



Subletting Policy

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Committee	Service Delivery Sub Committee		
Author	Linlay Anderson		
Internal Policy		To be published	X

Scottish Social Housing Charter	Outcomes
This policy has been developed with reference to The Scottish Social Housing Charter	1 Equalities, 2 Communication and 11 Tenancy sustainment

Written By	Linlay Anderson
Department	Housing Management

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Notes

Housing Scotland (2001) Act
Data Protection Act (1998)

This policy was originally approved: December 2008
Next Review Date: August 2028

ANGUS HOUSING ASSOCIATION LIMITED
SUBLETTING POLICY

1. Introduction

The purpose of this policy is to outline Angus Housing Association's (AHA) requirement to accept and consider any application to sublet a tenancy (or part of a tenancy) as set out in Housing (Scotland) Act 2001 (HSA 2001) and amended by the Housing (Scotland) Act 2014 (HSA 2014).

2. General Principles

2.1 Application to Sublet a Tenancy

AHA will consider any application to sublet a tenancy where the tenant has formally applied by completed a Subletting Application Form.

However anyone applying to sublet the property must have occupied the property as their principal home for 12 months prior to completing the Subletting Application Form. The person claiming the sublet 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.

2.2 Assessment of an Application to Sublet a Tenancy

In assessing an application, the Association will not withhold consent unreasonably.

The assessment process will take account of the tenant and sub-tenant's circumstances as well as the size and type of the property.

2.2 Reasons for Which an Application May be Refused

Although the list is not exhaustive, below are some of the grounds under which an application to sublet may be refused:-

- a) A Notice of Recovery of Possession has been served on the tenant on any of the “conduct grounds” set out in paragraphs 1-7 of Schedule 2 of the Housing (Scotland) Act 2001.
- b) An Order for Recovery of Possession has been made against the tenant.
- c) A payment has been received by the tenant, in cash or in kind, in consideration of the sublet other than a reasonable rent or deposit.
- d) The sublet would lead to an overcrowding or under occupancy situation.
- e) The Association intended to carry out substantial work on the property and said work will affect the part of the accommodation to be used by the sub-tenant.
- f) The property in question has had substantial adaptations or has design features which are not required by the sub-tenant or their household.
- g) Where there is substantial damage or disrepair to the property caused by the tenant, a member of the household or a visitor to the property.
- h) Where a scheme has been specifically designated for a particular type of tenant such as over 55 years old and the prospective sub-tenant does not meet the criteria.

- i) Where the term or the condition of the subletting arrangement are deemed to be unreasonable.
- j) The tenant has outstanding debt owed to the Association in terms of their tenancy.
- k) The prospective sub-tenant has deliberately omitted, distorted or given false information on their application.
- l) The tenant or any party included in the application has pursued a course of anti-social behaviour or has been convicted of using a previous tenancy for illegal or immoral purposes or has an ASBO out against them within the past 3 years.
- m) The house is unsuitable for the prospective sub-tenant's needs.
- n) The tenant or any party included in the application is subject to registration with the Police Scotland under the Sex Offenders Act 1997 and/or the Sexual Offences Act 2003 and the property is no deemed suitable for their housing needs.

2.3 Notification of Decision

AHA will notify the tenant in writing of its decision within 28 days of receiving their Subletting Application Form. Where consent to sub-let has been refused we will advise the tenant of the reason/s for refusing consent.

If the Association has not made a decision to refuse or to consent to a sub-let within 28 days of receiving the written application the Association will be deemed to have consented to the same under

and in terms of Schedule 5, Part 2, Paragraph 12 of the Housing (Scotland) 2001 Act.

3. Sublet

- 3.1 Once the Association has formally approved a request to sublet the tenant must provide the Association with a copy of the agreement between them and the sub-tenant. It is the tenants responsibility to ensure they supply their sub tenant with an appropriate tenancy agreement.
- 3.2 The amount of rent charged must not be higher than the rent charged by the Association. The tenant can charge a service charge up to a maximum of 20% of the rent for the use and depreciation of your furnishings. Any refund deposit charged by the tenant for damage to furnishings cannot be more than the equivalent to two months' rent.
- 3.3 The initial period of the sublet will be for a maximum of six months. Any request for an extension of a sublet will only be considered in exceptional circumstances.
- 3.4 There is no legal relationship between the sub-tenant and the Association. The tenant remains responsible for payment of full rent under the terms of the Scottish Secure Tenancy they have with the Association and are responsible for the conduct of the sub-tenant while in the property or in the vicinity of the property. The Association has the right to withdraw permission with the tenant being responsible ensure the appropriate notices are served on the sub-tenant to terminate their Tenancy. If the tenant fails to do this the Association will take legal action to bring their Scottish Secure Tenancy to an end.
- 3.5 The sub-tenant has no legal right to remain in the property if the tenant terminate their tenancy with the Association. The

Association are not responsible for re-housing the sub-tenant in these circumstances.

4. The Role of the Housing Management Department

The recording of applications to sublet is the Housing Assistants responsibility and the appropriate Housing Officer is responsible for the processing of all applications to sublet.

5. Appeals Process

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

6. Equal Opportunities

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
- Gender reassignment
- Pregnancy and maternity
- Disability
- Marriage and civil partnership
- Race

- Religion or belief
 - Sexual orientation
- Gender

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.

7. Review

This policy will be reviewed 4 years from the date of implementation, which will be the date the policy is approved by the Service Delivery Sub Committee or earlier if deemed appropriate.