



Policy Name	Assignment Policy		
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Purpose	REVIEW & APPROVE		
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Committee	Committee of Management		
Author	Linlay Anderson		
Internal Policy		To be published	X

Charter Outcomes	Number(s)
The Customer/landlord relationship	1. Equalities 2. Communication 3. Participation
Housing quality and maintenance	
Neighbourhood and community	
Access to housing and support	
Getting good value from rents and service charges	

Written By	Linlay Anderson
Department	Housing Management

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Notes

Policy drawn up with reference to:

Housing (Scotland) Act 2001

Housing (Scotland) Act 2014

Civil Partnership Act 2004

Social Housing Charter 2012, Reviewed 2016, 2021 Social Housing Charter 2022

ANGUS HOUSING ASSOCIATION

ASSIGNATIONS POLICY

1. Introduction

The purpose of this policy is to outline Angus Housing Association's requirements to accept and consider any application for the Assignment of a tenancy as per the Housing (Scotland) Act 2001 (HSA 2001) and amended by the Housing (Scotland) Act 2014 (HSA 2014).

In practical terms, it is legally much neater to request the assignee to sign a new tenancy agreement rather than to accept the assignment. This is because an assignee is regarded as a 'qualifying occupier' rather than a new 'tenant'. This can lead to issues surrounding the obligation on the 'qualifying occupier' to pay rent and cannot be enforced readily.

Consequently, where the request for an 'assignment' has been approved - see below – The Association will always try to agree the completion of a new tenancy rather than to 'assign' the existing tenancy.

2. Aims and Objectives

The aim of this Policy is to provide guidance to staff and tenants of the legal requirement to assigning a tenancy.

The key objectives of this Policy include:

- Ensuring that we comply with the law and operate in accordance with good practice
- Ensuring that tenants meet their statutory obligations relating to the transfer of their tenancy
- Recognising and protecting the legal rights of other members of the household

- Ensuring that all applications for a transfer of tenancy are treated in a fair and equitable manner
- Ensuring that our properties are not passed from one person to another as a means of circumventing our Allocations Policy
- Enabling us to maintain accurate records of people living in our properties
- Ensuring that our Transfer of Tenancy process is open and accountable

3. Application to Assign a Tenancy

- 3.1 Angus Housing Association will consider any application to assign a tenancy where the tenant has formally applied in writing for permission to do so.

However any person applying for an assignation must have occupied the property as their principal home for 12 months prior to applying in writing. The person claiming an assignation must have previously notified the Association when the property became their only principal home. Any period of occupation prior to notifying the Association doesn't count towards the 12 months occupation required.

- 3.2 Consent to assign a tenancy will only be given where it is reasonable to do so in consideration of the circumstances of the tenant and the assignee.

4. Assessment of an Application to Assign

- 4.1 A Scottish Secure Tenant is not allowed to assign their tenancy without first obtaining Angus Housing Association's written consent. Such consent cannot be withheld unreasonably. Assignation involves transfer of tenancy to another person(s).

- 4.2 The assessment process will take account of both the tenant's and the assignee's circumstances both of which should satisfy the criteria set down in Section 32 and Part 2 of Schedule 5 of the HSA 2001 and amended by the Housing (Scotland) Act 2014 (HSA 2014).

5. Reasons for which an Application to Assign a Tenancy may be Refused

Although the list is not exhaustive, some examples of the grounds under which consent to assign may be withheld are -

- a) Where the assigning tenant has not used the property to be assigned as their only principal home.
- b) The assignee has not demonstrated that the property has been their only or principal home for at least 12 months prior to the application being made.
- c) A Notice of Recovery of Possession under section 14(2) specifying one or more of the grounds set out in paragraphs 1 to 7 of Schedule 2 of the Act has been served against the tenant.
- d) An Order for Recovery of Possession under section 16(2) of the Act has been made against the tenant.
- e) The tenant has received a payment either, in cash or in kind, in consideration of the assignation other than a reasonable rent or deposit.
- f) The assignation would lead to an overcrowding or under occupancy situation.
- g) The assignee would not be given reasonable preference under the Association's Allocation Policy.
- h) Angus Housing Association intends to carry out substantial work on the property.
- i) Where there is substantial damage or disrepair to the property which has been caused by the tenant, a member of their household or a visitor to the property.
- j) Where the house is designed/ adapted for persons with special needs or is part of a group of houses such as sheltered housing and the proposed assignee has no requirement for such housing.
- k) The Assignor has outstanding debt owed to Angus Housing Association in terms of their tenancy.
- l) Where either party has given false information in relation to the assignation, has distorted information or has given false information in order to bring about the assignation.

m) Where the proposed assignee has pursued a course of anti-social conduct, has been convicted of using a previous tenancy for illegal or immoral purpose, or has had an ASBO granted against them or a member of their household within the last three years.

6. Abandonment of the Property by the Tenant

Where a tenant has left the property without legally transferring the tenancy to another person, an entitled member of the household may apply to us to have the tenancy transferred into their name.

Applications must be made in writing giving:

- The date that the tenant left the property
- Contact details including current address for the tenant
- Details of the remaining household

We will investigate the alleged abandonment in line with our Abandonment Policy and take any appropriate action.

We will only consider a transfer of the property to another member of the household once the abandonment process has been completed and we are satisfied that the tenant no longer resides in and does not intend to return to the Properties.

7. Civil Partnership Act 2004

Where applications are made to assign tenancies Angus Housing Association will take into consideration the above legislation where couples register their partnership under the provisions of the Act.

8. Notification of Decision to Assign

Angus Housing Association will notify the tenant in writing of our decision within 28 days of receiving their application. Where consent to assign has been refused we will advise the tenant of the reason/s for refusing consent. Where Angus Housing

Association has failed to reach a decision within 28 days of receiving an application on the prescribed form we will have been deemed to have consented to the assignation under the terms of schedule 5, Part 2 of the Housing (Scotland) Act 2001.

9. Appeals Process

Any appeal on a decision where consent has been refused should be made initially to the Housing Manager. Where the Housing Manager upholds the original decision, the tenant can pursue any further grievance through the Angus Housing Association's Complaints Procedure. This does not prejudice the tenant's right to raise Court action under Part 2 of Schedule 5 of the Housing (Scotland) Act 2001.

10. The Role of Housing Assistant

The recording of requests to assign a tenancy is the responsibility of the Housing Assistant. The appropriate Housing Officer is responsible for processing all requests.

11. Equalities and Diversity

In developing and implementing policies covering all aspects of our work, Angus Housing Association will ensure that our strong principles and commitment to equality of opportunity are evident. In line with the Housing (Scotland) Act 2001 the Association operates in a manner which encourages equal opportunities and observes the equal opportunity requirements described in Section 106 of the Act. The Association also takes account of all applicable legislation, including the Equality Act 2010 and relevant Codes of Practice issued by the Equality and Human Rights Commission -

Our Policy recognises the protected characteristics as defined by the Equalities Act

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Gender
- Sexual orientation

In line with this commitment to equal opportunities, this policy and any summary or information leaflet can be made available free of charge in a variety of formats including large print, translated into another language or on audio tape.

12. Review and Monitoring

The policy will be reviewed within 4 years from the date of implementation, which will be the date the policy is approved by the Committee of Management or earlier if deemed appropriate.