



SHARED OWNERSHIP POLICY & PROCEDURES

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CONTENTS	PAGE
1. Introduction	3
2. Aims and Objectives	3
3. The Legal Framework	4
4. Management of Shared Ownership Properties	4
5. Marketing	5
6. Financial Eligibility	5
7. Staircasing	5
8. Buybacks and Re-sales	6
9. Expiry of Exclusive Occupancy Agreement Period	8
10. Conveyancing	8
11. Arrears and Repossessions	9
12. The Role of the Committee	10
13. Factoring	10
14. Equal Opportunities	10
15. Communication and Consultation	10
16. Repairs Reporting & Emergency Situations	11
17. Complaints	11
18. Data Protection and Access to Personal Information	11
19. Policy Review	12

1. Introduction

- 1.1 Calvay Housing Association (CHA, Calvay, the Association) has 15 shared ownership properties. Shared ownership is a form of low-cost home ownership that combines renting with buying. It is aimed at people who wish to have a stake in the ownership of their home but who are unable to buy outright. Priority is normally given to applicants who are first time buyers, currently renting accommodation, or unable to purchase a property on the open market.
- 1.2 Purchasers choose to buy a 25%, 50% or 75% share at the outset (for which they may need to arrange a mortgage) and make an 'occupancy payment' to the joint owner of the property (CHA). The occupancy charge is for the exclusive use of the property but takes into account the fact that the sharing owner is responsible for repairing and insuring the property. The occupancy payment is proportional to the equity share retained by the Association.
- 1.3 Scottish Housing Regulator's Guidance Note HSGN 2012/02 modified the original tranche agreements, to allow the sharing owner to buy additional equity in their property in multiples of 10%, but also clarified this is only a template and, if the Association wishes to continue to offer additional shares of equity in tranches of 25% only, then it may do so. Given the majority of Calvay's sharing owners have had their properties for some time, the Association will continue to offer 25% only.
- 1.4 At the time of reviewing this Policy, the Association has 15 shared ownership properties. CHA has no intention of developing any more shared ownership properties in the foreseeable future, and so this policy addresses only the ongoing management of the existing units.
- 1.5 In the event of any future new build developments involving an element of shared ownership, or any alternative low-cost initiative for first time buyers (LIFT), e.g.
- the New Supply Shared Equity scheme to allow first time buyers to buy a new build property
 - the Open Market Shared Equity scheme to allow first time buyers to buy a property on the open market
- a separate policy and related procedures would be introduced.

2. Aims and Objectives

- 2.1 The shared ownership policy aims to:-
- (i) identify key staff and clarify their roles and responsibilities in dealing with sharing owners.
 - (ii) establish clear procedures and communication systems between relevant staff to ensure the provision of an efficient and effective service.
 - (iii) ensure staff and sharing owners are fully aware of their rights and responsibilities in regard to repairs and maintenance.
 - (iv) clarify the strategy where sharing owners wish to increase or sell their share.

- (v) clarify the debt recovery procedures in regard to sharing owners.
- (vi) determine the role of CHA's Committee to ensure effective control.
- (vii) maintain effective recording and monitoring systems.
- (viii) ensure compliance with legal, regulatory and good practice guidance.

3. The Legal Framework

- 3.1 Prior to outlining the detail of the policy it is important to have a clear understanding of the legal background involved which has the effect of imposing responsibilities on both the Association and the individual sharing owner.
- 3.2 There is no landlord/tenant relationship between the Association and the sharing owner, but just two separate parties being joint owners of the property. However, the sharing owner is responsible for the full cost of all repairs and maintenance within their own property and also for a proportion of any common repairs carried out to their block, as detailed in their Deed of Conditions.
- 3.3 When purchasing a shared ownership property, the individual sharing owner enters into an Occupancy Agreement as a condition of the sale of the initial share, which is called a tranche. The Occupancy Agreement sets out the rights and responsibilities for both the sharing owner and the Association during the period that the property remains in shared ownership. It also details the procedures whereby the sharing owner can buy additional shares, known as staircasing, or ultimately buy the property outright, as well as the procedures whereby the Association can buy the property back.
- 3.4 Where the sharing owner is using a mortgage to finance the purchase of their tranche, the Association will generally enter into a Co-operation Agreement with the particular bank/building society involved. This Co-operation Agreement between the Association and lender binds both parties to act together where a sharing owner is in default on mortgage payments, rent payments or both.
- 3.5 As per the Scottish Housing Regulator's Guidance Note HSGN 2012/02, the Association will consider applications from sharing owners to privately let out their properties. The Regulator introduced a new Section 3.30 at *Section 3 Marketing, Rent and Sales, the Private Letting* of Procedure Guide SHGN 2000/15 to assist a minority of sharing owners with concerns about housing mobility, due to difficulties with demand for their shared ownership properties, e.g. where they have been unable to sell their share or the property outright and the Association elects not to exercise its option to buy back the property; or where the sharing owner temporarily wishes to move out of the property to, e.g. work away from home.

4. Management of Shared Ownership Properties

- 4.1 The Operations Manager will have overall responsibility for shared ownership properties, while other staff will be responsible for various elements of the service:-

- Factoring Assistant – apportion charges, issue invoices, pursue factoring payments, liaise with solicitors and new owners and act as the first point of contact for shared ownership enquiries
 - Maintenance Officer – conduct inspections of common repairs, advise on works required, seek quotes, instruct common repairs and determine recharges
 - Housing Officer – respond to general enquiries, monitor payments and pursue arrears of occupancy charge, offer assistance with debt issues
 - Senior Housing Officer – liaise with sharing owners and solicitors regarding tranche ups, sale of shares or joint sales, review the occupancy charges and their recovery.
- 4.2 The Association will ensure clear procedures are in place with clear lines of responsibility, to encourage effective internal liaison.

5. Marketing

- 5.1 There will be little or no need for marketing at this stage, as the availability of these properties will be infrequent and dependent on a sharing owner wishing to sell.

6. Financial Eligibility

- 6.1 The Association will not decide upon the financial viability of individual applicants for shared ownership properties, i.e. where a share is sold on. Eligibility of an applicant to gain mortgage funding will be determined solely by their mortgage lender.
- 6.2 The Association will however provide prospective sharing owners with information on the likely level of rents, insurance costs, factoring charges and maintenance responsibilities, to enable them to be fully aware of their financial liability.
- 6.3 Prospective sharing owners, where identified, will also be asked to complete a Shared Ownership Application Form, for the Association's records and to receive confirmation of the Association's consent, which will not be unreasonably withheld.

7. Staircasing

- 7.1 A sharing owner can buy further shares in the property, at any time after the first anniversary of the sale of the initial share, at a cost calculated on the basis of the current market value. Shares can only be bought in multiples of 25% and only one staircasing transaction can be made per year.
- 7.2 The individual Occupancy Agreement signed by the sharing owner and the Association sets out the staircasing procedure. Further guidance can also be obtained from SHGN 2000/15. In accordance with the Occupancy Agreement, the sharing owner must notify the Association in writing of their intention to staircase.
- 7.3 On the fifth, tenth and fifteenth anniversary of the settlement of a shared ownership transaction, the Association should send a copy letter (the content of which is set out

in Annex D of HSGN 2012/02) to a sharing owner which will remind them that they can purchase additional equity.

7.4 Upon receipt of the sharing owner's notification of their intention to stair-case, the Association will instruct the District Valuer or RICS (Royal Institution of Chartered Surveyors), to inspect the property and determine the current market value. The market value is based on the following assumptions:-

- it is an open market sale with vacant possession
- the extra value of any improvements made by the sharing owner at their own expense, not solely to keep the property in good repair, is to be disregarded
- the valuer's decision as to the market value will be final and binding on both parties (assuming the Association has agreed to the chosen valuer, where the District Valuer is not used).

7.5 The Association will also ensure an energy assessment of the property is carried out and an Energy Performance Certificate (EPC) provided, although this is generally included within the Home Report.

7.6 Within seven working days of receiving the valuation and EPC, the Association will send the sharing owner copies of the reports, detailing the following:-

- the full market value of the property
- the apportioned price of the tranche they wish to purchase
- the energy rating of the property and any suggested measures that may increase the energy efficiency of the property
- the cost of the valuation report and EPC, and request for payment
- the new rent due for the property (if it will continue in Shared Ownership).

7.7 If the sharing owner wishes to proceed with the purchase, their solicitor's details will be passed to the Association's solicitors, who will oversee and conclude the conveyance of the further tranche(s).

7.8 Both solicitors will be notified of any outstanding common charges and of any monies to be retained to cover any expected charges up to the settlement date, so that payment of these amounts can be demanded before the transaction can settle.

8. Buy Backs and Re-sales

8.1 The Shared Ownership Occupancy Agreement details the procedures and timescales to be followed by both parties in relation to the voluntary removal of a sharing owner. There are three possible methods of sale of the sharing owner's tranche and the Association's response to each is detailed below:-

8.2 **Method 1 – Buyback**

In accordance with the Occupancy Agreement, the sharing owner must present the Association with the opportunity to buy back the owner's share before any other marketing strategy is considered.

Association's Response

The Association will generally not exercise its right to buy back the share but will reserve the right to consider this option on a case-by-case basis.

8.3 **Method 2 – Direct Sale of Share**

A sharing owner may sell their share to a third party with the Association's consent, where the third party becomes the new sharing owner and enters into a new Occupancy Agreement with the Association.

Association's Response

The Association will not unreasonably withhold its consent to the sale of a share provided the incoming owner falls into one of the target groups and the share is sold for the most competitive price and at least the market value.

Marketing/Conveyancing Costs

In the event of the sale of a share, the sharing owner will be liable for the full cost of their conveyancing, the valuation fee and any marketing costs e.g. estate agent's fees etc. All the rent and common charges due for the property must be paid in full on or before the settlement date for the transaction. The Association will bear the cost for issuing the new occupancy agreement. No financial assistance will be given to either the outgoing or incoming sharing owner.

8.4 **Method 3 - Joint Open Market Sale**

If the Association chooses not to buy back the share and the sharing owner does not wish or is unable to sell their share, the whole property can be sold outright on the open market.

Association's Response

The Association will join with the sharing owner to sell their respective interests in the property on the open market, i.e. a joint sale.

Marketing Strategy

The sharing owner and the Association will agree a common marketing strategy, which may involve using estate agents or self-marketing by the sharing owner. The sharing owner will generally lead this process but will not place the property on the market without the Association's agreement to both the sale and the methods of sale. The Association can only agree a strategy that will ensure the "best possible price is obtained", which would generally exclude fixed price sales and property auctions, unless the market is proven to be particularly slow, in which case the Association's discretion would be used.

Marketing/Conveyancing Costs

The Association will instruct a property valuation from the District Valuer or other RICS surveyor, as noted above. Once a buyer is found and the transaction settles, all legal and marketing costs, including any estate agency fees, providing both parties have agreed to them beforehand, will be deducted from the sale price. Any free proceeds will then be split according to the relevant shares held in the property. Where there are no free proceeds from the sale following settlement, or where there are no free proceeds at all, the legal and marketing costs will be paid from the resources of the respective parties proportionally based on their respective shares.

8.5 **Methods 2 and 3 together**

It is possible to market the property using both methods at the same time, but this can prove difficult in apportioning costs, if e.g. an estate agent is used and only the sharing owner's tranche is sold, they would become responsible for the whole of the fee and advertising costs, whereas in a joint sale the Association would bear their share of the costs. It is important that sharing owners are made aware of this.

9. Expiry of Exclusive Occupancy Agreement Period

9.1 At least 12 months prior to the end of the term of the Exclusive Occupancy Agreement entered into between a sharing owner and the Association, the Association should send a copy letter to the sharing owner (the content of which is set out in Annex E of HSGN 2012/02) to advise them that the terms of the Exclusive Occupancy Agreement are due to expire.

9.2 Under the terms of the Exclusive Occupancy Agreement, the sharing owner is required to buy the Association's stake at market value before the termination date.

9.3 If they are unable to do this, the Association will have the right to buy their stake or sell the property and divide the proceeds in proportion to the respective stakes, with the net proceeds being divided between each party accordingly.

9.4 Although not stated in the original Exclusive Occupancy Agreement, there is another alternative as set out in the Scottish Housing Regulator's Guidance note HSGN 2012/02, which is that the existing Agreement is extended for an agreed period. If the sharing owner wishes to select that option they should write to the Association setting out why they would like CHA to extend the terms of their existing Agreement. The Association will consider this request and if agreed, the sharing owner will be required to enter into a new Exclusive Occupancy Agreement.

10. Conveyancing

10.1 In accordance with the Occupancy Agreement, the Association will require the sharing owner to pay the valuation fee and cost of an EPC on demand. The demand for payment will generally be made at the point of requesting the surveyor to carry out the valuation and EPC, i.e. whether the purchase or sale goes ahead or not. However, in a joint sale, request for payment may be made at the point of settlement, given the costs would be shared in this situation.

10.2 The sharing owner and the Association will be liable in full for their respective legal fees as required to complete the legal transfer of ownership of each additional share purchased.

10.3 Where the sharing owner enters into a new Exclusive Occupancy Agreement at the expiry of the original agreement period, in accordance with HSGN 2012/02, they will be responsible for meeting their own costs (including the Association's reasonable administrative costs), together with all registration costs.

11. Arrears and Repossessions

11.1 Arrears

The Association's staff will manage sharing owners who fall into arrears of their occupancy charge, in accordance with our Arrears and Debt Management Policy, which means they will receive the same level of advice and debt counselling and frequency of arrears monitoring, as tenants of rented property.

In regard to factoring charges, the Association's staff will also have regard to the Debt Recovery Section of the Written Statement of Services, as provided under the Property Factors (Scotland) Act 2011 and may use small claims actions and diligence, such as arrestment of wages or bank accounts, to encourage the sharing owner to adhere to a regular payment arrangement until their account is brought up to date.

11.2 Repossession by the Association

The Occupancy Agreement details the procedure to be followed in the event of a sharing owner being in persistent rent arrears. This is a two-step process:-

Step 1

The Association may instruct their solicitors to issue a 28-day notice to quit, thereby terminating the sharing owner's Occupancy Agreement.

Step 2

The Association may then serve a 2nd notice within 42 days from the expiry of the first notice, requiring the sharing owner to either sell their share to the Association or participate in the joint sale of the property on the open market.

In accordance with the Co-operation Agreement, the Association will advise the sharing owner's lenders of any rent arrears which may result in the termination of the Occupancy Agreement, i.e. where the lenders are known to the Association.

11.3 Repossession by the Lender

If a sharing owner defaults on their mortgage repayments, the Association will, in accordance with the Co-operation Agreement, take steps to terminate the Sharing Owner's Occupancy Agreement if called upon to do so by the lender. Unless a suitable payment arrangement is reached, the Association will then join with the lender in the outright sale of the property on the open market. Accrued arrears, including the Association's administrative expenses up to the date of re-sale can be deducted from the gross proceeds of the sale. CHA must ensure properties are marketed as early as possible so that accrued arrears are kept to a minimum.

Where a sharing owner is still in occupancy at the time of repossession, the Association will offer advice in terms of securing alternative accommodation. However, in terms of the Allocation's Policy, CHA is under no obligation to rehouse the sharing owner.

11.4. The Scottish Housing Regulator

At certain stages within the management of shared ownership properties, e.g. tranche ups, outright sales and repossessions, the Association is required to advise the Scottish Housing Regulator particularly where the initial provision of these properties was funded by HAG (Housing Association Grant), as an element of payback may be due. The Operations Manager will advise the Finance Agent whenever any such transaction occurs and the latter will have overall responsibility for ensuring compliance with these requirements.

12. The Role of Committee

12.1 All information provided to the Association's Committee in relation to sharing owners will ensure that confidentiality is retained at all times.

12.2 Quarterly reports on sharing owners will include:-

- legal action taken, including joint action with lenders
- details of any tranche ups, outright sales or repossessions
- complaints reported to the Association or to the First-tier Tribunal for Scotland Housing and Property Chamber (FTT).

12.3 The Committee's role in dealing with sharing owners will be limited to:

- agreeing and reviewing the policy and procedures
- monitoring outcomes of the factoring service through reports
- authorising the implementation of court actions
- considering complaints referred to the FTT and the outcome.

13. Factoring

13.1 All sharing owners whose Deed of Conditions requires them to contribute towards common repairs and the upkeep of common land, and where CHA is named or has been appointed as the property factor, will also receive a factoring service.

13.2 The extent of the factoring service will be defined in the Deed of Conditions. All sharing owners who receive a factoring service from the Association will also receive details of the Code of Conduct for Property Factors and a Written Statement of Services provided, both in accordance with the Property Factors (Scotland) Act 2011.

14. Equal Opportunities

14.1 The Association operates an equal opportunities policy and will ensure that all information relating to shared ownership is available in the most appropriate format and that the shared ownership policy is open and accessible to everyone.

15. Communication and Consultation

15.1 All sharing owners will be consulted annually in relation to the review of the occupancy charges and factoring charges and will be given at least 4 weeks' notice of any increase in charges prior to 28th March and 1st April each year, respectively.

15.2 The Association will also adhere to any procedures for consulting sharing owners as per the Title Deeds, prior to instructing any major repairs or improvement works above the respective thresholds, or where any owner requests such a meeting in accordance with their Title.

- 15.3 Sharing owners may also have the opportunity for consultation via the Association's newsletters, annual report, satisfaction surveys, open meetings or by contacting the office at any time.
- 15.4 Staff will aim to respond to enquiries and complaints as quickly and as fully as possible and keep sharing owners updated should we require additional information or time to respond:-
- non-urgent telephone enquiries within 24 hours, although this may take less or more time depending on the nature of the enquiry
 - non-urgent enquiries made by email or letter will be responded to in writing within 5 working days.

16. Repairs Reporting & Emergency Situations

- 16.1 Sharing owners will be given contact details of the Association's emergency repairs service, together with the relevant response times for all types of common repairs. (See the Written Statement of Services (Section 7) for further details in this regard).
- 16.2 Where a sharing owner reports an emergency repair which is found to be an individual repair for which they are responsible they will be recharged for the full cost of that repair.
- 16.3 Where an emergency requires access to a sharing owner's individual property, the Association will make every effort to contact them, failing which, if in the opinion of the Property Services Staff, access is needed immediately, the Association will force access. This action would only be taken in extreme situations.

17. Complaints

- 17.1 Any sharing owner who is dissatisfied with any aspect of the Association's service or with how they have been treated by a member of staff, should make a complaint to the Operations Manager in the first instance, unless the complaint is about the Operations Manager, in which case they should direct their complaint to the Director.
- 17.2 The Association takes all complaints very seriously and has a separate Complaints Policy, a copy of which is available from the Association's offices on request or can be downloaded from our website.
- 17.3 If after following the Association's Complaints Policy, the owner remains dissatisfied, they will be advised that they have final recourse to the First-tier Tribunal for Scotland Housing and Property Chamber (FTT), details of which are noted in the Written Statement of Services and are also available by contacting the Association's offices.

18. Data Protection and Access to Personal Information

- 18.1 The Association will ensure that we meet the requirements of the General Data Protection Regulation 2018. All information provided by customers (including shared owners) in relation to this policy will be treated with the strictest of confidence and will

not be disclosed to any third party without the express permission of the person concerned.

- 18.2 Under the Data Protection and Access to Information legislation, customers have the right to request access to information pertaining to them which is held by the Association. Requests for such access will be processed in line with CHA's relevant policy and procedures.

19. Policy Review

- 19.1 This Policy will be reviewed three years from the date of approval, or earlier should the need arise to reflect changing circumstances or changes in legislation or good practice standards.