



**Craigdale**  
HOUSING ASSOCIATION

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## MUTUAL EXCHANGE POLICY

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**Contents:**

	Page
1. Introduction	3
2. Aims and Objectives	3
3. Legal Framework	3-4
4. General Principles	4-5
5. Role of the Housing Management Dept.	5
6. Appeal Process	5-6
7. Performance Monitoring	6
8. Equal Opportunities	6
9. Review	6

## **1. Introduction**

- 1.1 Craigdale Housing Association operates in an area of high demand for social housing. With relatively low supply of accommodation, the great majority of waiting list and transfer applicants are unsuccessful. The association is committed to enabling tenants to exchange houses, wherever possible, in order to satisfy their housing need, to promote mobility and make the best use of its housing stock. The Mutual Exchange Policy is designed to support the general Allocations Policy in helping to meet local housing need.
- 1.2 A mutual exchange does not need to be with another of Craigdale 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.
- 1.3 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. The Association is a member of Homeswapper and tenants will be encouraged to sign up to this. 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 UK. (GDPR).

## **2. Aims and Objectives**

- 2.1 To clarify the Policy regarding Mutual Exchanges
- 2.2 To ensure consistency when dealing with applications and requests.
- 2.3 To respond positively to the needs of people who wish to mutual exchange within, into or out with our area, for example for employment or social support reasons to help create a stable sustainable community
- 2.4 To meet and comply with the legal requirements and relevant good practice standards.

## **3. Legal Framework**

- 3.1 The Housing (Scotland) Act 2001 (Section 33) 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) written consent. Landlords may only refuse such requests if there are reasonable grounds for refusal.
- 3.2 Short Scottish Secure Tenants (SSST) are provided with the right to a mutual exchange in the Housing (Scotland) Act 2001 Section 34 (6). However, the Association has discretion in granting consent where it is satisfied that the grounds still exist to enforce SSST under the Housing (Scotland) Act 2001 Section 34 and Schedule 6.

3.3 The policy has been drawn up with reference to the following:

- The Housing (Scotland) Act 1987, 2001, 2010 & 2014
- The Homelessness etc. (Scotland) Act 2003
- Data Protection Act (1998)
- Sex Discrimination Act 1975 (As amended)
- Race relations Act 1976 (as Amended)
- Disability Discrimination Act 1995
- Matrimonial Homes (Family Protection) (Scotland) Act 1981
- Protection from Harassment Act 1997

#### **4. General Principles**

4.1 Under the following terms and conditions, we will permit our tenants to exchange properties, both with each other and with tenants of other RSL's and Local Authorities.

##### 4.2 Application

All applicants for mutual exchanges must be in writing from both parties. They must both apply, at least as far as Craigdale Housing Association is concerned on a current Mutual Exchange Application Form. Both parties must complete and submit the forms.

##### 4.3 Notification of Decision

Craigdale Housing Association will notify the tenant in writing of its decision within 28 days of receiving their Mutual Exchange Application. The timescales 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 of the reason/s for the refusal.

4.4 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.

4.5 The Association must ensure they respond to the Mutual Exchange Application within 28 days of receiving as failure to do so will mean consent is deemed to have been granted in terms of Schedule 5, Part 2, Paragraph 12 of the Housing (Scotland) Act 2001.

##### 4.6 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.
- b) An order for Recovery of Possession has been made against the tenant.
- c) The exchange would lead to the Craigdale Housing Association Property becoming overcrowded.
- d) The exchange would lead to the Craigdale Housing Association Property becoming under-occupied and would not demonstrate best use of the accommodation available.

- 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 Craigdale Housing 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 to do so has been granted by both landlords and a date agreed for their new tenancy to commence.
- i) Where the house has been provided by Craigdale Housing 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, Craigdale Housing Association reserves the right 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 mutual exchange applicants' needs.
- m) Either tenant has an outstanding financial 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 an ASBO granted against them in the past three years.
- o) If we have 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 we have taken action to remedy the situation but may not have instigated legal proceedings, such as causing nuisance, anti-social behaviour or malicious damage.

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

## **5. The Role of the Housing Management Department**

5.1 The recording of applications for a mutual exchange is the Housing Services Officer responsibility.

5.2 The Housing Services Officer is responsible for the processing of all applications for a mutual exchange.

## **6. Appeals Process**

6.1 Any applicant unhappy about a decision relating to a mutual exchange must submit a written appeal to the Senior Housing Services Officer within 28 Days of receiving the decision. The Senior Housing Services Officer will review the decision and 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.

6.2 If the applicant is still dissatisfied, they will revert to Craigdale Housing Association complaints procedure, which is available at any of our offices. 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.

## **7. Performance Monitoring**

7.1 The Association will monitor mutual exchanges and report quarterly on the number of mutual exchanges agreed.

## **8. Equal Opportunities**

8.1 The Association through the Suspension Policy will act in a manner that encourages equal opportunities and complies with all relevant equal opportunities requirements. The Association's Equalities Policy provides further information on these and the Association's approach to equalities issues.

## **9. Review**

9.1 This policy will be reviewed 3 years from the date of implementation, which will be the date the policy is approved by the Board of Management, or earlier, if there is a change in legislation or as deemed appropriate.