

Mutual Exchange Policy

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Next Review: 2027



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MUTUAL EXCHANGE POLICY

1. Introduction/Purpose

- 1.1 The purpose of this policy is to set out the criteria for mutual exchanges. The associated procedures outline the process involved in dealing with mutual exchanges.
- 1.2 Rosehill recognises the importance of providing tenants with a range of housing options to meet their housing needs. Rosehill actively promotes a range of housing options to its tenants via articles in newsletters, information leaflets and posters displayed in the office reception area.
- 1.3 The options open to tenants include applying for internal transfers within Rosehill and direct applications to other landlords. These options normally have a formal requirement that tenants have a degree of housing need.
- 1.4 Not all tenants have a recognised housing need in terms of allocation policies or their housing need is relatively low. Therefore they may have a lengthy wait before alternative housing is offered to them.
- 1.5 The option of a mutual exchange allows tenants to exchange their houses with other tenants without this being conditional upon having housing need. However certain conditions do apply to mutual exchanges and these are detailed at Section 4.4.
- 1.6 Mutual exchange can be an effective means of dealing with lower levels of housing need and for meeting tenants' aspirational needs. In recognition of this Rosehill operates its own mutual exchange board and welcomes its own tenants and those of other landlords to advertise their houses. Rosehill publicises the existence of the exchange board through periodic articles in newsletters, information leaflets and its website.

2. Legal and Regulatory Framework

- 2.1 The following relevant legislation has been taken into account in the development of this Policy:
 - Housing (Scotland) Act 2001
 - Matrimonial Homes (Family Protection)(Scotland) Act 1981
 - Civil Partnership Act 2004

2.2 The Scottish Social Housing Charter

2.2.1 The Social Housing Charter came into effect in April 2012 and this sets the standards and outcomes that all social landlords should aim to achieve when performing their housing activities. The Charter replaces the Performance Standards and the outcomes relevant to this Policy are:

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.

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.

3. Participation

Social landlords manage their businesses so that tenants and other customers find it easy to participate in and influence their landlord's decisions at a level they feel comfortable with.

7. 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.

3. Right to a Mutual Exchange

3.1 A tenant has a right to exchange his/her house with another tenant, providing that both tenants are Scottish Secure tenants and that the landlords of both tenants have given their consent.

3.2 Exchanges can occur between tenants of Rosehill and with tenants of other landlords.

4. Criteria

4.1 Written application

4.1.1 Tenants must make a request for an exchange in writing using the forms supplied by Rosehill. 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.

4.1.2 Tenants must complete all sections of the mutual exchange form and provide all information required. Failure to do so may result in Rosehill refusing the application. The tenant will then be required to re-apply once he/she has all the necessary information available.

4.1.3 If a member of the household is the tenant's married partner or civil partner they have certain rights under the Matrimonial Homes (Family Protection) (Scotland) Act 1981 and the Civil Partnership Act 2004 respectively. Under the legislation they are classed as "non-entitled spouse" and "non-entitled partner" and their consent must be obtained before the exchange can go ahead.

4.2 Timescales

4.2.1 Rosehill is required to inform the tenant of its decision within one month of receipt of the mutual exchange application. If the decision is to refuse the application the tenant must be advised of the grounds for refusal.

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

4.3 Membership

4.3.1 Before a mutual exchange with a tenant from another landlord can proceed the other landlord's tenant must apply for and be accepted into membership of Rosehill.

4.4 Grounds for Refusal

4.4.1 Rosehill will not refuse any application for a mutual exchange unreasonably. However the following are grounds for refusal:

- If Rosehill has served a Notice of Proceedings for Possession on the tenant in relation to any of the seven conduct grounds, e.g. the tenant has not paid his/her rent.

- If Rosehill has obtained an order for recovery of possession against the tenant.
- The house was provided in connection with the tenant's employment with Rosehill i.e. tied house.
- The house has been designed or adapted for a person with special needs and the mutual exchange would result in the house no longer being occupied by someone with special needs.
- The accommodation in the other house is substantially larger than required by the tenant and the tenant's family, or is not suitable to the needs of the tenant's family
- If the mutual exchange would result in the house being overcrowded which would lead to an offence under section 139 of the 1987 Act.

4.4.2 Rosehill will also refuse permission on the following grounds:

- If the mutual exchange would result in the house being overcrowded as determined by our Allocations Policy. However to alleviate serious overcrowding Rosehill will allow tenants to exchange to a house one size down from what they actually require. For example a tenant living in a 3 apartment, requiring a 5 apartment, can exchange to a 4 apartment.
- If the external tenant has not been granted membership of Rosehill under the terms of the Membership Policy.
- If the tenant of Rosehill has rent arrears and there is no repayment agreement in place which is being maintained.
- If the tenant is or has recently been involved in persistent or serious anti-social behaviour.
- If the tenant has made any unauthorised alterations/improvements or has caused malicious damage to his/her home and has failed to rectify such issues. In such cases Rosehill will initially refuse the application and invite the tenant to make a new application once the necessary remedial work has been undertaken. Rosehill will require to inspect any works undertaken by the tenant to ensure it is satisfied with the standard and quality of work.

- If a poor tenancy report is obtained from the other landlord in respect of their tenant. This would relate to issues such as rent arrears and persistent or serious anti-social behaviour.

4.5 Welfare Reform: Social Sector Size Criteria

4.5.1 Rosehill may consider granting a mutual exchange request which would lead to under-occupation of one bedroom.

4.5.2 With the introduction of the Social Sector Size Criteria otherwise known as the “Bedroom Tax” tenants of working age who are in receipt of housing benefit, who are deemed to be under-occupying their homes will have their housing benefit reduced. The Size Criteria is set out by the Department of Work and Pensions.

4.5.3 Tenants who are under-occupying by one bedroom will have their housing benefit reduced by 14% of their total rent charge. Tenants who are under-occupying by two or more bedrooms will have their housing benefit reduced by 25% of their total rent charge. The tenant will be responsible for paying the shortfall in their housing benefit.

4.5.4 When considering applications which may result in under-occupation of one bedroom the above will need to be taken into account. Consent to a mutual exchange which will result in under-occupation of one bedroom will be conditional upon the tenant agreeing to pay the shortfall in their housing benefit. To support this the tenant will be required to sign a statement confirming they are fully aware and understand that they will be liable for any shortfall in their housing benefit and agree to pay the shortfall.

4.5.5 At this moment in time all tenants who receive benefits and are affected by under-occupation are entitled to Discretionary Housing Payment (DHP) as agreed with the Scottish Government.

4.6 Mutual Agreement

4.6.1 If Rosehill and the other landlord, if applicable, give their consent to the exchange, the tenant moving into Rosehill will be required to sign a declaration to accept and to maintain all improvements, alterations or adaptations to the house previously approved by Rosehill. In addition the tenant must accept the house as seen in terms of decoration. Rosehill is not responsible for and will not carry out any re-decoration.

5. Appeals Process

- 5.1 Rosehill operates an internal appeals process for dealing with any disputes which may arise regarding a decision made by Rosehill.
- 5.2 If the appeals process has been exhausted and the tenant is still dissatisfied with Rosehill's decision the tenant has the right of appeal to the court. He/she may do so by raising proceedings by summary application.
- 5.3 Throughout this process tenants may wish to take advice from an independent source such as the Citizens Advice Bureau, Law Centre or Solicitor.

6. Tenant Participation

- 6.1 We are a tenant focussed organisation and as such we are committed to involving tenants in all aspects of our work and ensuring that tenants are included, informed and consulted about decisions that have an impact on the way their homes are managed.
- 6.2 As part of this commitment we will involve our tenants in the development of our policies and seek feedback where appropriate. We will ensure that any significant changes to this Policy and other Policies which will affect our tenants will be the subject of consultation.

7. Equality and Diversity

- 7.1 We are committed to ensuring equal opportunities and fair treatment for all people in our work. In implementing this Policy, we will provide a fair and equal service to all people, irrespective of factors such as gender, race, disability, age, sexual orientation, language or social origin, or other personal attributes.

8. Risk Management

- 8.1 In all the key areas of our business we need to consider any risks which may arise. To this end we have in place a robust Risk Management Policy and from this flows our Risk Register. We have identified our material risks which are regularly monitored by our Management Team and Audit Sub-Committee.
- 8.2 Key to mitigating the risks related to service delivery including mutual exchanges is having a comprehensive policy and procedures in place. The Policy should provide clear guidance for staff in how to deal with

mutual exchange requests and clear information for tenants on what they need to do if they wish to apply for a mutual exchange.

- 8.3 To ensure we continue to manage the associated risks we will periodically review this Policy to ensure compliance with all legislative requirements and regulatory and best practice guidance.

9. Complaints Procedure

- 9.1 We aim to get things right first time and provide a good quality service to our tenants. However, we acknowledge that things can go wrong and that some tenants may be unhappy with the service provided.
- 9.2 We promote our Complaints procedure through our website and periodic articles in our newsletters. In addition we initially issued all of our tenants with a copy of the new Procedure introduced in October 2012. This information leaflet is also issued to all new tenants as part of the signing up pack.

10. Data Protection

- 10.1 On the 25th May 2018 the legislation governing data protection changed with the introduction of the General Data Protection Regulation (GDPR). Following the UK's exit from the EU, and the end of the transition period which followed, the GDPR formed part of the retained EU law and became the UK GDPR which together with the Data Protection Act 2018 constitute the UK's data protection legislation.
- 10.2 We hold a variety of Personal Data relating to individuals including tenants, waiting list applicants, factored owners, other service users, employees and Committee Members. Our Privacy Policy sets out the basis on which we can process and share such data with third parties, it also sets out how we will securely store individuals' data, whether electronically or in paper format. It also provides information on individuals' rights under GDPR including: to view personal data held about them by us; to request a restriction of processing of their data; the right to be forgotten and a right to object to us processing their data. In terms of the rights to be forgotten and to restrict or object to processing of Personal Data, any such requests will require to be considered on their own merits and legal advice will need to be obtained in some circumstances. We have the responsibility for accepting or refusing such requests and will do so in writing.
- 10.3 Under GDPR we are required to provide all customers whose Personal Data we hold with a Fair Processing Notice (also known as a Privacy

Notice). The Notice sets out the Personal Data we process and the basis for doing so.

- 10.4 We will only keep and process Personal Data for the original purpose we gathered it for and we will not keep it for any longer than necessary. Attached to our Privacy Policy is a table of Retention Periods for Personal Data held and processed by us. We recognise that not all Personal Data can be processed and kept for the same period of time, and this will vary depending on the individual circumstances of each person whose Personal Data we hold.
- 10.5 The Privacy Policy sets out what should happen in the event of a Data breach e.g. does the breach require reporting to the Information Commissioner's Office and whether the individual affected should be notified. Timescales are set out for dealing with data breaches.
- 10.6 Full copies of our Privacy Policy are available upon request at our office or from our website www.rosehillhousing.co.uk

11. Policy Review

- 11.1 This Policy will be reviewed every five years or sooner to ensure it continues to reflect current thinking and practice and to comply with legislative requirements and regulatory guidance.