

## Approved by Senior Management Team February 2025

<b>Date Issued</b>	February 2015
<b>Last Reviewed</b>	February 2025
<b>Department</b>	Housing
<b>Title</b>	Shared Ownership Policy
<b>Objective</b>	<b>To set out our policy in relation to the management, allocation and sale of Shared Ownership properties</b>
<b>Responsible</b>	Director of Housing
<b>Next Review Date</b>	February 2030

### 1.0 Introduction

- 1.1 We have a small stock of Shared Ownership properties developed between 1990 and 1997, representing around 3% of our Housing stock. We have in the past sought to maintain this stock by facilitating the sale of shares between Sharing Owners wishing to move on and people on our list for whom Shared Ownership is an option.
- 1.2 The rapid increase in property values coupled with the tightening of lending criteria, the requirement for deposits of up to 20% and the availability of other Ownership options such as Shared Equity and Help to Buy has made Shared Ownership less attractive and we have found it increasingly difficult to facilitate onward sales.
- 1.3 In addition, although the management of Shared Ownership is governed by several legal agreements including an Occupancy Agreement between us and the Sharing Owners; an Agreement between the Sharing Owner and their lender (if applicable); a Co-operation Agreement between us and the lender and in many cases a Deed of Conditions for the development, management issues have emerged that have led us to conclude that in many cases retaining the Shared Ownership properties may not be in the best interests of the Association.
- 1.4 Our Cause for Concern Stock Strategy identifies the properties where we would consider joining with the Sharing Owner in a private sale, and those we would potentially Buy Back and convert to affordable rent housing.
- 1.5 Grant subsidy for Shared Ownership is available in only very limited circumstances and it is therefore highly unlikely that we will develop any new Shared Ownership homes. This policy does not therefore cover the allocation of Shared Ownership but only the criteria to be applied when shares change hand.

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## 2.0 Shared Ownership Sales

2.1 The Occupancy Agreement provides for three options when a Sharing Owner wishes to sell their share;

- We can buy back the share and convert the property to affordable rented
- We can buy back the share and sell it on
- We can join with the owner in a sale on the open market

Our Cause for Concern Stock Strategy will consider our preferred option on an individual development, and in some cases, an individual property basis.

2.2 If a Sharing Owner wishes to sell their interest in the property, they must inform us in writing.

## 3.0 Qualifying Applicants

3.1 Our target groups for Shared Ownership properties are:

- First time buyers
- Owners in financial difficulties or who have had a relationship breakdown and been forced to sell
- Social housing tenants
- People with particular needs
- Older people
- Applicants leaving or having left the armed forces within the past year including widows, widowers and other partners of service personnel
- Applicants who have previously jointly owned a property and have been forced to sell due to relationship breakdown will be treated as first time buyers
- We will accept applications from those who have previously or currently own a property, but they will only be considered in the event that no first time buyers have applied and meet the eligibility criteria

3.2 We will not normally consider an application where the applicant's income is such that they can afford to purchase outright on the open market. We will carry out a 'mortgage ability' calculation to ensure that they can afford to meet mortgage costs as well as the occupancy charge and council tax (See **Appendix 1**).

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3.3 To try to prevent applicants from over committing and running into financial difficulties, we will not normally agree to the sale to a purchaser for whom the estimated cost of shared ownership exceeds 30% of net income. In view of the need to sell properties quickly, this figure will be regarded as a target which it must be recognised will not always be met.

### 4.0 Approval to Sell a Share

4.1 The Sharing Owner is responsible for ensuring the property is marketed, that a Home Report is produced, and for all of their legal and marketing costs.

4.2 If the Sharing Owner is selling only their share in the property, they require our permission to complete the sale. Any interested applicants must complete our application form and meet our criteria as detailed at paragraph 3 above.

4.3 We will invite the Sharing Owner to market the property then refer prospective purchasers to us for assessment to ensure that, as far as possible, they meet our criteria for allocating Shared Ownership properties.

4.4 Applicants will be assessed on a first come first served basis replicating the realities of the market, i.e. if only one offer to purchase is submitted then we will assess that applicant and only if they do not qualify will any other applicants be considered.

4.5 We will not agree to the sale of a share to an applicant who does not qualify for Shared Ownership. The result of this may be that the Sharing Owner opts for joint open market sale.

4.6 We will maintain an audit trail to ensure that we can demonstrate that the process has been carried out fairly.

4.7 Staff will refer to regulatory guidance and best practice if the Sharing Owner proposes to sell to a member of staff, ex member of staff, ELHA Board member, ex ELHA Board member or their relatives.

### 5.0 Joint Open Market Sale

5.1 If an owner is unable to sell their share in the property, or it is our preferred option, we will join with them in a sale on the open market with the proceeds being split according to the ownership ratio.

5.2 Because joint open market sale is the default position if we decide not to buy back the share, the disposal of the property may be a Notifiable Event, dependent upon the value and will be reported to the Scottish Housing Regulator. We do, however, have to repay grant and the loan on the property (see **Appendix 2** and are required to achieve the best possible price in any sale).

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- 5.3 We will therefore require a copy of the Home Report and to be aware of the marketing strategy so that if the property is sold for less than the Home Report valuation, we are able to justify the price. To ensure that this is available (and in the interests of fairness) we will pay a share of the Home Report and Marketing costs equal to our share in the property.
- 5.4 The Sharing Owner will meet their own legal costs, and we will meet ours.

### 6.0 Staircasing Sales

- 6.1 Sharing Owners may increase their share of the property after one year of occupancy. Although it is now possible to purchase in increments of 10%, we will continue to offer tranches of 25% only. No more than one staircasing transaction can be carried out in each year.
- 6.2 We will write to Sharing Owners after the first year and then every 5 years reminding them that they have the option of increasing their stake in the property.
- 6.3 The Sharing Owner will be required to meet the costs of valuing the property and their own legal costs.
- 6.4 We will amend the occupancy payments according to the new percentage owned.

### 7.0 Management of Shared Ownership Properties

The Occupancy Agreement and, if applicable, Deed of Conditions set out the rights and responsibilities of the Sharing Owner and the Association. The following policy statements do not in any way alter the information contained within the Occupancy Agreement or Deed of Conditions and are for guidance only:

#### 7.1 Occupancy Charges & Service Charges

- 7.1.1 Sharing Owners must pay an Occupancy Charge for living in a property that we part own. The Occupancy Charge is calculated based upon the number of shares that the Sharing Owner owns in the property (25%, 50% or 75%).
- 7.1.2 Sharing Owners who sign up to My Home and paper-free services will receive a discount off their Occupancy Charge. This is displayed in the Occupancy Charge section of their My Home account.
- 7.1.3 Service Charges are assessed separately from Occupancy Charges. These are costs that we pass on to some Sharing Owners for the factoring services that we provide. What we charge each owner will depend entirely on what the contractors charge us for providing these services.

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- 7.1.4 We charge the Occupancy & Service Charges on the first day of the month. These charges are subject to an annual review, and we will give Sharing Owners four weeks' notice in advance of any changes to the charges.
- 7.1.5 If a Sharing Owner is unhappy with the level of Occupancy Payment, they have the right to appeal to a Chartered Surveyor nominated by the Chairman of the Royal Institution of Chartered Surveyors (RICS).
- 7.1.6 We will encourage Sharing Owners to pay their charges by direct debit and will insist that this is paid monthly in advance, in line with the Occupancy Agreement.
- 7.1.7 If a Sharing Owner falls behind with payments, we will provide advice and be happy to enter into an arrangement to repay the debt. If more than two months arrears accrue, we will inform the Sharing Owner's lender.
- 7.1.8 If we incur any costs in pursuing Occupancy Charge arrears (for example searches to determine the identity of the Sharing Owners' lender) we will seek to pass these on to the Sharing Owner.
- 7.1.9 We will not instruct legal action to recover any debt before offering debt counselling, including advice about benefits.
- 7.1.10 Repossession action will be taken as a last resort when all other action has failed. All such actions will be carried out jointly with the lender wherever possible.
- 7.1.11 The ELHA Board and Senior Management Team will monitor occupancy and service charge arrears and any legal action taken through the submission of quarterly reports.
- 7.2 Anti Social Behaviour
- 7.2.1 Our ability to manage issues which affect more than one household such as neighbour disputes and antisocial behaviour is very limited. There is nothing in the Occupancy Agreement to allow us to consider court action or repossession action, nor would we wish to.
- 7.2.2 We will assist in trying to resolve issues that may arise in accordance with our Anti Social Behaviour Policy, such as referrals to mediation, liaison with the police or joint working through East Lothian Antisocial Behaviour Partnership.
- 7.3 Subletting
- 7.3.1 In terms of the Occupancy Agreement, the Sharing Owner agrees to use the property as their only or principal home. If a Sharing Owner wishes to sub-let, they should put their request in writing to us. We may agree to this for a period of up to 12 months, but this period may be extended dependent upon the circumstances and provided the Sharing Owner:

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- Has written agreement from their lender
- Has registered as a Private Landlord
- Enters into a Sublet Agreement with their tenant

7.3.2 If it is clear that the Sharing Owner is unlikely to return to the property, we will encourage them to sell their share.

7.3.3 During the sublet period, the Sharing Owner remains responsible for ensuring that the occupancy charges are paid and that the sub tenant keeps to the conditions of the Occupancy Agreement.

### 7.4 Lodgers

7.4.1 The Sharing Owner requires our permission to take in a lodger. Our main aim will be to ensure that overcrowding does not occur.

7.4.2 All requests must be made in writing and the Sharing Owner will have to provide written confirmation that their lender agrees.

7.4.3 If the request is approved and Housing Benefit or Universal Credit Housing Costs are in payment, then the Sharing Owner must inform East Lothian Council or the Department of Works and Pensions (whichever is applicable) of their change in circumstances.

### 7.5 Transfer of Title

7.5.1 A Transfer of Title is a legal way of signing over all the interests in the Sharing Owners property, i.e. their ownership, rights and responsibilities, to someone else. A Sharing Owner cannot legally do this without our permission and that of their lender.

7.5.2 The most common reason for a Transfer of Title is relationship breakdown and, in these circumstances, we will normally consent on condition that the new or remaining Sharing Owner enters into an Occupancy Agreement.

7.5.3 If we receive a request to Transfer Title in other circumstances, and there are people in that area who wish to become Sharing Owners, we will encourage the Sharing Owner to sell their share rather than consent to the Transfer of Title.

### 7.6 Running a Business from Home

7.6.1 Requests to run a business from home should be made in writing. We will normally grant permission provided that:

- The running of the business will not cause nuisance, annoyance or danger to neighbours or damage to property
- There will be no breach of the Occupancy Agreement or Deed of Conditions

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- The business does not require a change of use in respect of the building or lead to objections from statutory authorities

7.6.2 It is the Sharing Owner's responsibility to ensure that any necessary statutory consents, e.g. Planning Permission, are granted and that any conditions applying to such consents are fulfilled.

### 7.7 Death of a Sharing Owner

7.7.1 When a Sharing Owner dies, we can choose to either:

- Buy back the share and convert the property to affordable rented housing
- Require the executors to sell the Share on the open market to a qualifying applicant
- Join with the executors in a sale of the Property on the open market

7.7.2 We will advise the executors in writing of our decision within 42 days of the date of death, provided we receive notice of the death.

7.7.3 Though the Exclusive Occupancy Agreement terminates on the date of death, the executors of the Sharing Owner are liable to pay us a sum equivalent to the Occupancy Charge which was payable immediately prior to the date of death, until the sale of the Share or joint sale of the Property has been completed.

## 8.0 Expiry of Exclusive Occupancy Agreement

8.1 Shared Ownership Exclusive Occupancy Agreements usually last for 20 years from their commencement.

8.2 We will write to Sharing Owners on the 1<sup>st</sup>, 5<sup>th</sup>, 10<sup>th</sup>, 15<sup>th</sup>, 19<sup>th</sup> and 20<sup>th</sup> year anniversary of the start of their Occupancy Agreement to remind them that they have the option to tranche up their share of the property. Further shares, in multiples of 25%, can be purchased at a cost based on the market value. Only one transaction each year is allowed.

8.3 At the end of the 20-year Occupancy Agreement, Sharing Owners must decide to either:

- Tranche up to full ownership
- Sell the property
- Extend the Exclusive Occupancy Agreement for a further period of time

We will write to Sharing Owners one year prior to their Occupancy Agreement expiring.

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### 9.0 Information, Consultation and Participation

- 9.1 We will inform Sharing Owners of any changes to our policy or the law that affects them.
- 9.2 We will provide information and advice on the Sharing Owner's rights and obligations under the Occupancy Agreement.
- 9.3 Information can be found on elha.com or in the Sharing Owners My Home account if they sign up to paper free services. elha.com and My Home are designed to be highly accessible, easily navigated using screen readers or tabbed browsing, and are Readspeak enabled. Translation services are also provided. On request and where appropriate, we will take practical steps to help Sharing Owners, such as arranging interpreting and translation (we are members of Happy to Translate), information on CD, in larger print and in languages other than English where this is required. A hearing loop is held in our offices for the hard of hearing.
- 9.4 Sharing Owners receiving factoring services from the Association are provided with an annual Statement of Account and a Written Statement of Services which sets out our rights and obligations as a Factor. More information about factoring can be found here: [Factoring Services Policy](#).
- 9.5 We will not provide legal advice or information on financial services. Sharing Owners and prospective Sharing Owners will have to obtain independent legal or financial advice themselves.

### 10.0 Equal Opportunities

- 10.1 We will not discriminate in the operation of this policy on the basis of age, disability, gender reassignment, marriage and civil partnership, race, religion or belief, sex, or sexual orientation.
- 10.2 We aim to promote equal opportunities and comply with the requirements of the Equality Act 2010.

### 11.0 Policy Review

- 11.1 This policy complies with all relevant law, Government Guidance and good practice and will be reviewed if changes necessitate an early review.
- 11.2 The policy and supporting procedures have also been checked to ensure that opportunities for bribery or corruption in terms of the Bribery Act 2010 have been minimised.
- 11.3 The Director of Housing will ensure that this policy is reviewed at least every five years and that any significant amendments required are submitted to the ELHA Board for approval.



### Assessing Affordability

1. To qualify for Shared Ownership an applicant will normally have a total household income such that they are not able to buy on the open market. Household income will be assessed for mortgage purposes as 3 times income for a single applicant or 2.5 times income for a couple.
2. In an attempt to prevent applicants over committing and running into financial difficulties, we will try not to approve applicants for whom the estimated cost of shared ownership exceeds 30% of net income. However, in view of the need to sell properties quickly, this figure will be regarded as a target which it must be recognised will not always be met.
3. To work out the percentage of net household costs, calculate the monthly shared ownership housing costs then divide by the monthly net income and multiply by 100 to get the percentage.

#### Example

Monthly housing costs, based on a 25% share of a property valued at £44,000 =

Occupancy Charge £140

Mortgage £ 70

Council Tax £ 90

Total monthly housing cost = £300

Monthly income = £1200

Percentage of net household cost =

$£300 \div £1200 \times 100 = 25\%$

### Property (Address)

Valuation at (date) = £

ELHA % %

**ELHA Proceeds** £

### HAG Received

For scheme £

For property £

### Loan Repayable to Lender

For scheme at (date) £

For property (3) £

**Cost of sales allowance per SG** £

### Sales Costs

Legal Fees £

Advertising £

Restricted per SG **£500**

### HAG Abatement

Selling price £

Less loan £

Less CoS allowance £

Less allowable legal fees £

Net Proceeds to SG **£**

**HAG Abatement** £

### ELHA Costs

Legal Fees £

Less allowed £500

**Net cost to ELHA** £

NPV of future cashflows £

**Total costs** £