

## Introduction and Overview

The purpose of this procedure is to guide staff through the processes that should be followed when an application to sub-let the property is received by the Association.

The Housing (Scotland) Act 2001, the Housing (Scotland) Act 2014 and the terms of the Scottish Secure Tenancy Agreement and Short Scottish Secure Tenancy Agreement states that tenants have the right to submit a written application to the Association to sub-let all or part of the property and that the Association will not withhold permission unreasonably.

Sub-letting is where a tenant of the Association wishes to allow the property they rent from the Association to be let to a third party for a specific period, not usually longer than six months.

Where tenants are married or in a civil partnership or if they are a joint tenant, they will be required to get permission from their partner or other joint tenant to sub-let the property.

Tenants are required to demonstrate good cause for having to stay away from their home such as employment, study or family commitments.

The tenant must complete the relevant processes and must provide the necessary documentation in accordance with the sub-letting procedures before a decision can be taken. The tenant must also provide satisfactory evidence that they intend to return and that the property will remain their principal home. Mandates will be required to allow Housing Management to validate the information supplied. Housing Management will advise the tenant of the decision to approve or refuse permission within one month from the date the sub-let application is received at the office.

## Sub-Letting Procedures

This document outlines the Association's procedures in relation to the following sections.

1. Application to Sub Let the Property
2. Operation and Administration of the Sub-Letting Process
3. Approval Granted
4. Approval Refused
5. Appeals Process
6. Sub-Letting Management
7. Termination of Sub-Tenancy
8. Policy Reporting

### 1. Application to Sub-Let the Property

Where a tenant has contacted Housing Management to advise that they wish to sub-let the property then Housing Management will initiate sub-letting procedures. An acknowledgement letter should be issued within three working days of the request outlining the policy details, enclosing application forms for the tenant and the sub-tenant to complete and confirming the information required to consider the request. The tenant must be made aware that an agreement must not be signed or the sub-tenant moved into the property until Housing Management has confirmed in writing that approval has been granted.

#### Sub-Letting Qualifying Criteria

In order for a tenant to sub-let their property the following eligibility criteria must be met:

- The tenant must have been the tenant of the house throughout the twelve months immediately before they apply for written permission to sub-let their home; or

- If they were not the tenant throughout that period, the house must have been their only or principal home during those twelve months. The previous tenant must have notified the landlord that the person who is now the tenant was living there. The twelve month period does not start until the Association is notified that the person is living at the property.

There are no residency conditions for the person that wants to live in the property as a sub-tenant.

### Sub-Let Application

An application to sub-let the property must be completed by the tenant and the sub-tenant and returned to the Association with the relevant supporting documentation. The application to sub-let must confirm details of the proposed sub-let including:

- Reasons for the request and written evidence that the tenant intends to return;
- Tenant and proposed sub-tenant details, including name, current housing status, contact details and proposed forwarding address;
- Duration of the sub-let agreement;
- Declaration of conditions attached to the approval of the sub-let including; information provided, mandate to verify information, tenancy obligations, withdrawal of permissions and termination of tenancy.

### Sub-Tenant Agreement

It is the tenant's responsibility to submit, at their own expense, a sub-letting agreement for approval. The sub-letting agreement must contain terms for ending the agreement, dealing with tenancy obligations, repairs / maintenance obligations, respect for other residents and breach of agreement.

## **2. Operation and Administration of the Sub-Letting Process**

Once completed applications and supporting documentation has been received from both applicants then details should be entered in the Sub-Letting Register. Where necessary, the information supplied should be verified. It is the responsibility of the tenant and proposed sub-tenant to provide all the information necessary to consider their request and to inform Housing Management of any changes in circumstances that may have a bearing on the decision to sub-let. All information provided by the tenant or proposed sub-tenant, or asked for by the Association, will be treated in the strictest confidence. Once all information has been collated then Housing Management should arrange a joint meeting between parties to discuss the application and ensure that all parties are fully aware of their responsibilities. Following the meeting, Housing Management is required to provide a written decision to grant or refuse permission to sub-let the property. This decision should be made within one month from the date the application is received.

## **3. Approval Granted**

Where approval has been granted then Housing Management will write to the tenant confirming the decision to sub-let the property. The Sub-Letting register should be updated to note the decision and summary / contact details entered on the rent account for information. An entry should be made in the diary one month prior to the end of the agreement for Housing Management to contact the tenant.

It is essential that the tenant submits a copy of the signed agreement to the Association within fourteen days of the approval being granted. Failure to do so will result in the approval being withdraw.

The tenant should be issued with a detailed letter confirming the following terms of the sub-let:

- Requirement to register a copy of the lease within fourteen days;
- Period of let and to whom;
- Reminder of the tenant and sub-tenant responsibilities;

- Requirement of the tenant to contact Housing Management at least one month prior to the end of lease to discuss their intention concerning their tenancy; and
- Confirmation that should the tenant fail to return to the property that it would be their responsibility to ensure that the tenancy end process was managed and that the Association will have no responsibility to rehouse the sub-tenant.

The arrangement for the exchange of keys should be done between the tenant and the sub-tenant.

#### **4. Approval Refused**

Housing Management will not unreasonably refuse permission to sub-let the property. Where approval has not been granted, Housing Management will write to the tenant providing grounds for refusal. The Sub-Letting register should be updated to note the decision. Reasonable grounds for refusing permission include the following:

- The tenant was neither the tenant of the house or occupied the house as their only or principal home for the twelve month period immediately before the written application to sub-let was received;
- 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 Schedule 2 of the Housing (Scotland) Act 2001;
- The Association has commenced legal action against the original tenant to recover the property. This includes abandonment proceedings;
- A Decree for recovery of possession has been granted by the court;
- The proposed rent level or any other tenancy payment (e.g. deposit) is considered to be too high;
- The proposed rent level or any other tenancy payment (e.g. deposit) is considered to be too high;
- The application form is incomplete or contains false or misleading information;
- Unsatisfactory sub-tenant tenancy report (including rent arrears and anti-social behaviour);
- The proposed lease is considered to be insufficient;
- Approval of the sub-let would result in the property becoming overcrowded;
- The Association believes that the tenant is to receive a payment, in return for making the application; and
- The Association proposes to carry out work to the house or the building and the proposed work would affect the accommodation that would be occupied by the sub-tenant.

#### **5. Appeals Process**

Tenants wishing a review of the decision to their request should write to the Association's Housing Management Department within fourteen days giving their reasons for appeal. The application will then be reviewed 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 complaints procedures will apply.

#### **6. Sub-Letting Management**

A legal contract will continue to exist between the tenant and the Association and the tenant will be responsible for the terms of tenancy for the duration of the agreement. The tenant will also be responsible for ensuring that the tenancy obligations including repairs and conduct of the tenancy are maintained. Where there is a breach in tenancy then the Association will enforce these conditions against the tenant.

Housing Management should ensure contact is made with the tenant at least one month prior to the end of the agreement.

If the tenant has indicated that they wish to apply for an extension to the sub-let then this should be made in writing to the Association. Once the request is received Housing Management should check the conduct of the sub-let prior to a decision being made. The tenant should be advised of the decision within twenty-eight days of the request.

Where the tenant has indicated that they do not wish to return to the property then termination of tenancy procedures should be initiated to bring the tenancy to an end. The tenant should be made aware that it is their responsibility to ensure vacant possession and ensure that the keys are returned on or before the date of termination. At the termination of the sub-let agreement, the Association will have no legal obligation to rehouse the sub-tenant.

## **7. Termination of Sub-Tenancy**

### False or Misleading Information

Tenants applying to sub-let the property will be required to sign a declaration on the application form confirming that the information provided is accurate and that relevant information had not been withheld which may affect the decision to grant permission to sub-let.

Where it is discovered that an application has been falsified then the Association will withdraw permission to sub-let and the tenant will be required to terminate their sub-tenancy.

### Sub-Tenant Moving Into Property without Approval

Tenants applying to sub-let the property are made aware that approval must be granted in writing before a sub-let agreement is signed or the sub-tenant is moved into the property. Where the tenant has moved the sub-tenant into the property prior to approval being granted the tenant will be required remove the sub-tenant and advised to follow the correct application procedures.

### Failure to Contact Tenant / Failure to Return to the Property

Where the tenant fails to respond to communications before the end of the agreement, then Housing Management will contact the Association's solicitors for best advice and practice. A notice of the action should be issued to the tenant at their last known address. Housing Management will also issue a letter to the sub-tenant advising of the date that the sub-let was due to expire and confirming that the agreement will not be extended.

## **8. Policy Reporting**

A report on the number of applications to sub-let received by the Association as well as outcomes will be submitted on an annual basis and contained within the Tenancy Management Report.