

# **KINGDOM HOUSING ASSOCIATION LIMITED**

## **MUTUAL EXCHANGE POLICY**

### **1. Statement of Intent**

Most Registered Social Landlords (RSLs) and Local Authorities have policies to accommodate tenants both within the stock and those who wish to pursue housing options with other landlords without having to resort to the use of extensive waiting lists. Kingdom has devised a policy which is fair, meets all current statutory obligations and offers tenants who wish to mutually exchange properties a quick, user-friendly system in order to meet their housing needs and aspirations.

### **2. General Principles**

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

All applications for mutual exchanges must be in writing from both parties. They must both apply, at least as far as Kingdom is concerned, on a current general housing application form. Both parties must submit the forms, together with a clear instruction that they are requesting a mutual exchange.

Kingdom will either grant or refuse the exchange in writing within 28 days of receiving the application. If the exchange is refused for minor reasons which, in the opinion of Kingdom 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.

#### **2.2 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 Kingdom Property becoming overcrowded or under-occupied.
- d) 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

- e) 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.
- f) Where the property has been provided by Kingdom 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.
- g) Where parties should exchange properties before written permission to do so has been granted by both landlords and a date agreed for their new tenancy to commence.
- h) Where the house has been provided by Kingdom in connection with the tenant's employment with the landlord, i.e. it is a tied house.
- i) If one party does not complete the exchange, Kingdom reserves the right to require the other party to return to their original property
- j) Either tenant has deliberately omitted, distorted or given false information on their application.
- k) The house is unsuitable for either the mutual exchange applicants' needs.
- l) Should either tenant have any outstanding liability attributable to any tenancy in the 5 years prior to their application which exceeds 1/12<sup>th</sup> of the annual rent unless an agreement to repay this debt is being maintained and has been for a minimum of 3 months.
- m) 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.
- n) If we have clear evidence that applicants have caused problems in their tenancies in the five years prior to the application.

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

### 2.3 Notification of Decision

Kingdom will notify the tenants in writing of its decision within 28 days of receiving their mutual exchange application. Where an application for a mutual exchange has been refused we will advise the tenant of the reason/s for the refusal. If Kingdom has not made a decision to refuse or to consent to the mutual exchange within 28 days of receiving the written application Kingdom 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.

### 3. HOMES Mobility Scheme

Kingdom participates in the HOMES mobility scheme (or any agreed successor scheme). Kingdom tenants wishing to move to another area can be nominated through the scheme to another landlord or exchange through the Homeswap part of the scheme.

#### **4. The Role of the Housing Services Department**

The recording of applications for a mutual exchange is the responsibility of Customer Services team.

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

#### **5. Appeals Process**

Any applicant unhappy about a decision relating to a mutual exchange must submit a written appeal to the Housing Manager within 28 days of receiving the decision. The Housing Manager 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. If the applicant is still dissatisfied they will revert to Kingdom's formal 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.

#### **6. Civil Partnership Act 2004**

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

#### **7. Review**

This policy will be reviewed 5 years from the date of implementation, which will be the date the policy is approved by the Committee of Management or earlier if deemed appropriate.

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Policy drawn up with reference to:

Housing Scotland (2001) Act  
Civil Partnership Act 2004  
Data Protection Act (1998)

Reference made to the following sources and other guidance:

Prepared by: Linda Hamilton

Current Policy dated December 2002

Draft 1 Circulated to Directors for review

Policy audited by Kingdom's solicitors October 2006

Sub Committee Review of Policy 12.2.07

Presented for approval to Committee of Management on 19.3.07

Policy Approved Yes

Next review date: December 2012