



# Mutual Exchange Policy

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INVESTOR IN PEOPLE

**Providing homes, supporting communities**

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## 1.0 Hjaltland Values

### Our Vision

Providing homes, supporting communities

### Our Values

#### Teamwork

Working together as one team, to the benefit of our customers. To demonstrate and extend trust in each other.

#### Open, Honest & Inclusive

We offer a people focused service that is centred in fairness and integrity. We believe in being open, honest and respectful in everything we do.

#### Ownership

We expect our staff to take responsibility for their actions and give them the freedom to do their job in a positive working environment.

#### Quality

We value quality in everything we do from the standard of our product to the level of service we provide. We take pride in making a difference in communities and providing continuous improvement.

#### Innovation

We seek to ensure we have sustainable housing, fit for future generations, maintained and developed to the highest possible standard.

## 2.0 Introduction

Hjaltland Housing Association ('Hjaltland') is keen that existing tenants are provided with the opportunity to transfer to alternative accommodation where their current home no longer meets their needs. Whilst tenants can apply for a transfer via our Allocation Policy, this will not always result in a move. Hjaltland recognises that mutual exchanges can be a very effective way to alleviate housing need, encourage movement within stock, and thereby help to create sustainable communities.

A mutual exchange is where you effectively 'swap' homes with another tenant, giving you control and increasing your chances of finding a home of your choice. The tenant you swap with can be from Hjaltland Housing Association, Shetland Islands Council or another housing association or local authority in the UK. A mutual exchange can also involve more than two tenants, such as a three-way exchange.

You must apply to The Association to request permission to do a mutual exchange, and under no circumstances should you move until you have received approval in writing.

Hjaltland will ensure that mutual exchange applications are processed promptly and fairly and in accordance with legal provisions and contractual terms contained within the tenancy agreement.

There are a number of ways a tenant may identify a potential swap. Advertising locally, along with use of social media, can be effective. Often, word of mouth and local knowledge can also lead to a possible match. Another effective method is through a national online company, Homeswapper.

Homeswapper can help you find an exchange in the Shetland or anywhere else in the UK. For a fee, you can register online at [www.homeswapper.co.uk](http://www.homeswapper.co.uk) and Home Swapper will search for people interested in exchanging with you, sending you an email or text notifying you of homes which meet your requirements.

### **3.0 Regulatory Framework / Legal**

The Housing (Scotland) Act 2001

### **4.0 Mutual Exchange eligibility & application process**

You are eligible to be considered for a mutual exchange if you are;

- A Hjaltland Housing Association tenant
- A Shetland Islands Council tenant
- A social housing tenant of any Registered Social Landlord or Local Authority within the United Kingdom

You are not eligible to be considered for a mutual exchange if you are;

- An owner occupier
- A tenant in a private property
- A tenant with a temporary tenancy (including homeless accommodation)
- Tied accommodation provided through employment

Upon identifying a potential swap, it is very important to view the other party's property to ensure it offers a sustainable, long term viable housing solution. Exchanging photographs can be useful as an introduction, but tenants are strongly advised to visit the area, understand the amenities on offer in the neighbourhood and make sure they are happy with the condition of the property.

Once tenants have agreed that they would like to proceed with an exchange, each tenant must put their request in writing to their own landlord and submit HHA forms to our office. Exchanges will not be allowed to proceed until the respective landlords have given their consent in writing.

Hjaltland will respond to requests and advise on the outcome of the exchange request within one month of the written request being received. The one month period will only commence once all parties have submitted all necessary paperwork. If there is a delay, for example awaiting tenancy checks, applicants will be advised by the housing officer handling the application.

The Hjaltland property will be inspected in line with the void property inspection process, prior to consent being given, to ascertain its condition. All applicants involved in the exchange will be required to agree in writing to accepting the other property in its present condition. In respect of the Hjaltland tenants, where such inspection reveals unauthorised works or damage to the property, this may require to be reinstated, at the tenant's expense and to the satisfaction of Hjaltland prior to consent to the exchange being granted.

A tenancy check will be undertaken; in the case of tenants from other organisations a written tenancy report will be requested from their landlord.

## **5.0 Grounds for refusing consent to an exchange**

Each case will be assessed on its own merits. While there is no definitive list of grounds for refusing consent to exchange, specific reasons are noted in the Housing (Scotland) Act 2001 and included in the list undernoted.

It is stressed that there is no legal definition of reasonableness and each case must be assessed on its particular merits. Furthermore, the undernoted list is not deemed to be definitive and other reasons may exist for refusing exchange applications, for instance, where a legal order such as an anti-social behaviour order has been taken against one of the tenants.

Where consent is refused, the tenant will be given reasons for refusal in writing in accordance with this policy.

Common grounds for refusal;

- Where Hjaltland tenants applying for a mutual exchange have not resided in their property for at least twelve months, any request will be refused. If there are exceptional circumstances that

warrant relaxation of this rule, then the Senior Housing Officer will report this to the Head of Housing and Customer Service for a decision.

- The proposed exchange would result in overcrowding or any other breach of existing Hjaltland allocation policy.
- The proposed exchange would result in under-occupation of a Hjaltland property. However, consideration will be given if the exchange does alleviate some housing need. For example, a single person in a three-bedroom property applying to move to a two-bedroom property will be considered if this would make better use of their existing house.
- One of the parties has outstanding housing debt at the point of application. Housing debt includes rent arrears, outstanding legal costs, and rechargeable repairs. The exchange can be granted where the rent arrears are not more than one twelfth of the annual rent (i.e. one month's rent), the applicant has agreed with the landlord an arrangement for paying the outstanding liability; and has made payments in accordance with that arrangement for at least three months; and is continuing to make such payments. If there are exceptional circumstances that warrant relaxation of this rule, then the Senior Housing Officer will report this to the Head of Housing and Customer Service for a decision.
- An application will be refused should anyone in the household have been the cause of anti-social behaviour in the last three years or be in breach of any other tenancy conditions. If there are exceptional circumstances that warrant relaxation of this rule, then the Senior Housing Officer will report this to the Head of Housing and Customer Service for a decision.
- Where an applicant is required to register with the police under the Sex Offender Act 1997 and/or the Sexual Offences Act 2003, and following an Environmental Risk Assessment, it has been assessed as unsuitable. We will consult with other relevant authorities under the National Accommodation Strategy for Sex Offenders (NASSO) about the suitability of the application and any associated risks. Such authorities will include the police, the local authority and the Scottish Prison Service. If the other authorities do not agree that the exchange is appropriate the application will be refused.
- A Notice of Proceedings (NOP) has been served that specifies any of grounds 1 to 7 (Schedule 2).
- An order for recovery and possession (eviction) has been made against the tenant.



- It is a requirement that in giving consent to a mutual exchange both parties to an exchange must reside in their new properties for at least twelve months. An application to exchange will be refused if there is reason to believe that one or both parties do not intend to reside in their new properties for this minimum period.
- The house has been designed or adapted for occupation by a person whose particular needs require such accommodation and, following the exchange, no person with such particular needs would occupy the house.
- Where the tenant is a tenant of a co-operative housing association, the tenant must also be a member of the housing association before consent is granted – confirmation from landlord will be sought as part of the tenancy reference.
- Where rechargeable repairs have been identified at the property inspection and not completed to the re-let standard of The Association.
- Where the property is a matrimonial home and the non-entitled spouse has not granted permission (excluding a scenario where the non-entitled spouse has been absent from the property for two years and The Association has evidence of this).

## 6.0 Notification of decision

The Senior Housing Officer will sign off all Mutual Exchange reports, collated by the area Housing Officer. We will notify the tenants in writing of our decision within one month of receiving their mutual exchange application. Where an application for a mutual exchange has been refused, we will advise all applicants in writing. To ensure there is no breach of Data Protection legislation, information will be limited and no third-party information will be shared.

If we have not notified the applicant of our decision to refuse or to consent to the mutual exchange within one month of receiving the written application, Hjaltland will be deemed to have consented to the same under and in terms of Schedule 5, Part 2, Para 13 of the Housing Scotland 2001 Act.

## 7.0 Moving property

Before transferring, each tenant will be required to terminate their existing tenancy and each shall sign a tenancy agreement with respect to the new tenancy. All parties will agree a new tenancy start date, and tenants will be responsible for making all arrangements in relation to exchanging keys.

In any instances where one of the parties fails to take up occupancy of the property to which they agreed to exchange or a mutual exchange without the consent in writing of the landlords, then Hjaltland reserves the right to commence legal proceedings requiring the parties to vacate the properties to which they exchanged.

7.3 Routine repairs will only be carried out in the normal way by the Hjaltland. Where major refurbishment or planned maintenance is programmed, this will be carried out as part of the programme in the normal way. A change of tenancy will have no effect on programmed work.

## **8.0 Appeals Process**

Any applicant unhappy about a decision relating to a mutual exchange must submit a written appeal to the Head of Housing and Customer Service within 28 days of receiving the decision. The Head of Housing and Customer Service will review the decision and may reverse any aspect which is felt to be unfair or contrary to this policy. A decision following such a review will be issued to the applicant within 28 days. If the decision remains the same, the applicant will be given written reasons for this.

If the applicant remain dissatisfied, they have the right to appeal to the Sheriff Court under a summary action. This action must be lodged within 21 days of receiving notification the appeal has not been upheld.

## **9.0 Equality, Diversity & Human Rights Impact Assessment**

The Association is committed to promoting positive measures that eliminate all forms of unlawful or unfair discrimination on the grounds of age, disability, gender reassignment, marriage & civil partnership, pregnancy & maternity, race, religion or belief, sex, sexual orientation. Our aim as landlord, service provider and employer is to recognise the needs of all individuals, and ensure these commitments are evident throughout every aspect of our business and our activities.

The Association assesses and reviews all new and revised policies and procedures, and an Impact Assessment is available.

## **10.0 GDPR**

The Association will treat your personal data in line with our obligations under the current data protection regulations and our own Data Protection Policy. Information regarding how your data will be used and the basis for processing your data is provided in Hjaltland Housing Associations Privacy notices.



## 11.0 Monitoring and Review

Employees have a duty to co-operate in the operation of this policy by fulfilling the responsibilities placed upon them.

As stated, the operations of the company and this policy will be reviewed at regular intervals or in light of changing company circumstances, procedures and statutes. These changes will be brought to the attention of employees and others whose health and safety may be affected by such changes.

Planned Review Date: June 2027



