



Mutual Exchange Policy

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CASSILTOUN HOUSING ASSOCIATION LIMITED
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**CASSILTOUN HOUSING ASSOCIATION IS A REGISTERED SOCIAL LANDLORD (84) AND
A REGISTERED SCOTTISH CHARITY (SC035544) & Property Factor Registration No.
PF000154**

Contents

- 1. Background**
- 2. General Principles**
- 3. Eligibility Criteria**
- 4. Documentation to be Completed by Applicant**
- 5. Timescale for a Response to a Request for a Mutual Exchange**
- 6. Unlawful Exchanges**
- 7. Repairs**
- 8. Appeals Procedure**
- 9. Equal Opportunities and Human Rights Statement**
- 10. Processing Information – General data protection Regulation**
- 11. Policy Review**

1. Background

Cassiltoun Housing Association Limited is a Registered Social Landlord (RSL) with the Housing Regulator, and was registered with its forerunner, Communities Scotland and the Housing Corporation in Scotland, in 1985.

The Association is committed to providing high quality, affordable and accessible social rented housing to those in greatest housing need, contributing to the physical, social and economic regeneration of the area, the provision of housing for people with specialised needs and to provide a safe environment for our residents to enjoy.

The Association is committed to enabling tenants to exchange houses, wherever possible, in order to satisfy their housing need, to promote mobility and to make the best use of its housing stock. This aim is in accordance with the Housing (Scotland) Act 2001 which governs mutual exchanges and states that a landlord must not unreasonably refuse permission for the mutual exchange of a house. Details of how mutual exchanges will operate are contained within Cassiltoun Housing Association's Scottish Secure Tenancy Agreement and this policy.

2. General Principles

A mutual exchange does not need to be with another of Cassiltoun Housing Association's tenants', but must be with another house where the tenant holds a Scottish Secure Tenancy Agreement or a Short Scottish Secure tenancy Agreement. This may be with another housing association or local authority. There is no length of residency qualification for mutual exchanges but does require the landlord's written consent.

Mutual exchange is a useful tool to ensuring the housing stock is used efficiently. However, care must be taken to ensure that no abuse of the system is taking place i.e. tenants must have a genuine desire to exchange. As a result, the reasons for wishing to exchange must be examined before any further steps are taken.

There is no length of residency qualification for mutual exchanges

All personal information provided in connection with a Mutual Exchange request will be treated as confidential and in line with the requirements of the General Data Protection Regulation. (GDPR).

3. Eligibility Criteria

All Association tenants are eligible to apply to mutually exchange their properties. Mutual exchanges are not limited to two tenants (properties) three or more tenants may request to exchange their homes and the exchange is not limited to Cassiltoun Housing Association properties the tenant(s) may request to exchange with any other tenant who has a Scottish Secure Tenancy e.g. a tenant of South Lanarkshire Council.

The Association will not withhold consent unreasonably but may refuse an application to mutually exchange tenancies on grounds that include: -

- The Association has not received the written consent of all tenants involved in the exchange. This includes joint tenants and any person who has occupancy rights under the Matrimonial Homes (Family Protection) (Scotland) Act 1981
- If any of the grounds for refusal set out in section 33(3) of the Housing (Scotland) Act 2001 (the 2001 Act) are met. In particular, if

- A Notice of Proceedings for Recovery of Possession has been served on the tenant specifying one of the 'conduct' grounds set out in paragraphs 1-7 of Schedule 2 of the Housing (Scotland) Act e.g. rent arrears, anti-social behaviour.
- an order for recovery of possession of the property which is the subject of the current tenancy has been made against the Tenant under section 16(2) of the 2001 Act
- that property was provided by the Association in connection with the Tenant's employment with it
- that property has been designed or adapted for occupation by a person whose special needs require accommodation of the kind provided by the property and, if the Mutual Exchange took place, there would no longer be a person with such special needs occupying the property
- the accommodation in the other property is substantially larger than that required by the Tenant and the Tenant's family, **or** is not suitable to the needs of the Tenant and the Tenant's family, **or** the Mutual Exchange would lead to overcrowding of the property in such circumstances as to render the occupier guilty of an offence under section 139 of the 1987 Act.

- The rent account of one or more of the tenants has not been conducted in a satisfactory manner and there are current arrears on the account.
- The Association has reason to believe that one or more of the tenants has received a payment in cash or in kind to affect the Mutual Exchange.
- There is substantial damage to the property caused by the tenant, a member of the household or a visitor to the property.
- The house and/or garden is in an unsatisfactory condition.
- The Association intends to carry out substantial work on the property.
- The exchange would lead to the Association's property becoming underoccupied and would not demonstrate best use of the accommodation available in line with the Association's Allocation Policy.
- Any of the parties has been involved in the perpetration of anti-social behaviour as confirmed by another agency e.g. Police Scotland or has had an ASBO granted against them or a member of their household within the last 3 years.
- The house is not suitable for the prospective tenant's needs.
- Any of the parties has given false or misleading information about the application.
- There are current rechargeable repairs charges outstanding by any of the parties.

This list, while comprehensive is not exhaustive and each application will be fully assessed by a member of the Housing Services Team before granting or refusing consent.

With the prior approval of the Housing Manager, the Association may relax certain eligibility criteria if there are urgent health, social or financial grounds for an exchange.

4 Documentation to be Completed by Applicant

Tenants must complete a Cassiltoun Housing Association Mutual Exchange Form. The information provided on the form will be used to determine whether the Association's eligibility criteria for a Mutual Exchange have been met.

5 Timescale for a Response to a Request for a Mutual Exchange

On receipt of the form, the Association will make a written response within one month indicating whether permission for the Mutual Exchange has been granted or refused. If a refusal is given, the Association will provide the reason(s) for refusal. If the Association fails to respond within this time period, then Association will be deemed to have consented to the request.

The Association reserves the right to withdraw permission for a Mutual Exchange if new or additional information that adversely affects the application comes to light after permission has previously been granted in writing. Notification of this will be in writing to the last known contact address of the Exchange applicant.

6. Unlawful Exchanges

In the event that a Tenant(s) fails to obtain the Association's written permission to exchange or when permission has been refused, and the Tenant proceeds with the Mutual Exchange, then both parties will:

- have no legal interest in the property they have moved into
- be liable for the rent and any other obligations relating to their original tenancy
- be in breach of their Tenancy Agreement

In such instances the Association will insist that the Tenants return to their original home and will then consider legal action to terminate the tenancy(ies).

7. Repairs

Mutual exchange applicants will view the property that they are applying 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.

A property inspection will be undertaken by the Association before the exchange takes place.

Gas and electric safety checks and an up-to-date EPC (if appropriate) will be carried out before the new Tenant moves in

8. Appeals Procedure

Any applicant unhappy about a decision relating to a mutual exchange request must submit a written appeal to the Housing Manager within 28 days of receiving the decision.

The Housing Manager will review the appeal and provide the applicant with the result of their decision in writing. They will consider the following:

- The parties' individual circumstances, especially their amount of housing need

- The justification for rejecting the exchange and any advantages that might result from authorising it for the Association.

If the applicant is still dissatisfied, recourse can be sought through the Association's Complaints Policy and Procedure.

9. Equal Opportunities and Human Rights Statement

We recognise our pro-active role in valuing and promoting human rights, diversity, fairness, social justice and equality of opportunity by adopting and promoting fair policies and procedures. We will check this policy and associated procedures regularly for their equal opportunity implications, taking appropriate action to address inequalities likely to result or resulting from implementation of the policy and procedures. We are committed to providing fair and equal treatment to all applicants and tenants and will not discriminate against any on the grounds of race, colour, ethnic or national origin, religion, age, gender sex, sexual orientation, marital status, family circumstances, employment status or physical ability. This policy takes into consideration the rights under Article 8 of the ECHR.

10. Processing Information – General Data Protection Regulations

Cassiltoun Housing Association will process information and data contained within the Housing Applications in accordance with its Policies and Procedures relating to the General Data Protection Regulations and all applicants will be issued with a Fair Processing Notice.

All staff members will be made aware of their responsibilities in relation to the General Data Protection Regulations and will be trained in the process that the Association has introduced to ensure compliance with GDPR.

11. Policy Review

This Policy will be reviewed on a 3 yearly basis or earlier if the legislation changes to ensure that its aims are being met.