refusing the exchange will include, but will not be restricted to, the following:
 - a) Overcrowding or under-occupation of the property would occur as a result of the exchange.
 - b) Where a tenant is in clear breach of their tenancy e.g. both rent accounts should be clear.
 - c) A Notice of Proceedings for Possession has been served on the tenant.
 - d) An order for Recovery of Possession has been made against the tenant.
 - e) If either tenancy inspection is unsatisfactory and there would not be enough time for the tenant to carry out the necessary repairs a refusal should be issued to the tenant(s) detailing the outstanding repairs.

- f) The proposed incoming tenant (if not currently a tenant of Cernach Housing Association) was previously evicted for anti social behaviour within the last 5 years.
- g) One of the properties has been designed or adapted for occupation by a person whose special needs require accommodation of the kind provided by the house and, if the exchange took place, there would no longer be a person with such special needs occupying the house.
- h) If the Association is not satisfied that a genuine exchange is taking place.

6.2 If the exchange is approved it will be expected that both tenants will reside in the properties for a minimum period of one year. If either tenant terminates their tenancy within one year the Association will consider the Recovery of Possession of the other tenancy. This would be in circumstances where we believed that we were induced to grant the tenancy by a false statement made knowingly or recklessly by the tenant.

6.3 It will be a condition of exchange that both tenants have held a tenancy of the property they are seeking to exchange out of, and lived in the property as their principle home, for at least 12 months.

7. TENANCY

7.1 A Scottish Secure Tenancy will normally be granted to tenancies created as a result of a mutual exchange

7.2 In these circumstances the Association will fully explain the implications of signing such a tenancy e.g. the potential implications associated with the Right to Buy, i.e. if either party had the preserved right to buy this right will cease upon the granting of the new tenancy.

8. PROCEDURES

8.1 Both tenants must submit application to Cernach Housing Association using the Association Mutual Exchange application

- form, and to the other landlord involved (if the other property is not the Association's).
- 8.2 Applications will be date stamped and recorded in the Mutual Exchange Register
 - 8.3 Applications will be acknowledged within 3 working days in accordance with the Associations internal targets.
 - 8.4 Home visits will be made to both tenants within 2 weeks of application being received by the Housing Officer and the Maintenance Officer.
 - 8.5 The Housing Officer will complete a tenancy report including condition of House, and conduct of tenancy, i.e. rent account history, rechargeable repairs, anti social and recommendation as to whether mutual exchange should be approved or refused.
 - 8.6 Tenancy references will be requested for those who are not our tenants.
 - 8.7 Tenants will be advised in writing within one month of receiving the application as to whether the request has been approved or refused. If the request has been refused the reasons for the refusal will be provided.
 - 8.8 Prior to signing the new tenancy agreement both parties will be reminded of conditions relating to the exchange and asked to sign acceptance form at time of signing new tenancy agreement.
 - 8.9 Applicants (Association tenants) have the right to appeal to the General Purposes Sub Committee.
 - 8.10 To comply with landlord obligations under Gas Regulations the Association is required to carry out a gas check and electrical check whenever a new tenancy is taken up. From January 2009 the Association will require to provide the incoming tenant with a valid energy certificate. The cost of these checks and certification will be met by the Association, however any other costs incurred as a result of these checks being carried out will be recoverable from the tenants involved.

8.11 Parties wishing to mutual exchange do so of their own choice and as such are responsible for all costs involved in the exchange. The Association will not become involved in personal issues or agreements between tenants, e.g. purchasing items of furniture or tenant improvements.

9. FALSE INFORMATION

Anyone applying for a Mutual Exchange will have to sign the application form thereby certifying that the information is correct and no false or misleading information has been given in order to get the tenancy, or relevant information withheld. Should the Association discover that an application has been falsified then the Association may commence legal action with a view to repossessing the tenancy.

10. ADVERTISING FOR A MUTUAL EXCHANGE

The Association will keep an updated a Mutual Exchange Board on the Association's website www.cernachha.co.uk which will display details of tenants interested in a Mutual Exchange. This will be updated as and when interested parties contact the Association requesting to be considered for a Mutual Exchange.

11. APPEALS

Any applicant who feels their application for a Mutual Exchange has been unfairly dealt with has a right of Appeal. This is detailed in the Complaints Policy, which is available at the Associations office and the website www.cernachha.co.uk.

12. POLICY REPORTING

A detailed report on the number of applications for Mutual Exchange received by the Association as well as the numbers granted and those refused will be submitted on an annual basis to Property Management Sub-Committee in April of each year.

13. POLICY REVIEW

This policy will be reviewed every three years or sooner where changes in legislation affect procedure. The success of this policy shall be measured against the following outputs and outcomes: -



Outputs	Outcomes
Record of applications received and granted maintained and reported to Property Management Sub Committee annually in April.	Staff and Committee awareness of tenancy movements.



APPLICATION FOR MUTUAL EXCHANGE

Please complete all sections providing full details where requested.

SECTION 1

Please provide your own details and those of the person with whom you wish to exchange.

1. Your Details

Tenants Name _____

Address _____

House Type _____ No of Bedrooms _____

2. Please provide the names and dates of birth of everyone in your household including yourself.

Name _____ **Date of Birth** _____

3. How long have you lived at this address? Years _____ Months _____

4. Why are you applying for a Mutual Exchange?

5. With whom do you wish to exchange?

Name _____

Address _____

House Type _____ No of Bedrooms _____



MUTUAL EXCHANGE – CONDITIONS OF ACCEPTANCE

- Parties wishing to exchange must have resided in their properties for at least 12 months prior to applications.
- Both rent accounts must be clear at the time of applying for mutual exchange and three months prior.
- Both Tenancies must have been conducted satisfactorily in line with the Associations Tenancy Agreement.
- Any rechargeable repair costs must be settled prior to an exchange being approved.
- Mutual Exchanges will not be permitted where overcrowding of either property would result.
- Both parties accept the properties as seen at the time of application and accept that the Association will not effect any non-essential repairs for a period of six months after the exchange date.
- Both parties agree to take up residency within four weeks of signing Tenancy Agreements, or the mutual exchange will be cancelled.
- Parties wishing to mutual exchange do so of their own choice and as such are responsible for all costs involved in the exchange. The Association will not become involved in personal issues or agreements between tenants, e.g. purchasing items of furniture or issues relating to tenant repairs and/or improvements.
- In the event of either party giving false or misleading information or deliberately withholding relevant information the mutual exchange will be refused. Should this information come to light after an exchange has been approved then both parties may be required to move back to the address(es) formerly occupied.
- If either party terminates Tenancy of their new property within 12 months of the exchange then the other party agrees to move back to their original tenancy.

STATEMENT

I / we accept and agree to abide by all of the above conditions relating to Cernach Housing Association's Mutual Exchange Policy.

SIGNATURES

Tenant _____ **Date** _____

Joint Tenant _____ **Date** _____

**Cernach Housing Association
Mobility & Mutual Exchange Policy (Cont'd)**



FOR OFFICE USE

Report on house visit

Date _____

Rent Account Balance £ _____ **Date** _____

Has rent account been clear for three months prior to date of application? Yes/No

Is there an outstanding recoverable repair debt? Yes/No

If so date recoverable repair debt paid. _____ (NB this debt must be cleared prior to approval.)

Any Breach of Tenancy? YES / NO – If So please give details

Comments / Recommendations

Date Application Received _____

Date Application Approved/Refused _____

Date Tenants notified of outcome _____

Housing Officer Signature _____

Directors Approval _____