



Committee Approver	Operations Committee
Stakeholder Consultation	Staff/External Legal Advice
Date Approved	February 2022
Classification	Policy
Title	Sub-Letting of Social Housing Policy
Revision Date	February 2022
Revised by	Director of Housing and Support
Next Revision Date	February 2025
Related Documents	Guidance Notes/Procedures
Location of Electronic Copy	F:\Live Policies\Housing

1. Viewpoints Values

- Inspire with positive smiles and words;
- Say 'yes I can and I will';
- Celebrate age, experience and wisdom;
- Do according to our customers' wishes and ambitions;
- Treat people (everyone is a VIP) as we would a "loved one";
- Work hard, have fun and laugh;
- Stay courageous, creative and ahead of the game; and
- Work with those that share our values

2. Policy Statement, Aim and Scope

2.1 Under the terms of The Housing (Scotland) Act 2001 (the Act), as amended, our tenants have a right to request permission to sub-let their tenancy where the house has been the tenant's only or principal home throughout the period of 12 months ending with the date of the application for the landlord's consent to sublet.

When does the 12 month period start?

For the purposes of a sublet, a period may be considered in relation to a tenant only if—

(a) the tenant was the tenant of the house throughout that period, or

(b) at any time before that period began, the landlord was notified by—

(i) the tenant, or

(ii) any other person who was the tenant of the house in question when the notice was given,

that the house in question was the tenant's only or principal home.

This means that if at any stage we were informed a joint/tenant or any other person formed part of the household then from that notice whether verbal or written the period would begin to apply.

As a landlord, we cannot unreasonably withhold permission for a sublet.

The Scottish Secure Tenancy (SST) Agreement states that a tenant must obtain written permission before sub-letting the house. Our tenant must provide the following written information when requesting permission:

- the details of the proposed change including who they want to sublet to, AND
- the amount of rent and any other payments (including a deposit) that they propose charging (if any) AND
- when they want the sub-letting AND
- the written tenancy/occupancy terms on which they intend to sublet - we must agree that the terms of this agreement are acceptable

2.2 Under the terms of the Act as a landlord, we may consent or refuse consent and must do so within one month of receipt of the application. If we fail to comply with the one-month timescale it is taken we have granted consent.

If we refuse consent, the reasons for the refusal must be given and cannot be unreasonable. We will have appropriate systems in place to manage and monitor all applications for permission to take sub-lets.

- 2.3 A standard application form which our tenants can use will be available and a guidance note will advise the necessary information which must be submitted. Details of this procedure will also be contained in our Tenants' Handbook.
- 2.4 In the case of a refusal our tenant has recourse to court via summary application. We will have an internal appeals mechanism in place which will demonstrate that we have given the application and refusal due consideration. Appeals in the first instance will be to the Director of Housing and Support with a final right of appeal to the Chief Executive Officer.
- 2.5 Where the tenant provides insufficient information to justify the sublet of their property, the request will be refused along with an accompanying letter explaining that the application must be re-submitted with all the appropriate information.

If the applicant has not been living in the property as their principal home for a period in of 12 month then the application will be refused until they meet that criteria. They will be informed of that change in the law and advised that they can re-apply after the 12 month period has passed.

- 2.6 We will not withhold consent unreasonably but there are circumstances contained in the 2001 Act and where we consider it reasonable to refuse a sublet:
 - The proposed change would lead to the criminal offence of overcrowding
 - Where there is an active Notice of Proceedings or repossession decree against our tenant
 - Where the amount of rent or any other payments (including a deposit) is excessive
 - Our tenant is unwilling to use our standard *Sub-Let Tenancy Agreement or a suitable alternative agreement*. This is to ensure that any sub-tenant cannot claim to have any rights to remain in the tenancy in the event that the tenancy is terminated. The sub-tenant would also have no statutory right to succeed to a tenancy in the event of the death of the tenant.

In addition, the circumstances below will also be considered:

- There are known complaints about the potential sub-tenant from previous addresses or landlords
- The tenancy will not genuinely remain the main residence of the tenant

- The period of absence by the tenant is exceeds than 12 months
- In the case of amenity, alarmed and sheltered accommodation the potential sub-tenant must meet the criteria outlined in our Allocations Policy.

2.7 We can withdraw permission if the 'activity' (sub-letting) is anti-social to anyone in the neighbourhood. Any action taken in relation to this would be taken against the tenant as they would remain overall responsible for the tenancy.

2.8 This policy will be reviewed every 3 years and approved by the Board unless there are legislative changes, which require the Policy to be amended earlier.

3.0 Legislation and Related Policies

Housing (Scotland) Act 2001

4.0 Compliance and Support

It is the responsibility of all staff to familiarise themselves with the content of this policy and to ensure that they comply with the policy and associated guidance and procedures

If advice or support is required, staff should approach their line manager

5.0 Equality Impact Assessment

An Equalities Impact Assessment has been carried out and positive, negative and unknown impacts identified.

6.0 Privacy Impact Assessment

The initial screening questions of PIA have been completed and as a result of the assessment no new potential information risk has been identified.

7.0 Monitoring and Evaluation

This policy will be reviewed every 3 years and approved by Operations Committee unless there are legislative changes, which require the Policy to be amended earlier.