

Mutual Exchange Policy



Approved by Management Committee:

Live - August 2021

Review required – August 2024

1 Introduction

- 1.1 The purpose of this policy is to outline how Easthall Park Housing Co-operative will manage and administer the mutual exchange of properties.

2 Aims and Objectives

- 2.1 The Co-operative recognises the importance of providing tenants with a range of housing options. Tenants can apply for internal transfers within the Co-operative or can make applications to other social landlords. However, most tenants may have little or no 'housing need' in terms of allocation policies. Mutual exchanges allow tenants to exchange houses without having housing need and can be an effective means of meeting low levels of housing need or meeting tenants' aspirations.
- 2.2 The Co-operative encourages mutual exchanges as a way of promoting choice, maximising the effect use of stock and increasing tenant satisfaction. In order to do this, the Co-operative actively promotes mutual exchanges through regular newsletter articles, its website and information leaflets. The Co-operative operates its own mutual exchange register at our office and on its website and encourage tenants to join HOMESWAPPER a UK wide mutual exchange services which allows Easthall Park tenants to search for potential mutual exchanges nationwide.
- 2.3 This policy has also been developed and reviewed in line with the requirement on social landlords to meet the outcomes of the Scottish Social Housing Charter introduced by the Housing (Scotland) Act 2010. The outcomes that relate to this policy are:

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.

Outcome Access to housing and support

7, 8 and 9: Housing options

Social landlords work together to ensure that: people looking for housing get information that helps them make informed choices and decisions about the range of housing options available to them

Outcome 10: Access to social 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.

3 Equal Opportunities

3.1 Easthall Park Housing Co-operative is committed to equal opportunities for all sections of the community. The Co-operative is committed to ensuring our people and the tenants and residents in our communities do not face discrimination, victimisation, harassment or social exclusion due to any of the following protected characteristics (identified in the Equality Act 2010): age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex or sexual orientation.

3.2 In this context, the policy can be made available in a variety of different formats including braille, large print, alternative languages and audiotape.

4 The Right to a Mutual Exchange

4.1 The main legislative provision relating to the policy is the Housing (Scotland) Act 2001. This provides every Scottish Secure tenant with right to exchange their home with another Scottish Secure tenant (whether or not the landlord is the same) providing that the landlords of both parties have given their consent. A tenant must have been a tenant with the Co-operative for at least 12 months before applying for a mutual exchange.

4.2 The legislation states that landlords may only refuse such requests if there are reasonable grounds for refusal.

5 Administrative Criteria

5.1 Written application

Tenants must make a request for an exchange in writing using the forms supplied by the Co-operative. If the exchange is with a tenant from another landlord, it may also be necessary for the tenant to complete forms with the other landlord.

5.2 Timescales

The Co-operative is required to advise the tenant of its decision within 28 days of receipt of the mutual exchange application.

If the Co-operative fails to advise the tenant of its decision within the specified period, then it is to be taken to have consented to the application.

5.3 Membership

Before a mutual exchange with another tenant can proceed, the other landlord's tenant must apply for and be accepted into membership of the Co-operative.

6 Refusal of mutual exchange application

6.1 The Co-operative will not refuse any application for a mutual exchange unreasonably. A decision will be made in writing to both parties within 28 days and tenants are advised that they should not take any steps to organise a move until this decision is received.

6.2 The Co-operative bases its reasons for refusing applications using grounds set out in the Housing (Scotland) Act 2001, as well as other grounds that we deem to be reasonable. Each case is assessed on merit relating to the particular circumstances of each case.

The legal grounds that we may use to refuse exchange requests are summarised in plain language as follows:

- A legal Notice of Proceedings has been served on the tenant;
- An order for recovery of possession of the house has been made against the tenant;
- The landlord has provided the house as part of the tenant's employment;
- The house has been designed or adapted for occupation by someone with special needs and the prospective new tenant does not have these needs.
- the accommodation is larger than that needed by the tenant and the tenant's family, or is not suitable to their needs; and
- The exchange would result in statutory overcrowding

6.3 Easthall Park may also refuse permission on the following grounds

- If the tenant has not held their tenancy for 12 months
- If the external tenant has not been granted membership of the Co-operative under the terms of our membership policy
- If there is a problem of significant rent arrears or antisocial behaviour. In relation to rent arrears this means anything over one month's rent and not maintaining an agreed arrangement for at least three months. In relation to anti-social behaviour this means that you have been issued with a second/final warning.
- If the tenant has failed to rectify unauthorised alterations or damage to property caused by misuse or neglect within a month of being instructed to do so by the Co-operative.

6.4 Although the Co-operative may have no objections in principle to its own tenant exchanging tenancies, it may refuse an exchange with a particular party on the grounds that it has received a poor tenancy reference from the other tenant's landlord.

- 6.5 Where an exchange is refused Easthall Park will write to both parties explaining fully why the exchange has been refused. In certain circumstances the Co-operative may offer to review this decision if new information is provided on rent arrears that the tenant has maintained an acceptable repayment agreement for a period of three months.
- Where there have been issues of anti-social behaviour, and there have been no further incidents within six months

7. Condition of Properties at Exchange

7.1 All Easthall Park properties will be subject to a comprehensive inspection prior to consent being granted for a mutual exchange. As part of this process a gas safety check and electrical safety check will be carried out and this will not be re-charged to the outgoing tenant. If any Easthall Park tenant does not comply with this inspection and allow reasonable access to the property for the inspection, the mutual exchange will be refused.

7.2 A mutual exchange is not the same as allocating a new property or re-let and different standards in terms of the condition of the house apply. A property subject to a mutual exchange may have had authorised alterations to the properties. Tenants will also have decorated their own properties to their own taste. At the house inspection our main priority will be unauthorised alterations, damage and items which pose a risk to health and safety.

7.3 Where applicants wish to proceed with a mutual exchange it is a condition of accepting the mutual exchange that they accept the property in the condition "as seen" at the point of exchange; this relates to decorative standards and taste; authorised alterations and floor coverings, external gardens/sheds etc. Easthall Park will not take any

responsibility for these items; however, tenants will have the same rights to day to day repairs, with the exception of works required to any alteration unless this falls under right to repair category of safety.

8. Conditions attached to mutual exchange

- 8.1 Where permission is granted by the Co-operative; the tenancies of both tenants are terminated on the same day and tenants will be required to sign new tenancy agreement. Co-operative staff will liaise with the other landlord to ensure that the termination dates and tenancy start dates are the same.

The incoming tenant must occupy the property and failure to take up residence within one month of the tenancy start date will result in the Co-operative taking legal proceedings to repossess the property

- 8.2 The incoming tenant must occupy the property for at least six months.
- 8.3 In the event of any of the parties giving false or misleading information or deliberately withholding relevant information, the Co-operative will take action for recovery of possession or to reverse the exchange through the courts.
- 8.4 If a mutual exchange is completed the tenants cannot reverse the exchange unless both parties agree to it. The tenants must come to an agreement to reverse the exchange before they approach the Co-operative

9 Appeal Process

- 9.1 The Co-operative has a complaints process for dealing with any dispute which may arise regarding a decision made by the Co-operative. This is outlined in the Co-operative's "Complaints" information sheet.

9 Monitoring and Reporting

- 9.1 Easthall Park Housing Co-operative Management Committee will receive reports that will monitor and evaluate performance.

10 Training and Review

- 10.1 Prior to the implementation of this policy, training will be provided to all relevant staff. Ongoing training requirements will also be regularly reviewed. This policy will be reviewed every 3 years.