



## **SHARED OWNERSHIP POLICY 2021**

### **1.0 PURPOSE**

Ochil View Housing Association Limited ("Ochil View") provides quality, affordable and sustainable housing and associated services for people in housing need in Clackmannanshire and West Fife.

Ochil View has a small number of shared ownership properties. This policy lays out how it manages its shared ownership properties and how it deals with requests from sharing owners to sell or increase their share in their property.

These properties, where applicable, are managed or factored by Ochil View or its agents.

### **2.0 SCOPE**

The Policy applies to the following individuals:

- ✓ all employees who will be trained regarding their responsibilities and obligations;
- ✓ all former employees;
- ✓ all Board Members;
- ✓ all 'associated persons' acting for or on behalf of Ochil View;
- ✓ any other 'associated persons' including temporary staff, 'bank' or agency workers, consultants, contractors, suppliers and any other person engaged under any form of contract to act for, or on behalf of the Association.

#### **Background**

Ochil View has owned shared ownership properties for many years as a way to contribute to an identified need for people to take a first step on the home ownership ladder. A number of shared owners have since staircased to 100% ownership or been sold outright and only 17 remain as shared ownership properties at the time of writing.

Shared ownership allows the sharing owner to purchase a share (25%, 50% or 75%) in a property, with Ochil View retaining the remaining share of the property. The sharing owner is liable to pay a monthly occupancy charge to Ochil View for the share of the property that they do not own to allow them to have exclusive use of the whole of the property.

The shared ownership model allows for the sharing owner to buy further tranches of the property (25%, 50% or 75%) after the first year until the sharing owner obtains full ownership. Regardless of the share of the property that the sharing owner has purchased, the sharing owner is responsible for 100% of the costs of repairs and maintenance and for complying with any title conditions of the property. The sharing owner is also responsible for 100% of the costs of other expenses normally incurred by traditional homeowners, such as council tax, insurance, factoring costs.

Notwithstanding this responsibility, Ochil View may provide services to the sharing owner at a cost (see detail below within the "MANAGEMENT OF SHARED OWNERSHIP PROPERTIES" section of this policy).

Shared ownership properties cannot be subject to a tenancy agreement and the Exclusive Occupancy Agreement (Herein thereafter referred to as EOA) is not a lease, but is an occupancy agreement. The sharing owner is given the right to exclusive possession of the property in return for an occupancy payment.

The availability of other low cost home ownership options, such as shared equity (including Help to Buy, Open Market Shared Equity and New Supply Shared Equity), have made the shared ownership model less attractive, and where sharing owners want to sell they often find it difficult to find buyers for their share. Grant subsidy for shared ownership properties is no longer available and Ochil View has no current plans develop any new shared ownership homes. This policy does not therefore cover the allocation of new shared ownership properties but only criteria to be applied when managing current shared ownership properties and related transactions.

Whilst Ochil View will not actively seek to dispose of shared ownership properties, it will not always seek to retain them when a sharing owner chooses to move on. In these cases, the sharing owner must offer Ochil View first option to purchase the EOA. Ochil View will consider whether they wish to purchase in line with our Residential Property Acquisition Policy. If the Association, does not wish to proceed with the purchase, then the property will go for sale on the open market. Please refer to Section 6 – Shared Ownership Sales for further information.

### **3.0 REGULATORY AND LEGISLATIVE FRAMEWORK**

This Policy should be referred to in conjunction with:

- ✓ Housing (Scotland) Act 2010
- ✓ Equality Act 2010
- ✓ General Data Protection Regulation (EU) 2016/679
- ✓ Data Protection Act 2018
- ✓ Freedom of Information (Scotland) Act 2019

In addition, this Policy should be read in conjunction with Scottish Government guidance on shared ownership from time to time, including:

- ✓ Scottish Homes: Shared Ownership Procedures Guide SHGN 2000/15 issued August 2000;
- ✓ Scottish Government: Changes to Shared Ownership Procedures Guide: Priority Groups HIGN 2010/03 issued March 2010;
- ✓ Scottish Government: Changes to the Shared Ownership Procedures Guide HSGN 2012/02 issued January 2012; and
- ✓ Scottish Government: Changes to the Shared Ownership Procedures Guide HSGN 2012/10 issued August 2012.

#### **3.1 Scottish Housing Regulator**

There is no specific reference to sharing ownership in the Scottish Housing Regulator Charter Return (ARC). There is however, mention of owners or other customers in the objectives, as shown below:

#### *Outcome 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.*

#### *Outcome 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.*

#### *Outcome 13. Value for Money*

*Social landlords manage all aspects of their businesses so that: - tenants, owners and other customers receive services that provide continually improving value for the rent and other charges they pay.*

## **4.0 OTHER GUIDING DOCUMENTS**

### **4.1 Relevant Corporate Objectives:**

- ✓ To provide a comprehensive and responsive customer service to the Association's tenants, sharing and factored owners **(SO1)**
- ✓ To actively promote and support resident participation in the development, management and maintenance of their homes **(SO3)**
- ✓ To ensure the Association satisfies all health, safety and environmental requirements and legislation **(SO7)**

### **4.2 Relevant Departmental and Operational objectives**

- ✓ To provide a range of quality housing and maintenance services to tenants and other customers **(CS1)**
- ✓ To participate positively in the creation and maintenance of balanced, sustainable communities **(CS3)**
- ✓ To achieve consistently high levels of customer satisfaction from the delivery of services **(CS4)**
- ✓ To incorporate (where appropriate) the views of owner-occupiers in the delivery of services which affect them either directly or indirectly **(STO3)**
- ✓ To ensure that the Associations resources are used efficiently **(FM2)**
- ✓ To ensure adequate opportunity exists for tenant and resident participation in the Association's decision making process **(GA2)**

### **4.3 Principles of this Policy**

The following principles govern the operation of this policy:

- ✓ Ochil View will carry out its obligations to sharing owners in line with their Exclusive Occupancy Agreement and Scottish Government guidance.
- ✓ Ochil View will endeavour to ensure that Sharing owners are aware of their rights, obligations and options, in particular the requirement to use the property as their only and principal home and to provide Ochil View with notice of any change of lender and/or owner.
- ✓ Ochil View will not grant permission to sub-let subsequent the property other than in exceptional circumstances and only for a limited/specified time period.

- ✓ Ochil View will promptly, fairly and impartially manage and administer any sharing owners' requests to buy back, to staircase (i.e. purchase further shares) or to sell the shared ownership property.
- ✓ Ochil View will collect the occupancy charge and any other related charges, and carry out arrears processes in accordance with the sharing owners' Exclusive Occupancy Agreement and Ochil View's Shared Ownership Arrears Procedure.
- ✓ Ochil View will liaise with external agencies to ensure division and sale actions are in accordance with the Exclusive Occupancy Agreement, Scottish Government Guidance and Ochil View's debt collection policy.
- ✓ Ochil View will provide a mechanism for first time buyers to have access to the property market by purchasing shares of 25%, 50% or 75% of a shared ownership property.
- ✓ Ochil View will ensure that the selection process for Shared Ownership applicants is in line with Ochil View's Equality and Diversity Policy and is efficient and that accurate records of the application will be kept.

#### 4.4 Exclusive Occupancy Agreement

All sharing owners will have signed an Exclusive Occupancy Agreement ("EOA") with Ochil View based on the Scottish Homes' standard template, as amended in conjunction with guidance provided by Ochil View's solicitors.

The annual occupancy payment payable by the sharing owner comprises:

- ✓ a "Basic Payment" calculated in accordance with Ochil View's rent policy, multiplied by Ochil View's share in the property;
- ✓ a "Management Fee";
- ✓ an "Insurance Charge" (where applicable); and
- ✓ a "Service Charge" in respect of the maintenance and other services provided by Ochil View to the sharing owner.

Ochil View will inform each Sharing Owner annually in respect of the annual increase to the monthly occupancy charge (including any change to the management fee/insurance charge/service charge) where possible using the current template review notice which is contained within Schedule Part 4 of the current template EOA. The annual increase will be applied as at 31 March each year.

If Ochil View wishes to amend the services provided to the sharing owner in terms of the EOA, it will provide with each applicable sharing owner with at least 4 weeks' written notice of any material change to the services to be provided.

Ochil View will contact each sharing owner at five yearly intervals to highlight the ability of the sharing owner to purchase additional shares of the property. On the nineteenth anniversary of the start date of the EOA a letter will be sent which will advise the sharing owner what their options will be with regards to their share of the property upon the expiration of the twenty year term of the EOA.

Refer to: Shared Ownership Procedure

The options are set out in detail in the sharing owner's EOA and are summarised here:

- ✓ The sharing owner may exercise their right to purchase Ochil View's remaining share, provided the sharing owner notifies Ochil View in writing to this effect within the particular terms of the EOA (normally three months' written notice prior to the expiry of the EOA); OR
- ✓ If the sharing owner does not exercise their right to purchase Ochil View's share as detailed above, Ochil View has the right to purchase the sharing owner's share, provided Ochil View notifies the sharing owner in writing to this effect within the particular terms of the EOA (normally two months' written notice prior to the expiry of the EOA); OR
- ✓ If neither party exercises the rights detailed above, both parties are deemed to have agreed to enter into a joint sale of 100% of the property to a third party on the open market;

Whilst not stating within the EOA, a fourth option is available to both parties if both parties wish to retain the current arrangements; the sharing owner and Ochil View could renew the EOA by entering into a new EOA to run for a maximum of another twenty years.

## **6.0 SHARED OWNERSHIP SALES**

### **6.1 Voluntary Removal**

If a sharing owner wishes to end their occupation and dispose of their ownership interest in the property, they must serve written notice on Ochil View giving Ochil View the option to:

- ✓ to purchase the sharing owner's Share;
- ✓ to join with the sharing owner in a joint sale of 100% of the property on the open market: or
- ✓ to allow the sharing owner to sell the sharing owner's share on the open market subject to such reasonable conditions as Ochil View may require.

If Ochil View wish to purchase the sharing owner's share, it must provide written notice to the sharing owner of its intention to do so in accordance with the terms of the EOA (usually 42 days from the serving of the notice by the sharing owner on Ochil View), otherwise both parties are deemed to have agreed to enter into a joint sale of 100% of the property to a third party on the open market.

Any decision by Ochil View to purchase the sharing owner's share should be dependent on a full appraisal on why this would be advantageous to Ochil View, and the financial costs and benefits and in line with the Association's Residential Property Acquisition Policy.

If Ochil View decides to purchase the sharing owner's share it shall, within seven days of serving the notice detailing such intention, instruct a valuer (either the District Valuer or such other professionally qualified valuer as Ochil View and the sharing owner may agree or) to determine the market value as at the date of service of the said written notice by Ochil View and shall notify the sharing owner of the outcome of the valuation in writing within seven days of the determination by the valuer.

Ochil View must settle the sale within 8 weeks of the determination by the valuer.

In order to sell the property on the open market, a Home Report is required. Depending on the terms of the applicable EOA, Ochil View may be required to contribute to the cost of the Home Report and/or marketing of the property. The sale proceeds following a joint sale should be split in accordance with the proportion of the shares owned by Ochil View and the sharing owner having due regard shall be had to the effect on the sale price of (a) any improvements made to the Property by the Sharing Owner otherwise than in pursuance of an obligation incumbent upon him in terms of this Agreement and (b) any failure of the Sharing Owner to comply with and perform the obligations incumbent upon him in terms of this Agreement.

## 6.2 Consent to onwards sale

If both parties decide to allow the sharing owner to sell its share in the property to another party, the sharing owner shall be wholly responsible for marketing and selling their share on the open market and for meeting associated costs under the EOA. The advert should make clear that it is a shared ownership property and make clear the associated costs (i.e. monthly occupancy charge and service charge fees). However, any shared ownership properties may be added to Ochil View's website on request. Ochil View should ensure that the price offered for the sharing owner's share is a reasonable price and should, where possible, withhold consent to a sale where the price offered is significantly under value as this could indirectly affect the future valuation of Ochil View's share of the property.

Prospective purchasers for shared ownership properties must meet Ochil View's criteria for shared ownership properties. Ochil View's criteria is as follows:

- ✓ low cost ownership;
- ✓ first time buyers;
- ✓ tenants of social landlords;
- ✓ families on low income: or
- ✓ members of the armed forces and veterans who have left within the previous two years (or spouses or partners of those killed in action within the last two years)

In addition, the shared ownership property must be intended to be the prospective purchaser's only and principal home.

If, after three months marketing of the property by the sharing owner there is no interest from potential purchasers who meet Ochil View's criteria, then the sharing owner can approach Ochil View about selling the property outright on the open market with the proceeds being split according to the ownership ratio as detailed above. Ochil View should consider whether there is anything about the proposed sale that may be putting off potential purchasers, such as the asking price being too high or unreasonable, or the marketing process being utilised not being suitable.

As a disposal, approval by Ochil View's Board is required. Where an agreement is made to proceed with a joint market sale Ochil View will reimburse the sharing owner for half the cost of marketing the property, up to a maximum of £250 inclusive of VAT, unless the EOA states otherwise. The sharing owner will meet their legal costs and we will pay ours.

Consent from the Scottish Housing Regulator is no longer required; however, Ochil View may require to repay any HAG and loan funding.

Refer to: Shared Ownership Procedure

### 6.3 Death of Sharing Owner

The EOA terminates immediately on the death of the sharing owner. Ochil View can;

- ✓ purchase the sharing owner's Share;
- ✓ join with the sharing owner in a joint sale of 100% of the property on the open market: or
- ✓ allow the executor acting for the sharing owner's estate to sell the sharing owner's share on the open market subject to such reasonable conditions as Ochil View may require.

If Ochil View wish to purchase the sharing owner's share, it must provide written notice to the executor of the sharing owner of its intention to do so in accordance with the terms of the EOA (usually 42 days from the serving of the notice by the executor on Ochil View), otherwise both parties are deemed to have agreed to enter into a joint sale of 100% of the property to a third party on the open market.

Ochil View will try to recover the equivalent of the occupancy charges and any other costs incurred from the date of death until the sale of the sharing owner's share from by the executor from the sharing owner's estate. Ochil View should notify the executor in writing as soon as possible following the death of the sharing owner (but having regard to the sensitivities of the death of the sharing owner) of the sums due and should issue demands for payment in accordance with Ochil View's debt collection policy if the sums remain unpaid. If requested by the estate, Ochil View may agree that such sums due can be settled from the sale profits at the conclusion of the sale, having regard to the financial position (including the anticipated sale price, percentage share held by the estate and the amount of any outstanding mortgage due by the estate).

Ochil View will liaise with the executor of the estate to require them to keep the property in a reasonable state of repair and condition.

Any decision in relation to a prospective purchase by Ochil View will be made in line with the provisions above in relation to voluntary removals.

### 6.4 Default by Sharing Owner

If a sharing owner misses a payment, we will contact them to discuss making up the payment. Our default position is to expect the missed payment made in full, however if the sharing owner's circumstances make this impossible, we will accept an affordable and realistic arrangement to pay. Any sharing owners with arrears or debt issues may be referred (~~or can self-refer~~) to Ochil View's Tenancy Sustainment service at Ochil View's discretion.

Should the sharing owner default in terms of the payment of the occupancy charge or any other obligation incumbent upon the sharing owner in terms of the EOA, Ochil View will follow its arrears recovery procedure which may lead to referral to its solicitors to serve a written notice giving 28 days' notice that it intends to terminate the EOA whereupon all rights of the sharing owner to exclusive occupation of the property shall cease. If the default relates to the payment of the occupancy charge, Ochil View will only instruct its solicitors to serve such notice in the event that more than two months' worth of occupancy charge arrears accrue.

Should the sharing owner continue to occupy the property after termination of the EOA they will be liable to pay Ochil View an equivalent sum to the occupancy payment which was due prior to the default or termination until the sharing owner removes themselves from the property. Upon termination of the EOA, Ochil View has the option to either purchase the sharing owner's share of the property or require the sharing owner to join with Ochil View in the joint sale of the property with vacant possession on the open market subject to such reasonable conditions as Ochil View may require. All actions should be taken in accordance with the applicable co-operation agreement signed with a lender where the sharing owner still has a mortgage/standard security over the property.

Refer to: Shared Ownership Arrears Procedure

#### 6.5 Buy Back by Ochil View

The default position will be that Ochil View will exercise its right to buy back following consideration of the financial implications and risk. If the financial implications or risk are too high, Ochil View will work with the sharing owner over to allow them to sell their share or agree to sell the whole property in a joint sale with the sharing owner.

The sharing owner and Ochil View should, where possible, explore all available options to the sharing owner.

If by agreement, or in instances where the sharing owner has been unable to find a purchaser for their share of the property on the open market Ochil View may purchase the property. If Ochil View purchases the property back from the sharing owner, it will advertise the sale of the share of the property on the open market.

In instances where Ochil View has bought the property back and there is no apparent market for shared ownership, Ochil View should consider the terms of any HAG and loan funding, as well as title conditions or other restrictions which may prevent the property from being rented by Ochil View or 100% of the property being sold on the open market. If Ochil View is satisfied that it can do so, it may allocate the property as rented accommodation. The decision to implement this option should be used as a last resort and only after all reasonable efforts to market the shared ownership property had failed, as a guide a 3 month rule would apply, but circumstances of the current property market and anything specific to the particular property in question should be considered.

In either case there is a requirement to seek Board approval and there may be a requirement to seek the approval of the relevant lender where Ochil View has granted a standard security (commonly known as a mortgage) on the property to a lender.

#### 6.6 Staircasing

Sharing owners may increase their share of the property at any time after one year of occupancy, as long as the sharing owner is not in default of any of the obligations imposed on the sharing owner in terms of the EOA. The one year restriction does not apply in cases where the EOA has been renewed following the expiration of the initial twenty year occupancy period. No more than one staircasing transaction can be carried in each twelve month period.



We will write to sharing owners after the first year and on the fifth anniversary of the start of the date of the EOA, and every five years thereafter reminding them that they have the option of increasing their stake in the property in line with Scottish Government guidance.

If a sharing owner wishes to increase their share in the property, they must serve written notice on Ochil View of their intention to do so. Ochil View must then instruct the valuer (as detailed above) to determine the market value as at the date of service of the said notice on Ochil View and Ochil View must notify the sharing owner of the valuation in writing within seven days of the determination by the valuer. The sharing owner will be responsible for the cost of this valuation and for their own legal costs. Settlement must be effected within three months of the notification by Ochil View to the sharing owner of the valuation and any arrears (or other such sums due by the sharing owner to Ochil View) must be paid at settlement.

Ochil View will amend the occupancy payment according to the new monthly charge.

Once a sharing owner buys 100% of the property, the EOA will cease to have effect and shall be terminated.

In the event that a sharing owner tranches up to 100% ownership of a property, Ochil View should ensure that it has satisfactory arrangements in place for its authority to act as factor for any communal areas in line with the title conditions applicable to the property. Ochil View should consider what services it provides only to sharing owners and therefore will cease to provide once the sharing owner purchases 100% of the property.

Refer to: Shared Ownership Procedure

## **7.0 MANAGEMENT OF SHARED OWNERSHIP PROPERTIES**

### **7.1 Occupancy Charge & Service Charges**

The occupancy charge is set in accordance with Ochil View's rent policy. It is payable in advance by direct debit and is reviewed annually. Sharing owners are given at least 4 weeks' written notice of any change to the occupancy charge following the annual review. Such review notice should be given in accordance with the terms of the EOA and where possible using the current template review notice which is contained within Schedule Part 4 of the current template EOA.

Disputes and appeals about a proposed change in the occupancy charge will be handled in accordance with the terms of the EOA. The sharing owner will have four weeks from the date of service of the notice setting out the proposed change in the occupancy charge to serve a written notice on Ochil View of their intention to appeal the change. Written notice must be either delivered by hand or sent by recorded delivery post to address detailed in the review notice.

If agreement cannot be reached between Ochil View and the sharing owner on the appropriate amount for the occupancy charge within four weeks of the date of service of the notice of appeal by the sharing owner, either Ochil View or the sharing owner may, for the purpose of having the occupancy charge fixed, apply to an independent valuer being (a) a Chartered Surveyor nominated by the President for the time being of the Scottish Branch of the Royal Institution of Chartered Surveyors or (b) such

other person as may be approved by the Sharing Owner and the Association to have the occupancy charge determined. The decision of such independent valuer will be final and binding. The expenses of the appeal will be allocated between the parties by the independent valuer as they deem equitable.

The occupancy charge detailed in the review notice will be payable unless and until another occupancy charge is agreed or fixed as the case may be.

If a sharing owner misses a payment, we will contact them to discuss making up the payment. Our default position is to expect the missed payment made in full, however if the sharing owner's circumstances make this impossible, we will accept an affordable and realistic arrangement to pay. Any sharing owners with arrears or debt issues will be referred (or can self-refer) to the Ochil View's Tenancy Sustainment service.

If more than two months' worth of occupancy charge arrears accrue we will liaise with our solicitor about the most appropriate action to recover. An action for the division and sale of the property will be taken as a last resort when all other action has failed. All actions should be taken in accordance with the applicable co-operation agreement signed with a lender where the sharing owner still has a mortgage/standard security over the property.

Refer to: Shared Ownership Arrears Procedure

#### 7.2 Setting targets, monitoring performance & reporting

Ochil View will set appropriate targets within our business plan and arrears collection measures in relation to the collection of the occupancy charge payable by sharing owners.

#### 7.3 Feedback and appeals

All complaints and appeals against Ochil View's service will be processed in accordance with Ochil View's Complaints Handling Procedure and Ochil View's Customer Services Policy and Standards. A copy of the Complaints Procedure is available from our website or from our offices on request.

Once Ochil View's appeals process is exhausted sharing owners will be directed to the Scottish Public Services Ombudsman.

#### 7.4 Delegated Authority

Ochil View's Senior Management Team will be responsible for approving the Shared Ownership Policy and for ensuring that the policy and procedures are correctly implemented by staff.

Authority and responsibility for the practical day-to-day operation of the services to sharing owners will be delegated to the Property Services Manager and the Assistant Property Services Officer.

#### 7.5 Equality

This policy complies fully with Ochil View's Equality and Diversity Policy. Ochil View will not discriminate against anyone based on the nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

Sharing owners or prospective purchasers of a shared ownership property may require information in a variety of formats, such as large print or languages other than English. Copies of the Shared Ownership Policy and other documentation will be made available on request, in different formats, where feasible.

7.6 Data Protection

This Policy fully complies with the General Data Protection Regulation (GDPR). Details of how we handle personal data can be found in our Privacy Notice, available on our website or on request from our offices.

8.0 **REVIEW**

This policy will be reviewed every five years or more frequently if required following changes in legislation or good practice.

Andrew Gibb  
Property Services Manager

**April 2021**

Policy Review & Consultation Process

Reviewed by the Senior Management Team	6 <sup>th</sup> April 2021
Recommended by the Customer Services Committee	15 <sup>th</sup> April 2021
<b>APPROVED BY THE BOARD OF MANAGEMENT</b>	<b>29<sup>th</sup> APRIL 2021</b>
<b>Date of Next Review</b>	<b>April 2026</b>