

Introduction and Overview

The purpose of this procedure is to guide staff through the processes that should be followed when dealing with Lodger Applications.

Lodger Procedures

The document outlines the Association's procedures in relation to the following sections:

- Legal Provisions;
- Definition of a Lodger;
- Applying to take in a Lodger;
- Approving a Lodger Application;
- Refusing a Lodger Application;
- Appeals;
- Lodger Application Register;
- Governing Body / Staff Members Arrangements.

Legal Provisions

The legal provisions that govern the right for a Scottish Secure Tenant or Short Scottish Secure Tenant to apply to take in a lodger are contained within the Housing (Scotland) Act 2001.

Definition of a Lodger

A lodger is defined as a person who has a formal financial arrangement with a tenant to rent the use of one or more rooms or part of a room with services such as meals and / or laundry included.

Applications received from tenants looking to rent part of their house without providing additional services such as meals or laundry will be considered as an application to sub-let and will be dealt with in accordance with the Association's Sub-Letting Policy and procedures.

Family members are not normally considered to be lodgers although permission must still be sought before an additional family member can join the household. A family member will be defined by their relationship to the tenant and includes spouse / civil partner, co-habitee, child, grandchild, parent, grandparent, brother or sister, uncle or aunt, niece or nephew and cousin.

Applying to take in a Lodger

Any Scottish Secure or Short Scottish Secure tenant of the Association is entitled to apply to take in a lodger as defined under section 2 of this procedure. Where a tenant is looking to apply to take in a lodger they must do so by applying in writing to the Association. In the case of joint tenancies, all tenants must agree to the application being made.

Where a written or verbal enquiry is made about taking in a lodger, staff should issue a Lodger Application Form Covering Letter (Document 1) and a Lodger Application Form (Document 2) to the tenant within two working days of the original enquiry being made.

As part of the application the tenant must provide the following information:

- Details of the proposed lodger including their name, date of birth, current and recent addresses and details of any tenancies they have held;
- Identification and proof of address for the proposed lodger;
- Details of all payments that the tenant proposes to charge to the lodger e.g. rent charges, services charges and deposits;
- Details of any services provided as part of the proposed Lodging Agreement;

Applying to take in a Lodger (Continued)

- The proposed start and end date of the Lodging Agreement; and
- A copy of the proposed Lodging Agreement.

Where a Lodger Application is received by the Association, staff should issue an acknowledgement letter (Document 3) to the tenant within two working days confirming that the application will be processed and a response issued within one month. The acknowledgement letter will also enclose an appointment time for the tenant and proposed lodger to attend an office interview within five working days to discuss the application procedure and highlight both parties obligations and responsibilities in the event the application is approved.

During the office interview, staff will review and validate the information provided on the Lodger Application and ensure that all supporting documentation has been provided. Where the Lodger Application is complete and all supporting documentation has been provided staff must then decide whether or not the application should be approved and notify the tenant of the decision in writing in accordance with sections 4 and 5 of this procedure.

Where the Lodger Application is incomplete, staff should ask the tenant to provide the missing information during the office interview. Where there is missing supporting documentation such as proof of residency or a copy of the Lodging Agreement staff should request that this information be provided within seven days of the interview (seven days is recommended as this will allow staff to carry out necessary tenancy checks and issue a decision letter within one month the application form being received). Where the tenant fails to provide the requested information the application should be refused in accordance with section 5 of this procedure.

When considering whether or not approval for a Lodger Application should be granted, staff should consider the following:

- Whether the proposed charge and, where applicable, deposit is reasonable;
- Whether the terms and conditions of the proposed Lodging Agreement are acceptable;
- Whether the proposed lodger has a history of anti-social behaviour; and
- Whether the house will become overcrowded if approval is granted.

When considering the reasonableness of the proposed charge to the lodger, staff should consider the following;

- The amenities that will be shared with other members of the household;
- Arrangements for the payment of household bills (e.g. utilities, telephone);
- The services being provided as part of the Lodging Agreement (e.g. laundry, meals); and
- The rent being charged for the property by the Association.

Approving a Lodger Application

Where a Lodger Application is approved, staff must notify the tenant of this decision in writing within one month of the date that the application was received. Staff must issue an approval letter (Document 4) confirming that the application has been successful. The letter must contain the date on which the Lodging Agreement will commence and must detail the 'conditions of approval' that the tenant must comply with.

Where the Association approves a Lodger Application, this will be subject to the following 'conditions of approval':

- The lodger is declared on any benefit applications, including housing benefit;
- The lodger is registered as part of the household for the purpose of council tax;
- Permission is given for a maximum of six months. An application to renew the consent may be made by the tenant no more than one month before the end of the six month period;

Approving a Lodger Application (Continued)

- The tenant must get permission from the Association if they wish to make any amendments to the charges or terms and conditions of the Lodging Agreement;
- The lodger has no statutory rights to occupy the house and is present only with the consent of the tenant and the Association. If the tenancy is terminated at any time, either by the tenant or by court order, the lodger will not be allowed to remain in occupation;
- The lodger has no right of succession upon the death of the tenant;
- Permission is only given for the proposed lodger(s) named on the Lodger application; and
- The tenant is responsible for the conduct of the lodger and any action arising from unacceptable behaviour of the lodger will be taken against the tenant.

Refusing a Lodger Application

Lodger Applications will not be refused unless the Association has reasonable grounds for doing so. The legislation does not clearly define what is regarded as “reasonable grounds” for refusal, however, the following grounds are considered reasonable for refusing a Lodger Application:

- A Notice of Proceedings for Possession has been served on the tenant specifying any of the ‘conduct’ grounds set out in paragraphs 1 to 7 of the Schedule 2 of the Housing (Scotland) Act 2001;
- A Decree for recovery of possession has been granted by the court;
- The Association believes that the tenant is to receive a payment other than a reasonable rent or reasonable and returnable deposit, in return for making the Lodger Application.
- The tenant has outstanding debts with the Association or another social landlord amounting to more than one month’s rent and has not adhered to a reasonable repayment arrangement for a minimum of three consecutive months;
- The proposed lodger has outstanding debts with the Association or another social landlord amounting to more than one month’s rent and has not adhered to a reasonable repayment arrangement for a minimum of three consecutive months;
- The tenant has been evicted for anti-social behaviour within the last five years (this includes eviction by other social landlords);
- The proposed lodger has been evicted for anti-social behaviour within the last five years (this includes eviction by other social landlords);
- An Anti-social Behaviour Order (ASBO) has been granted against the tenant or a member of the tenant’s household;
- An Anti-social Behaviour Order (ASBO) has been granted against the proposed lodger;
- The approval of the Lodger Application would lead to overcrowding;
- The Association has been provided with an incomplete application or false and misleading information about the application;
- In the case of a joint tenancy, one or more tenant(s) has not given consent for the Lodger Application; and
- The Association proposes to carry out work to the property which would affect the accommodation likely to be used by the proposed lodger.

The grounds for withholding permission are not exhaustive and the Association may refuse to grant permission where it believes that there are other reasonable grounds for doing so.

Where a Lodger Application is not approved, staff must notify the tenant of this decision in writing within one month of the date that the application was received. Staff must issue a refusal letter (Document 5) confirming that the application has been unsuccessful. The letter must detail the reason(s) for refusal and also detail how the tenant can appeal the Association’s decision.

Appeals

Tenants wishing a review of the decision made in response to their application should write to the Association's Housing Management Department within fourteen days of the date of the decision letter giving their reasons for appeal. The application will then be reviewed by the Housing Services Manager and a written response will be provided within five working days outlining any new decision. If the tenant is still dissatisfied then he / she should write to the Association's Director who will investigate all circumstances and will respond to the applicant in writing within five working days. If the tenant is still dissatisfied then the Association's complaints handling procedures will apply.

Lodger Application Register

The details and outcomes of all Lodger Applications received must be recorded in the Lodger Application Register.

Governing Body / Staff Members Arrangements

Where the tenant or proposed lodger is defined as a relevant person under the Association's Allocations to Governing Body / Staff Members Policy, the decision to approve a Lodger Application must be made by the Management Committee after the presentation of an appropriate report.

The report should be produced and presented in accordance with the Association's Allocations to Governing Body / Staff Members Policy and procedures.

Procedure Review

This procedure was last reviewed by Housing Services on 7 December 2023 and will be subject to review every three years in conjunction with the Lodger Policy.