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| <b>Policy on :</b> | <b>Mutual Exchange Policy</b> |
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| <b>Compliant with :</b>                              | <b>Indicator- 3- Tenant Participation<br/>Indicator-7 ,8 and 9 Access to Social Housing and Support;<br/>Indicator 10- Access to Social Housing.<br/>Indicator 11- Tenancy Sustainment.</b> |
| <b>Compliant with Tenant Participation Strategy:</b> | <b>Yes</b>  |
| <b>Compliant with Equality &amp; Diversity :</b>     | <b>Yes</b>  |
| <b>Compliant with Business Plan :</b>                | <b>Yes</b>  |

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| <b>SMT Delegated Authority for Approval</b> |                    |
| <b>Date of Approval:</b>                    | <b>August 2019</b> |
| <b>Date for Review :</b>                    | <b>August 2022</b> |

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| <b>Responsible Officer:</b> | <b>Director of Customer Services</b> |
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**This policy is available in different formats for example, if you have difficulty with sight or need a translated copy, please contact us.**

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## 1. Introduction

The Housing (Scotland) Act 2001 provides every Scottish secure tenant with the right to exchange their home with another Scottish secure tenant (whether or not the landlord is the same), with the landlord(s) prior written consent. Landlords may only refuse such requests if there are reasonable grounds for refusal.

This policy describes the activities and responsibilities involved in facilitating the exchange of properties between tenants on a mutual agreement.

Mutual Exchanges take place when two (or more) tenants agreed to exchange houses with each other. Those wishing to exchange must be tenants of a social housing landlord i.e. a local authority, housing association co-op or fully mutually co-ops. Tenants do not need to have the same landlord, but exchanges require the approval of all landlords.

This policy has also been developed to take due consideration of the outcomes and standards set within the Scottish Housing Charter. This includes:

|                 |   |
|-----------------|---|
| Outcome 1       | Equalities  |
| Outcome 2       | Communication   |
| Outcome 5       | Repairs, Maintenance & Improvements   |
| Outcome 6       | Estate management, anti-social behaviour, neighbour nuisance and tenancy disputes |
| Outcome 7 8 & 9 | Housing Options   |
| Outcome 10      | Access to Social Housing  |
| Outcome 11      | Tenancy Sustainment   |

## 2. Aims and Objectives

The overall aim of the Policy is to contribute to meeting housing needs in our areas of operation. The objectives of the Policy are to:

- Maximise the effective use of the Association's housing stock
- Promote choice for tenants
- Provide a service which reflects the Association's commitment to equality of access to the housing stock for all tenants and in particular, to take account of individual tenants' needs
- Enhancing access to alternative accommodation to alleviate housing need and meeting tenants aspirations

### **3. Consent**

The Association will not reasonably withhold consent when two or more tenants request to exchange their properties.

Tenants wishing to exchange must apply to the Association in writing. If the exchange is between tenants of the Association and another Registered Social Landlord, the non Barrhead Housing Association tenant must obtain their landlords written consent before the exchange can proceed.

The Association will notify the tenant of our decision regarding the application to exchange within one month. If a decision is not given within this timescale, then consent is deemed to have been given.

If the tenant applying for the mutual exchange is a joint tenant, the Association must obtain the consent of the both joint tenants.

If the property to be exchanged is the matrimonial home, the rights of occupation of the spouse will be affected by the mutual exchange therefore the Association must gain consent of the spouse.

The date of entry to the property will be at a mutually agreed date.

We will either grant or refuse the exchange in writing within 28 days of receiving the application.

### **4. Refusal of Consent**

The Association may refuse a request to exchange only if there are reasonable grounds for refusal. Examples of reasonable grounds, including those specified in the housing legislation are:

- We have served a notice of proceedings for possession on the tenant warning them that we may seek eviction on conduct grounds.
- An order for recovery of possession of the house has been made against the tenant.
- The house was provided by the landlords in connection with the tenant's employment

- The house has been designed or adapted for occupation by a person whose needs require accommodation, and, if the exchange took place, there would no longer be a person with such needs occupying the house. However consideration to an exchange will be given in the light of the particular circumstances of the disability which led to the adaptation and the particular circumstances of the applicant involved
- The accommodation in the other house is substantially larger than required by the tenant/tenants family; or is not suitable to the needs of the tenant/family.
- The exchange would lead to statutory overcrowding of the house. Where a mutual exchange would result in either overcrowding or under-occupation, consideration of the request will take into account the availability of accommodation in the area, the particular circumstances of the families concerned, and the extent to which the mutual exchange would address the existing issues of housing need.
- If the tenant has outstanding arrears and has not made payments for the required 12 consecutive weeks.
- We intend to carry out work on the house (or the building of which the house forms part) which would affect the part of the house connected with the proposed change.
- Any other tenancy condition has been broken.
- If Barrhead Housing have been made aware that a genuine exchange is not taking place. This would include instances where only one party to the exchange intends to move into the property as their principal home and the other applicant has already secured alternative accommodation elsewhere.
- If one party does not complete the exchange, the Association reserves the right to pursue proceedings to require the other party to return to their original property.
- We have been made aware, and verified, that a financial incentive has been offered to encourage one of the parties to exchange.
- 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 we will consult with the local authority registered Sex Offender Officer, the local authority and the Scottish Prison Service.

The grounds for refusal taken from legislation are not exhaustive. There is no definitive list of grounds for refusing consent and each case will be assessed on its own merits.

Should an applicant wish to appeal against a decision they should write to the Customer Services Manager requesting a review of the decision within 14 days of receipt of the decision letter. If they are unhappy with the outcome of the appeal, then the Associations Complaint Policy and Procedure should be invoked.

## **5. Repairs**

All parties will view the property that they proposed to transfer to and will be satisfied that they are accepting the property in the condition at viewing including cleanliness, internal decoration, improvements and alterations and any repairs that are the tenant's responsibility.

Although the incoming tenant legally takes on responsibility for the condition of the property and BHA tenancy conditions, it is important that BHA protects itself. Therefore a property inspection will be undertaken before the exchange takes place, and will order any repairs that are the Associations responsibility.

Gas and electric safety checks and a relevant up-to-date EPC (if appropriate) will be carried out as standard prior to the date of entry.

No repairs other than those carried out under the terms of the normal landlord responsibilities will be carried out as a consequence of an exchange.

Prospective movers should satisfy themselves that the property they are moving to is in a good state of repair and has not been unnecessarily altered by the previous tenant. Where unapproved tenant alterations have been made these should be made good prior to the transfer. Where unapproved alterations have been made and have not been rectified by the tenant prior to the move, the incoming tenant will assume full responsibility for the alterations and will be required to make good or reinstate if they thereafter move out. All costs associated with such works will be the responsibility of the incoming tenant.

The outgoing tenant is not eligible for a compensation for qualifying improvements that they have made to the property.

## **6. Performance Monitoring**

In order to comply with our service commitments it is important that the Association monitors the effects of our Mutual Exchange Policy and procedures, meets the requirements of the Scottish Social Housing Charter and all relevant legislation.

The Director of Customer Services will report quarterly to the Audit Sub Group on the number of mutual exchange tenancies and highlight any policy/operational issues of the Mutual Exchange Policy and Procedures. The Director of Customer Services will report on the following areas:

- Number of mutual exchange applications, numbers agreed and refused
- Reasons for refusal
- Any appeals that have been requested and outcomes

## **7. Equality & Diversity**

Barrhead Housing Association is committed to providing fair and equal treatment to all our customers and to comply with the Equality Act 2010. The Act established 9 protected characteristics (the grounds on which discrimination is unlawful). These cover age, race, sex, religion/belief, sexual orientation, pregnancy/maternity, gender reassignment, disability and marriage/civil partnership.

We will offer customers a range of options for communicating with us, since requiring to contact us may have to be in writing and this may be a deterrent, for example for people with poor literacy skills, visual impairment, or where first language is not English.

## **8. General Data Protection Regulations**

The Association will treat all personal data in line with our obligations under the current General Data Protection Regulations and our own Data Protection Policy Statement, Privacy Policy and Data Retention Policy.

Information regarding how your data will be used and the basis for processing your data is provided within our employee and resident Fair Processing Notices.

## **9. Complaints Policy**

Barrhead Housing Association operates a Complaints Policy that is open and transparent, should any customer or service user feel the need to make a complaint against an individual or the organisation, the Complaints Policy and Procedure will be implemented.

This is covered by a separate policy and you should request a copy if you wish to make a complaint.

## **11. Policy Review**

The Senior Management Team will review the Mutual Exchange Policy at least every three years. However, improvements in performance and service delivery may be made on a regular basis to reflect change and in light of various factors such as:

- New or revised legislation
- Changes in good practice
- Organisational change, e.g. revision of operational practices
- Views of tenants and other service users
- Auditing practices
- Resource requirements



## **Appendix 1: Internal Procedure**

- a. All applicants must apply in writing to the landlord(s) using the standard form.
- b. Applicants will be notified within 5 working days of receipt of the application that their requests are being considered and that neither party should proceed without written consent from both landlords.
- c. The Customer Services Officer should inform the repairs team of the application being received.
- d. The Customer Services Officer will visit each party and carry out a full tenancy checks on both parties.
- e. If there are no grounds for refusal the Customer Services Officer will write to both parties and any landlord involved advising of the decision.
- f. Where consent is not granted, the reasons will be given to the parties concerned and to the landlord if appropriate.
- g. Where consent is granted the Customer Services Officer should liaise with the Property Services Department to ensure a gas safety check/electric check/up-to-date EPC should be carried out on the date of entry.
- h. The applicants should sign the SST and assume the tenancy on a mutually agreed date.