



GROUP

MUTUAL EXCHANGE POLICY

POLICY IMPLEMENTATION CHECKLIST	
Policy Guardian:	Director of Customer Services
Author:	Director of Customer Services
Version number:	1.1
Approved by Chief Executive:	April 2015
Approved by Caledonia Management Board:	April 2015
Effective from:	April 2015
Approved by Cordale Management Committee:	May 2015
Date of Last Review	July 2023
Date of Next Review	July 2026
Diversity compliant:	Yes
Equality Impact Assessment required:	No
Data Protection compliant:	Yes
Health & Safety compliant:	Yes
Procedure implemented:	Already in place
QL system changes made:	Not required
KPIs / reporting arrangements implemented:	Not required
Training Completed:	Not required
Posted on intranet:	Yes
Posted on Caledonia website:	Yes
Posted on Cordale website	Yes
Publicity material issued:	
Implementation Review:	

This document can also be provided in large print, braille, audio or other non-written format, and in a variety of languages

1. Statement of Intent

Most Registered Social Landlords (RSLs) and Local Authorities have policies that accommodate tenants who wish to pursue re-housing options either within their stock or with other landlords without having to resort to the use of extensive waiting lists.

The most common method of achieving this is by a mutual exchange between tenants. This is where tenants agree to swap homes.

The Group, comprising Caledonia Housing Association and its' constitutional partner Cordale Housing Association has devised a policy which is fair, meets all current statutory obligations and offers tenants who wish to undertake a mutual exchange a quick, user-friendly system in order to meet their housing needs and aspirations.

2. General Principles

Under the following terms and conditions, the Associations within the Group will permit tenants to exchange properties, both with other tenants and with the tenants of other RSLs and Local Authorities.

2.1 Applications

All applications for mutual exchanges must be in writing from both parties. A Mutual Exchange Application Form is available to assist in this and may be used. Both parties must submit completed correspondence, together with a clear instruction that they are requesting a mutual exchange.

Both applicants understand and accept that any costs incurred by the Association as a result of a change in tenancy following a mutual exchange, e.g. the provision of an EPC, electrical or gas safety check, will be charged to the incoming tenant.

2.2 Notification of Decision

The Association will notify the tenants in writing of its decision within 28 days of receiving their mutual exchange application. This timescale may be extended if the applicant has not provided sufficient information to consider the request. Where an application for a mutual exchange has been refused the Association will advise the tenant of the reason/s for the refusal.

If the exchange is refused for minor reasons which, in the opinion of staff can be quickly addressed, this will be outlined in the refusal and a re-submission will be invited on the basis of the existing application forms.

If the Association has not made a decision to refuse or to consent to the mutual exchange within 28 days of receiving the written application it will be deemed to have consented to the same under and in terms of Schedule 5, Part 2, Para 12 of the Housing Scotland 2001 Act.

2.3 Reasons for Which an Application May be Refused

Although the list is not exhaustive, below are some of the grounds under which a mutual exchange request may be refused:

- a) A Notice of Proceedings for Possession has been served on the tenant on any of the “conduct grounds” set out in paragraphs 1-7 of Schedule 2 of The Housing (Scotland) Act 2001.
- b) An order for Recovery of Possession has been made against the tenant.
- c) The exchange would lead to the Association’s property becoming overcrowded.
- d) The exchange would lead to the Association’s property becoming under occupied and would not demonstrate best use.
- e) The house has been designed or adapted for occupation by a person with particular needs and, if the exchange took place, there would no longer be a person with those needs occupying the house
- f) Where there is substantial damage or disrepair to the property caused by the tenant, a member of the household or an invited visitor to the property.
- g) Where the property has been provided by the Association as part of a project or protocol with other agencies or where the property has been specifically designed for person(s) with physical disabilities and the new tenant does not need the adaptations/facilities in the property.
- h) Where parties have exchanged properties before written permission had been granted by both landlords and a date agreed for their new tenancy to commence.
- i) Where the house has been provided by the Association in connection with the tenant’s employment with the landlord, i.e. it is a tied house.

- j) If one party does not complete the exchange, the relevant Association reserves the right to pursue proceedings to require the other party to return to their original property
- k) Either tenant has deliberately omitted, distorted or given false information on their application.
- l) The house is unsuitable for either the mutual exchange applicants' needs.
- m) Should either tenant have any outstanding liability or debt attributable to any tenancy in the 5 years prior to their application which exceeds one month's rent unless an agreement to repay this debt is being maintained and has been for a minimum of 3 months.
- n) Either applicant has been evicted in the last three years for anti-social behaviour or where the applicant or a member of their family has had a NOP or ASBO granted against them in the past three years.
- o) If there is clear evidence that applicants have caused problems in their tenancies in the five years prior to the application. This will include breaches of the tenancy agreement where action has been taken to remedy the situation but may not have instigated legal proceedings, such as causing nuisance, anti-social behaviour or malicious damage.

In most instances the application will be suspended for 12 months and will be reviewed at the end of this period.

3. The Role of Staff

The Association will designate an appropriate Officer to be responsible for the processing of all applications for a mutual exchange and communications with applicants.

4. Appeals Process

Any applicant unhappy about a decision relating to a mutual exchange must submit a written appeal to the Association within 28 days of receiving the decision. The Association will review the decision and may reverse any aspect which is felt to be unfair or contrary to this policy.

If the decision remains the same, the applicant will be given written reasons for this. If the applicant is still dissatisfied they may revert to the Association's formal complaints procedure. This does not prejudice the

tenant's right to raise a Court action under Part 2 of Schedule 5 of the Housing (Scotland) Act 2001.

5. Civil Partnership Act 2004

For the purposes of a mutual exchange of tenancies, the Association will take into consideration the above legislation where a civil partnership has been registered in the terms of the Act.

6. Review

This policy will be reviewed every 3 years or earlier if there is a change in legislation or as deemed appropriate.

7. Compliance Statement

It is important that all members of staff, in carrying out their duties for the Group, do so in accordance with the Group's policy framework. Our policy framework ensures we comply with laws and regulation, while giving guidance to inform operations and decision-making. Our policies have been designed to be clear and easy to understand, and are available on our website and intranet. If any member of staff is unclear as to their responsibilities under this policy, then they should refer to their line manager and / or the policy author for further guidance. A failure to comply with Group policies can have serious consequences for the Group. Should an employee become concerned about serious non-compliance with the policy, they should speak to their line manager or refer to the guidance set out in the Group Whistleblowing policy.