



**TENANCY MANAGEMENT
POLICY
HANDBOOK**

WORKING DRAFT FEBRUARY 2024

APRIL 2021

REVIEW

This policy handbook and associated documentation will be reviewed every three years or earlier if statute and good practice dictates.

AMENDMENT REGISTER

Where any amendment or revision is made to the policies contained in this handbook, the appropriate section should be updated and the date amended accordingly. The former policy handbook should be kept in a separate file for reference purposes and to demonstrate an auditable trail of policy development.

Amendments of a more ‘cosmetic’ nature (e.g. changing Communities Scotland to The Scottish Housing Regulator) do not require Board approval, however will be entered into the amendment register (below).

All relevant personnel should be made aware of the amendments/revisions made

Section(s)	Amendments	Date approved by Committee	Next Review Date
All	Full handbook review	04 October 2011	October 2014
All	Revised into three policies	02 October 2012	October 2015
All	Updated to take account of changes introduced by the Housing (S) Act 2014	20 March 2018	March 2021
All	Full handbook review	April 2021	April 2024

EQUALITY AND DIVERSITY

Scottish Social Housing Charter - SSHC 1: Social landlords perform all aspects of their housing services so that:

Every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services.

We aim to encourage an environment of equality amongst our customers, employees, committee members and other individuals. Our policy on equality and diversity sets out the principles that Thenue will apply to all its work in governance, employment and service provision. We will ensure that all our processes comply with our policy and that those suppliers of goods, services and works have Equal Opportunity policies.

Our information will be clear, simple and consistent, and personal information gathered for the purposes of monitoring equal opportunities will be handled in accordance with the principles set out within the Data Protection Policy. Individual monitoring forms will be used for statistical purposes only and destroyed on completion of analysing.

We will seek to ensure that there are no barriers as a result of gender or marital status, race, colour, disability, age, sexual orientation, language or social origin, or other personal attributes, including beliefs, or opinions, such as religious beliefs or political opinions.

INDEX

Policy	Page
<u>Assignment</u>	4 – 8
<u>Succession</u>	9 - 13
<u>Subletting</u>	14 - 18

ASSIGNATION

[return to index](#)

1. INTRODUCTION

The purpose of this policy is to outline the Associations requirement to accept and consider any application for the assignation of a tenancy as set out in the Housing (Scotland) Act 2001, Section 32 and Part 2 of Schedule 5 and as amended by Section 12(2) of the Housing Scotland Act 2014. Legislation details both the conditions for applying to assign the tenancy and the circumstances where the Association may reasonably refuse a request to assign a tenancy.

Section 12(2) of the 2014 Act makes the following changes to the 2001 Act and the Scottish Secure Tenancy:

- the property must have been the tenant's only or principal home during the 12 months immediately before the tenant applies for written permission to pass their tenancy to someone else; and
- the person the tenant wishes to pass their tenancy to must have lived at the property as their only or principal home for the 12 months before they apply; and
- the tenant, joint tenant or person they wish to assign their tenancy to must have notified the landlord that the person they wish to assign the tenancy to, is living in the house. The 12-month period does not start unless the landlord has been notified in writing that the person is living in the property as their only or principal home.

2. BACKGROUND

- 2.1 Assignation describes the process when a tenant (known as the principal tenant) transfers the rights and responsibilities of their tenancy to another person or persons (known as the assignee).
- 2.2 An assignation request most often happens when sole or joint tenants want to move out of a property and hand over their tenancy to a family member or a member of their household who wants to remain in the property.
- 2.3 However, a tenant may apply to assign the tenancy to a member of their household if they decide that they no longer want to remain in the property or are able to sustain the responsibility of a tenancy.

3. ELIGIBILITY CRITERIA

- 3.1 All tenants of the property (if a joint tenancy) and/or any person who has occupancy right under the Matrimonial Homes (Family Protection) (Scotland) Act 1981 & The Civil Partnership Act 2004 must agree in writing to the assignation request.
- 3.2 The rent account of the principal tenant must be up to date before an assignation request is approved. In addition, there should be no outstanding housing related

charges such as legal fees or rechargeable repairs. This eligibility requirement may be relaxed if:

- i. there are urgent medical/social grounds for the assignation; or
- ii. the arrears are caused by delays outside the tenant's control, for example, the delayed payment of Housing Benefit or the rent element of Universal Credit; or
- iii. The assignee takes on the rent arrears and can satisfy Thenue that arrangements will be made to resolve these problems.

3.3 Assignation will only be considered:

- a. if the proposed assignee is at least 16 years old; and
- b. is a close relative of the tenant or has some other close association with the tenant (partner, friend etc); and
- c. the property is the only or principal home of the person to whom the tenant wants to assign the tenancy and has been for at least 12 months before the date of the written request
- d. the property has also been the tenant's only or principal home for the previous 12 months
- e. the tenant has notified Thenue, in writing or through our Self Service App or Portal, that the person they wish to assign the tenancy to has been resident in the home for 12 months (qualifying period starts when the tenant notifies Thenue that this person is resident)

4. ASSESSMENT OF APPLICATION

- 4.1 The tenant must first obtain Thenue's written permission. The Application Form should be completed and returned to the Association and will require a satisfactory report from a former landlord of the proposed assignee. Assistance can be given to complete this form if required.
- 4.2 It is the Associations policy to consider all requests from tenants to assign their home and not unreasonably withhold consent.
- 4.3 The assessment process will take account of both the tenant 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 Housing (Scotland) Act 2001 as amended by Section 12 (2) of the Housing Scotland Act 2014, regarding an application to assign a Scottish Secure Tenancy.

5. NOTIFICATION OF DECISION & PROCESSING ASSIGNATION

- 5.1 Thenue will notify the tenant in writing of its decision within 28 days of receiving their application.

- 5.2 Where consent to assign has been refused the Association will advise the applicant of the reasons for refusal, what action should be taken to address the reasons for refusal and the applicant's rights to appeal.
- 5.3 Where Thenue has failed to reach a decision within 28 days of receiving an application on the prescribed form it will be deemed to have consented to the assignation under the terms of schedule 5, Part 2 of the Housing (Scotland) Act 2001
- 5.4 Thenue retains the right to refuse an application if sufficient information is not provided by the applicant to allow a decision to be taken. In this situation the applicant can reapply at any time.
- 5.5 An assignation will involve issuing the assignee with a letter setting out the terms of the transfer and either enclosing a copy of the existing agreement or issuing a new tenancy agreement.

6. REASONS WHY CONSENT MAY BE WITHHELD

- 6.1 Although this list is not exhaustive, in addition to a failure to meet the requirements of Section 12 (2) of the Housing Scotland Act 2014, some examples of the grounds under which consent to assign may be withheld are:-
 - a) A Notice of Recovery of Possession has been served against the tenant.
 - 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 assignation other than a reasonable rent or deposit.
 - d) The assignation would lead to an overcrowding situation.
 - e) The Association intends to carry out work on the property which would significantly affect the property, eg. redesign or change of use, demolition
 - f) The property in question has had substantial adaptation or has design features, which are not required by the assignee or their household.
 - g) 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.
 - h) Where a scheme has been specifically designated for a particular group of tenant such as retirement housing, etc and the assignee does not meet the criteria for being housed in the scheme.
 - i) The Assignor has outstanding debt owed to Thenue in terms of their Tenancy.
 - j) 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.
 - k) Where the proposed assignee has pursued a course of anti-social conduct, or has been convicted of using a previous tenancy for illegal or immoral purposes. Or has had an interim or full ASBO granted against them or a member of their household within the last three years.

- l) Anyone who has been violent or has used abusive or threatening behaviour to an Association staff member.
- m) The property is a high demand property and/or of a type that rarely becomes available.
- n) The assignee would be significantly under occupying the property (a more suitable alternative property may be offered if available)
- o) The assignee is a Scottish Secure Tenant at another address or ~~are~~ an owner occupier of another property.
- p) The assignee or members of their household are under the age of 50 and the property is above or adjacent to a retirement housing property
- q) Where Thenue would not give the person the tenant wishes to pass the tenancy to, reasonable preference under Thenue's Allocation Policy;
- r) Where, in Thenue's opinion, the assignation would result in the home being under occupied.
- s) Where the assignee has not met the qualifying period of 12 months.

7. TRANSFER OF TENANCY

7.1 There is legally only one type of transaction which should be called a Transfer of Tenancy. This is a compulsory transfer that can be imposed in appropriate circumstances by the courts, for example, where there is a history of domestic violence.

7.2 Any application can be made by anyone who is:

- married
- in a civil partnership
- live together and have occupancy rights granted
- are joint tenants (in this case the tenancy would be transferred into your name as a sole tenant).

7.3 The court does not require the consent of either the landlord or the principal tenant but Thenue is able to object to the transfer by representation in court. If there is a joint tenancy, the court has the power to grant the tenancy to one party only. In these circumstances, the tenancy is transferred from one spouse or registered civil partner to another. The new tenant takes on all the liabilities of the tenancy, apart from the existing rent arrears which remain the responsibility of the partner who was the original tenant.

8. COMPLAINTS PROCESS

8.1 Any appeal on a decision where consent had been refused should be made through Thenue's Complaints Policy.

- 8.2 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.

9. RESPONSIBILITY

- 9.1 It is the responsibility of the Area Services & Repairs Manager & Senior Area Services Officer to approve assignations and to monitor compliance with this Policy.
- 9.2 The Director of Community Housing Services has overall responsibility for reviewing the effectiveness of this policy and ensuring its compliance with legislation and good practice.

SUCCESSION

[return to index](#)

1. INTRODUCTION

- 1.1 The purpose of this policy is to outline Thenue's requirement to accept and consider any application for the succession of a tenancy as set out in the Housing (Scotland) Act 2001, Schedule 3. This is also detailed within section 4 of Thenue's Scottish Secure Tenancy Agreement. It details both the conditions for applying to succeed to the tenancy and the circumstances where Thenue may reasonably refuse a request to succeed to a tenancy.
- 1.2 Section 13 of the Housing (Scotland) Act 2014 amends schedule 3 to the Housing (Scotland) Act 2001. It introduces a new 12-month qualifying period and notification requirements before certain categories of persons become 'qualified persons' and have the right to succeed to a Scottish Secure Tenancy on the death of the tenant
- 1.3 There continues to be no qualifying period under the new provisions for the tenant's spouse, civil partner or joint tenant, provided (in all three cases) that the person's only or principal home was the house in question at the time of the tenant's death.
- 1.4 A person falling within the following categories are qualified persons where the house has been their only or principal home throughout the 12 months ending in the tenant's death:
 - partners (cohabitants of either sex and including same sex cohabitants);
 - members of the tenant's family aged 16 or over; and
 - carers aged 16 or over who have given up a previous only or principal home.
- 1.5 Under the new provisions, to have a right to succeed to a tenancy after living in the house for 12 months, the 'qualifying person' or the tenant must also have notified their landlord that the person wishing to succeed to the tenancy is living in the house and that the house is that person's only or principal home. The 12-month qualifying period does not start until that notice has been given. The tenant (or any one of joint tenants) or the person who has moved into the house are responsible for notifying the landlord that the person has moved in.

2. BACKGROUND

- 2.1 Succession is where a person, usually a family member, inherits the tenancy upon the death of the original tenant. Only a 'qualified person' can succeed to the tenancy and succession can only occur under certain conditions.

3. ELIGIBILITY CRITERIA

3.1 There are 3 levels of priority for qualifying successors:

- the tenant's husband, wife or registered civil partner who was living with the tenant when they died;
- the tenant's partner (including same sex) where the house was their only or main home for 12 months before the tenant died
- the surviving joint tenant.
- Second priority (if nobody qualifies or chooses to succeed from the above category) goes to a member of the tenant's family aged 16 or over providing the property was their only or principal home 12 months before the tenant died.
- Third priority (if nobody in any of the above categories qualifies or chooses to succeed) goes to carers aged 16 or over where the property was their only or principal home 12 months prior to the date of the tenant's death **and where they have given up their only or principal home** to care for the tenant or a member of the tenant's household.

3.2 Family and household members can include:

- husband/wife or civil partner
- opposite sex or same sex partner
- parents
- grandparents
- children (including foster children, step children, and any other children treated by you as your own)
- grandchildren
- nephews and nieces
- brothers and sisters
- aunts and uncles
- any of the above related to your spouse or partner.

3.3 Section 22, (sub-section 2) of the 2001 Act introduces a second round of succession on the death of the succeeding tenant. The same priority groupings as per 3.1 apply.

Normally the death of a tenant who has succeeded under this second round of succession would lead to termination of the tenancy, however subsection (8) of Section 22 clarifies that this will not happen on the death of a joint tenant if the remaining tenant (s) continue to live in the property.

4. ASSESSMENT OF APPLICATION

4.1 When the Association receives notification of a tenant's death and intimation of succession, staff will in particular:

- Check to confirm if there are potential successor/s, and whether they were

occupying the property as their only or principal home at the date of death **and** for 12 months previously (this must have been confirmed by the tenant in writing or by our Self Service App or Web Portal at least 12 months prior to date of death)

- If they were part of the household when the property was allocated at least 12 months previously and/or it is their long-term and principal home, Thenue will know who is living in the property and that will be considered as notification.
- Check our records to see whether any previous successions have taken place.
- Confirm if the property has been built, redesigned or substantially adapted for the use of persons with special needs. If so, succession can only be to spouses, civil partners, co-habitees, joint tenants, or persons with special needs can succeed.
- Establish "qualified persons" within the tenancy

- 4.2 Paragraph 9 of Schedule 3 states that where there is more than one qualifying successor on the same level of priority they must agree between themselves which one will succeed or, they can agree to have a joint tenancy.
- 4.3 Where a qualifying successor(s) chooses not to succeed in favour of another qualifying successor then this must be confirmed to Thenue in writing.
- 4.4 If there is no agreement within 4 weeks of the death of the tenant or of the date of notification of right to succeed in terms of Paragraph 10 of Schedule 3 then, as landlord, can decide who is to be the tenant. The property will be left in the name of the deceased until the successor is identified and agreed.
- 4.5 Equally should a qualifying successor choose not to exercise their right to succeed and wish to vacate the property (when no-one else qualifies) then an End of Tenancy form will require completion. The property must be vacated within 3 months. Thenue has a responsibility to notify qualifying persons (in priority order) in writing of their right to succeed if the qualifying top level successor declines.
- 4.6 Where an applicant does not have the right to succeed, Thenue has no discretion in law to grant a succession of tenancy. In "Exceptional Circumstances" however, Thenue may decide to allocate to the applicant for succession, a tenancy at an alternative Thenue property.

5. NOTIFICATION OF DECISION

- 5.1 If approved, a new tenancy agreement will be issued to a successor to the tenancy.
- 5.2 A decision to allocate a new Scottish Secure Tenancy to an occupant who does not qualify because this would be the 3rd succession is possible, but must be approved by the Area Services & Repairs Manager.

5.3 Under terms of paragraph 5 of schedule 3 of the Housing (Scotland) Act 2001, a property that has been designed or substantially adapted for the use of persons with special needs can only be inherited by;

- The surviving husband, wife or civil partner, providing the house was their only or principal home at the time of the tenant’s death OR
- The co-habitee or same sex partner providing the house had been their only or principal home for at least 12 month prior to the tenant’s death OR
- The surviving joint tenant if the house was their only or principal home 12 months prior to the date of the tenant’s death OR
- A qualifying person under Categories 2 and 3 that has special needs requiring the adaptations made to the property, providing the house was their only or principal home at the time of the tenant’s death.

A persons that would have qualified under either category 2 or 3 but does not have special needs, have right to suitable alternative accommodation as defined in part 2 of schedule 2 of the Housing (Scotland) Act 2001. They will have the right to remain living in the property until the Association is in a position to offer suitable alternative accommodation.

5.4 Where someone would have succeeded to the tenancy but a second round of succession has already passed, then in accordance with Subsection (9) of Section 22, that person will be allowed to remain in the property for a period of up to 6 months.

This will not be under a Scottish Secure Tenancy but be under agreement entered by Thenue housing association and the occupier, where they pay violent profit to the organisation which would cover losses due to Thenue being unable to let property. This will allow time for alternative suitable accommodation to be found. During that time we will also consider whether it will be possible to allocate an alternative property to the applicant under the normal waiting list process.

5.5 Where the successor has taken on a property with more bedrooms than required the applicant will be assessed for under-occupancy in line with Thenue’s Allocation Policy.

6. REASONS WHY CONSENT MAY BE WITHHELD

6.1 Applications for succession will only be refused where the applicant cannot demonstrate to Thenue’s satisfaction that they are a qualified person as defined in the Housing (Scotland) Act 2001 as amended by the Housing Scotland Act 2014.

6.2 It is the responsibility of the applicant to provide Thenue with sufficient evidence to prove that they have the right to succeed and that they meet the residency requirements.

- 6.3 Where an application is unsuccessful, Thenue will write to both the applicant and the deceased tenant's next of kin (where applicable) stating the reasons for refusing the application.

7. COMPLAINTS PROCESS

- 7.1 Any appeal on a decision where consent had been refused should be made through Thenue's Complaints Policy.
- 7.2 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.

8. RESPONSIBILITY

- 8.1 It is the responsibility of the Area Services & Repairs Manager & Senior Area Services Officer to approve succession requests and to monitor compliance with this policy.
- 8.2 The Director of Community Housing Services has overall responsibility for reviewing the effectiveness of this policy and ensuring its compliance with legislation and good practice.

SUBLETTING

[return to index](#)

1. INTRODUCTION

- 1.1 Both the Housing (Scotland) Act 2001 and the Scottish Secure Tenancy Agreement makes provision for tenants to sub-let their home to another person/s with the Association's permission.
- 1.2 Section 12(2) of the 2014 Housing Scotland Act makes the following changes to the 2001 Act:
- the tenant must have been the tenant of the house throughout the 12 months immediately before they apply for written permission to sublet their home; or
 - if they were not the tenant throughout that period, the house must have been their only or principal home during those 12 months; and the person who was the tenant at that time must have notified the landlord that the person who is now the tenant was living there.
- The 12-month period does not start until the landlord has been notified. An example of this could be where the tenant was not the tenant throughout the previous 12 months but has during this period succeeded to the tenancy and immediately wants to sublet it. There are no residency conditions for the person that wants to live in the property as a sub-tenant.
- 1.2 The primary aim of the Sub-Letting Policy is to put a structure in place that ensures that people do not move in and out of Thenue's properties in an illegal or uncontrolled way. The policy is also intended to provide guidance to staff on implementing the correct procedures and to tenants on the requirements placed on them when applying to sub-let their home.

2. BACKGROUND

Thenue understands that there may be occasions when circumstances require a tenant to leave their home for a period of time. During that period the tenant may wish to allow another person to sub-let the property on a temporary basis. However, Thenue is also obliged to ensure that its properties are not used as a commercial venture or that the sub-letting process is not used as a means to by-pass the normal allocations procedures. Thenue is also required to retain some measure of control over the properties that are occupied and to ensure that tenants adhere to their contractual obligations to use the property as their only or principal home.

3. KEY POLICY OBJECTIVES

The key objectives of the Sub-Letting Policy include;

- Ensuring that Thenue, at all times, complies with the law and operates in accordance with good practice.

- Ensuring that tenants meet all their statutory obligations relating to sub-letting.
- Recognising and protecting the rights of the tenant and the sub-tenant.
- Ensuring that all applications to sublet are treated in a fair and equitable manner.
- Ensuring that the procedures for sub-letting are not used as a means of circumventing Thenue's allocations procedures.
- Protecting the sub-tenant from being treated in an unfair manner in terms of the rent charged and the conditions of their sub-letting agreement.
- Ensuring that the sub-tenant is fully aware of Thenue's expectations in terms of their conduct and that the tenant is aware of their responsibilities should the sub-tenant fail to conduct themselves in an acceptable manner.
- Allowing Thenue to keep accurate records of who is residing in its properties.
- Ensuring that a tenancy with Thenue is not used as a commercial venture.
- Ensuring that Thenue's property is not allowed to become illegally overcrowded.

4. DEFINITION OF SUB-LETTING

For the purposes of this policy, a sub-let will be defined as when a tenant temporarily leaves their home and nominates another person to live in their home for a period of time until the tenant's return. There will normally be a formal financial arrangement between the tenant and the sub tenant.

Where the Association approves a sub-let, the legal relationship between the tenant and Thenue does not alter. The tenancy will remain in the name of the tenant who remains responsible for the property and the payment of rent.

5. ELEGIBILITY CRITERIA

- 5.1 Under the terms of the Scottish Secure Tenancy Agreement, a tenant must apply to Thenue in writing, giving;
- Details of the proposed sub-tenant.
 - Details of any payments (such as rent to be charged, deposits, use of furniture etc) that the tenant proposes charging the sub-tenant.
 - Details of any terms and conditions of the sub-letting agreement.
 - Details of any terms and condition
 - The start date of the sub-let.
 - The tenant's intended date of return to the property.
 - A forwarding address and contact number for the tenant.
- 5.2 The application must be made by the tenant and, in the case of a joint tenancy, agreed by all tenants in the property. Where applicable, the spouse/civil partner or co-habitee will be required to confirm in writing that they are agreeable to the property being temporarily sub-let. Where the spouse/civil partner in no longer residing in the property,

the tenant will be required to take all reasonable steps to get a written declaration from their ex-partner stating that s/he does not want to invoke their occupancy rights to stay in the property.

6. ASSESSMENT OF APPLICATION

6.1 Under the terms of the Housing (Scotland) Act 2001, permission to sub-let is at the discretion of the landlord. However, the Act also states that permission cannot be unreasonably withheld.

6.2 In considering an application to sub-let, Thenue must be satisfied that;

- The tenant has lived in the property as their only or principle home for the previous 12 months and if not the tenant for all of the previous 12 months that Thenue have been notified that the current tenant was resident in the house
- The proposed charges to the sub-tenant and, if applicable, the deposit, is reasonable.
- The terms and conditions of the sub-letting agreement are acceptable.
- The proposed sub-tenant has no history of anti-social behaviour with Thenue.
- The property will not be overcrowded.
- In the case of a joint tenancy, that all tenants are agreeable to the application to sub-let.
- All parties are fully aware of their obligations and responsibilities.
- That the tenant intends to return to the property within a stated period of time and to resume using the house as their only or principal home.

6.3 In considering the reasonableness of the proposed charge to the sub-tenant, Thenue will take into consideration;

- The size of the property and the current rent being charged by Thenue.
- The use of furnishings and facilities such as furniture, white goods, audio and visual equipment etc that are being made available for the sub-tenant's use.
- Arrangements for the payment of utilities such as gas, electricity, phone etc.
- Arrangements for the payment of council tax.

The assessment of the reasonableness of the proposed charge and the consent or refusal of the application must be approved by the Area Services & Repairs Manager.

7. NOTIFICATION OF DECISION

Thenue must notify the tenant of its decision regarding the sub-let within one month (28 days) of the completed application form being received. Where written notification has not been provided within one month (28 days) it will be taken that consent to the application has been given by Thenue.

Where permission for the sub-let is not being given, Thenue must give the grounds for refusal in writing to the tenant within one month (28 days) of the completed application being submitted.

8. GROUNDS FOR REFUSING CONSENT

Subsection 11 of Part 2 of schedule 5 of the Housing Scotland Act 2001 notes the following:

11 On an application under paragraph 9 or 10 the landlord may—

(a) consent, or

(b) refuse consent, provided that it is not refused unreasonably.

The Association may therefore refuse to give permission where it believes it has reasonable grounds to do so.

Some examples of the grounds under which consent to sub-let may be withheld are:-

8.1 Household Size

Consent for a tenant to sub-let will not be given where it would result in the property being overcrowded and would not normally be given if the property is going to be significantly under-occupied.

In the case of under-occupation each case will be considered on its own merit, taking into account the best approach for the tenant, Thenue and the security of the property.

The size definition defined in the Association's Allocation Policy will apply when assessing the issue of overcrowding and under-occupancy.

8.2 Property Condition

Permission to sub-let will not be granted where the property is found to be in an unacceptable condition due to tenant damage or neglect. The tenant will, however, be given the opportunity to make good any damage at their own expense and have their application reconsidered.

8.3 Legal Action

8.3.1 Notice of Proceedings for Recovery of Possession

Where Thenue has served a Notice of Proceedings for Recovery of Possession against the tenant specifying one of the grounds 1 to 7 in part 1 of schedule 2, permission to sub-let will not be given.

8.3.2 Decree for Recovery

Permission to sub-let will not be given where a court order for the recovery of possession has been made against the tenant.

8.4 Payments

Thenue will not consent to a sub-let where the tenant has received a payment or inducement, other than an acceptable deposit, in return for agreeing to sub-let the property.

8.5 Proposed Works to the Property

Permission to sub-let may be withheld where Thenue plans to carry out major works to the property.

9. COMPLAINTS PROCESS

9.1 Any appeal on a decision where consent had been refused should be made through Thenue's Complaints Policy.

9.2 This does not prejudice the tenant's right to raise a Court action under Section 32, Part 2 of Schedule 5 of the Housing (Scotland) Act 2001 which gives tenants that are aggrieved by Thenue's decision the right to apply to the sheriff court to reconsider the decision. Where the court finds that Thenue's decision to be unreasonable, the court must order Thenue to consent to the sub-let.

10. RESPONSIBILITY

10.1 It is the responsibility of the Area Services & Repairs Manager & Senior Area Services Officer to approve subletting requests and to monitor compliance with this policy.

10.2 The Director of Community Housing has overall responsibility for reviewing the effectiveness of this policy and ensuring it's compliance with legislation and good practice.

[return to index](#)