



Mutual Exchange Policy

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Responsible Officer:

Head of Housing and
Customer Services

Review Date:

July 2024

Regulatory Standard:

1,2,5



INVESTOR IN PEOPLE

Providing homes, supporting communities

1 - Introduction

1.1 Hjaltland Housing Association ('Hjaltland') is keen that existing tenants are provided with the opportunity to transfer to alternative accommodation where their current home no longer meets their needs. Whilst tenants can apply for a transfer via our Allocation Policy, this will not always result in a move. Hjaltland recognises that mutual exchanges can be a very effective way to alleviate housing need, encourage movement within stock, and thereby help to create sustainable communities.

1.2 A mutual exchange is where you effectively 'swap' homes with another tenant, giving you control and increasing your chances of finding a home of your choice. The tenant you swap with can be from Hjaltland Housing Association, Shetland Islands Council or another housing association or local authority in the UK. A mutual exchange can also involve more than two tenants, such as a three-way exchange.

1.3 You must apply to The Association to request permission to do a mutual exchange, and under no circumstances should you move until you have received approval in writing.

1.4 Hjaltland will ensure that mutual exchange applications are processed promptly and fairly and in accordance with legal provisions and contractual terms contained within the tenancy agreement.

1.5 There are a number of ways a tenant may identify a potential swap. Advertising locally, along with use of social media, can be effective. Often, word of mouth and local knowledge can also lead to a possible match. Another effective method is through a national online company, Homeswapper.

1.6 Homeswapper can help you find an exchange in the Shetland or anywhere else in the UK and is currently free for all Hjaltland and Shetland Islands Council tenants to use. Simply register online at www.homeswapper.co.uk and Home Swapper will search for people interested in exchanging with you, sending you an email or text notifying you of homes which meet your requirements.

2 - Mutual Exchange eligibility

2.1 You are eligible to be considered for a mutual exchange if you are;

- A Hjaltland Housing Association tenant
- A Shetland Islands Council tenant
- A social housing tenant of any Registered Social Landlord or Local Authority within the United Kingdom.

2.2 You are not eligible to be considered for a mutual exchange if you are;

- An owner occupier
- A tenant in a private property
- A tenant with a temporary tenancy (including homeless accommodation)
- Tied accommodation provided through employment

3 - Mutual exchange application process

3.1 Upon identifying a potential swap, it is very important to view the other party's property to ensure it offers a sustainable, long term viable housing solution. Exchanging photographs can be useful as an introduction, but tenants are strongly advised to visit the area, understand the amenities on offer in the neighbourhood and make sure they are happy with the condition of the property.

3.2 Once tenants have agreed that they would like to proceed with an exchange, each tenant must put their request in writing to their own landlord and submit 'appendix 1' (attached to this policy) to Hjaltland. Exchanges will not be allowed to proceed until the respective landlords have given their consent in writing. All applicants who are involved in the exchange and are not already Hjaltland tenants must complete and return a housing application form.

4 - Processing an application

4.1 Hjaltland will respond to requests and advise on the outcome of the exchange request within 28 days of the written request (appendix 1) being received. The 28 day period will only commence once all parties have submitted all necessary paperwork. If there is a delay, for example awaiting tenancy checks, applicants will be advised by the housing officer handling the application.

4.2 The Hjaltland property will be inspected in line with the void property inspection process, prior to consent being given, to ascertain its condition. All applicants involved in the exchange will be required to agree in writing to accepting the other property in its present condition. In respect of the Hjaltland tenants, where such inspection reveals unauthorised works or damage to the property, this may require to be reinstated, at the tenant's expense and to the satisfaction of Hjaltland prior to consent to the exchange being granted.

4.3 A tenancy check will be undertaken; in the case of tenants from other organisations a written tenancy report will be requested from their landlord.

5 - Grounds for refusing consent to exchange

5.1 Each case will be assessed on its own merits. While there is no definitive list of grounds for refusing consent to exchange, specific reasons are noted in the Housing (Scotland) Act 2001, and included in the list undernoted.

5.2 It is stressed that there is no legal definition of reasonableness and each case must be assessed on its particular merits. Furthermore, the undernoted list is not deemed to be definitive and other reasons may exist for refusing exchange applications, for instance, where a legal order such as an anti-social behaviour order has been taken against one of the tenants.

5.3 Where consent is refused, the tenant will be given reasons for refusal in writing in accordance with this policy.

5.4 Common grounds for refusal;

- Where Hjaltland tenants applying for a mutual exchange have not resided in their property for at least twelve months, any request will be refused. If there are exceptional circumstances that warrant relaxation of this rule, then the Senior Housing Officer will report this to the Head of Housing and Customer Service for a decision.
- The proposed exchange would result in overcrowding or any other breach of existing Hjaltland allocation policy.
- The proposed exchange would result in under-occupation of a Hjaltland property. However, consideration will be given if the exchange does alleviate some housing need. For example, a single person in a three bedroom property applying to move to a two bedroom property will be considered if this would make better use of their existing house.
- One of the parties has outstanding housing debt at the point of application. Housing debt includes rent arrears, outstanding legal costs, and rechargeable repairs. The exchange can be granted where the rent arrears are not more than one twelfth of the annual rent (i.e. one month's rent), the applicant has agreed with the landlord an arrangement for paying the outstanding liability; and has made payments in accordance with that arrangement for at least three months; and is continuing to make such payments. If there are exceptional circumstances that warrant relaxation of this rule, then the Senior Housing Officer will report this to the Head of Housing and Customer Service for a decision.
- An application will be refused should anyone in the household have been the cause of anti-social behaviour in the last three years, or be in breach of any other tenancy conditions. If there are exceptional circumstances that warrant relaxation of this rule, then the Senior Housing Officer will report this to the Head of Housing and Customer Service for a decision.
- Where an applicant is required to register with the police under the Sex Offender Act 1997 and/or the Sexual Offences Act 2003, and following an Environmental Risk Assessment, it has been assessed as unsuitable. We will consult with other relevant authorities under the National Accommodation Strategy for Sex Offenders (NASSO) about the suitability of the application and any associated risks. Such authorities will include the police, the local authority and the Scottish Prison Service. If the other authorities do not agree that the exchange is appropriate the application will be refused.
- A Notice of Proceedings (NOP) has been served that specifies any of grounds 1 to 7 (Schedule 2).

- An order for recovery and possession (eviction) has been made against the tenant.
- It is a requirement that in giving consent to a mutual exchange both parties to an exchange must reside in their new properties for at least twelve months. An application to exchange will be refused if there is reason to believe that one or both parties do not intend to reside in their new properties for this minimum period.
- The house has been designed or adapted for occupation by a person whose particular needs require such accommodation and, following the exchange, no person with such particular needs would occupy the house.
- Where the tenant is a tenant of a co-operative housing association, the tenant must also be a member of the housing association before consent is granted – confirmation from landlord will be sought as part of the tenancy reference.

6 - Notification of decision

6.1 The Senior Housing Officer will sign off all Mutual Exchange reports, collated by the area Housing Officer. We will notify the tenants in writing of our decision within 28 days of receiving their mutual exchange application. Where an application for a mutual exchange has been refused, we will advise all applicants in writing. To ensure there is no breach of Data Protection legislation, information will be limited and no third party information will be shared.

6.2 If we have not notified the applicant of our decision to refuse or to consent to the mutual exchange within 28 days of receiving the written application, Hjaltland will be deemed to have consented to the same under and in terms of Schedule 5, Part 2, Para 13 of the Housing Scotland 2001 Act.

7 - Moving property

7.1 Before transferring, each tenant will be required to terminate their existing tenancy and each shall sign a tenancy agreement with respect to the new tenancy. All parties will agree a new tenancy start date, and tenants will be responsible for making all arrangements in relation to exchanging keys.

7.2 In any instances where one of the parties fails to take up occupancy of the property to which they agreed to exchange or a mutual exchange without the consent in writing of the landlords, then Hjaltland reserves the right to commence legal proceedings requiring the parties to vacate the properties to which they exchanged.

7.3 Routine repairs will only be carried out in the normal way by the Hjaltland. Where major refurbishment or planned maintenance is programmed, this will be carried out as part of the programme in the normal way. A change of tenancy will have no effect on programmed work.

8 - Appeals process

8.1 Any applicant unhappy about a decision relating to a mutual exchange must submit a written appeal to the Head of Housing and Customer Service within 28 days of receiving the decision. The Head of Housing and Customer Service will review the decision and may reverse any aspect which is felt to be unfair or contrary to this policy. A decision following such a review will be issued to the applicant within 28 days. If the decision remains the same, the applicant will be given written reasons for this.

8.2 If the applicant remain dissatisfied, they have the right to appeal to the Sheriff Court under a summary action. This action must be lodged within 21 days of receiving notification the appeal has not been upheld.

9 - Equal opportunities

9.1 We will seek to ensure equality of access in our provision of services and we will aim not to discriminate against any groups or individuals on any of the grounds detailed in our Equal Opportunities Policy.

10 - Review

10.1 This policy will be kept under review and will be reviewed at least every 3 years.

Application for Mutual Exchange - (Appendix 1)

Name of Tenant _____

Name of Joint Tenant (if applicable) _____

Address _____

Home Telephone No. _____

Mobile No. _____

Email Address _____

Have you lived in the property for at least 12 months? Yes ☐ No ☐

Do you, or anybody you are applying with, have to register with the police under the Sex Offenders Act 1997 or Sexual Offences Act 2003? Yes ☐ No ☐

Has anyone ever taken court action against you, or a person you are applying with, for anti-social behaviour? Yes ☐ No ☐

Details of your home

No. of Bedrooms _____

Type of Property _____

If a Flat, what floor level _____

Have any adaptations been carried out to this property? Yes ☐ No ☐

If yes, please give a description below

Details of other people living in the house

Name D.O.B Relationship

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Is this house your matrimonial home? Yes ☐ No ☐

If yes, has your spouse consented to this mutual exchange request? Yes ☐ No ☐

Please explain here why you wish to exchange

Details of Person you wish to exchange with:

Name of Tenant _____
Name of Joint Tenant (if applicable) _____
Address _____
Home Telephone No. _____
Mobile No. _____
Email Address _____
Landlord Name _____
Landlord Address _____

Landlord Tel No. _____
Landlord/Housing Officer email _____

Declaration

I understand that the information supplied on this form will be used to process my application for an exchange. As part of my application for housing, I understand that it may be necessary for Hjaltland Housing Association to request information from a previous or current landlord, local government departments, social workers, probation officers or the police. I hereby authorise and agree to Hjaltland Housing Association contacting any of the above to obtain such information as they feel is necessary.

I hereby declare that the information I have provided on this application is correct. I understand that if I knowingly or recklessly make any false or misleading statement, or withhold any relevant information which induces the Association to approve this exchange then the Association may take action through the courts to recover possession of the tenancy.

A copy of The Association's privacy notice for tenants and applicants can be accessed here;
https://www.hjaltland.org.uk/site/assets/files/2070/privacy_notice_tenants_applicants.pdf

I hereby authorise Hjaltland to provide any relevant information relating to the conduct of any tenancy held by me and/or

Your Signature _____

Signature of Joint Tenant / Spouse _____

Date _____

