

HOUSING MANAGEMENT

AS WITH ALL OF THE ASSOCIATION'S POLICIES and PROCEDURES, THIS GUIDE, IN FULL AND IN PART, CAN BE MADE AVAILABLE IN SUMMARY, ON TAPE, IN BRAILLE, AND IN TRANSLATION INTO MOST OTHER LANGUAGES –

**PLEASE ASK A MEMBER OF STAFF IF YOU WOULD LIKE
A VERSION IN A DIFFERENT FORMAT**



Relevant Regulatory Standard(s)	Standard 2: The RSL is open about and accountable for what it does. It understands and takes account of the needs and priorities of its tenants, service users and stakeholders. And its primary focus is the sustainable achievement of these priorities.
Approved By	Committee of Management at the meeting on 24th APRIL 2024
Date Next Review Due	APRIL 2027

Date Reviewed	Reviewed By	Summary of Updates
APRIL 2024	DIRECTOR OF HOUSING & COMMUNITY SERVICES	POLICY CREATED. POLICY UPDATED FOLLOWING TENANT FEEDBACK.



1. Introduction

The policy addresses the need to respond to various matters which do not fit within other Housing Services policies, but which require a policy position to enable staff to respond in a balanced and fair manner. The policy position on these matters has been reached by considering:

Housing (Scotland) Act 2001

Housing (Scotland) Act 2014

Scottish Secure Tenancy (Abandoned Property) Order 2002

General Data Protection Regulations

Equality Act 2010

Matrimonial Homes (Family Protection) (Scotland) Act 1981

The Scottish Social Housing Charter

Scottish Government Good Practice Guidance

Sector wide good practice

Peer landlord's policies

2. Aims and Objectives

The subjects of this policy do not fall within other key Housing Service policies but are frequent matters that need to be responded to by the Association. The policy aims to provide both staff and customers with clarity on how a decision is reached and what can be done in the event of a dispute. It draws several smaller and often similar policy issues under one heading.

This policy applies to Scottish Secure Tenancies with Whiteinch and Scotstoun Housing Association.

Included within the policy:

- Abandonments – when a tenancy comes to an end because the tenant is no longer occupying the property.



- Assignations – when a tenancy can be passed to someone else and not allocated in the normal manner.
- Business use – when a tenancy can also be used for business purposes.
- Joint tenancies – adding someone to a tenancy.
- Mutual exchange – where tenants can swap homes with another tenant of the same type (this is a form of assignation)
- Parking
- Sub-lets and lodgers – when a tenant can wholly or partially sub-let their home.
- Succession – when and who can succeed a tenancy when a tenant dies.

3. Policy

3.1 ABANDONMENTS

Where WSHA has reasonable grounds for believing that the tenant does not intend to occupy their tenancy as their only or principal home, abandonment proceedings will commence. These will include thorough and comprehensive attempts to communicate with the tenant(s) and the serving of notice. The Abandonment Notice will require the tenant to inform WSHA in writing within 4 weeks of serving that they intend to occupy the house as their only or principal home and to allow access to the property to demonstrate that they are living there.

During this time the property will be secured against vandalism where WSHA has reasonable grounds to believe that the property may be at risk.

If the tenant contacts WSHA within 4 weeks, either verbally or in writing, to advise them of their intention to occupy the house as their home, the abandonment procedures will be cancelled and a home visit arranged to confirm.

In the event there is no contact and after continued investigation WSHA believes the property is still unoccupied, the tenancy will be terminated without recourse to court action by serving a second Notice no sooner than 4 weeks after the initial Notice. The property will then be re-let in accordance with void and allocation procedures.

Where belongings are left in an abandoned property, these will be photographed and recorded in an inventory and witnessed. The value of the items will be assessed and balanced against the cost of storage and a decision taken and agreed by two staff members on whether storage is required. WSHA may dispose of the belongings if the value of the items is insufficient to cover the cost of storage for 6 months. If the belongings are stored for 6 months, they may be sold to offset the removal and storage expenses and any rent arrears.



A tenant who abandoned their tenancy and subsequently claims the belongings left in the tenancy will first need to cover all costs related to the storage of the items and clear any monies owed to WSHA.

Right of appeal

A tenant who considers they have not abandoned their tenancy after the tenancy has ended can request a review of the process by the Director of Housing and Community Services within 2 months of the tenancy ending. They also have a legal right of appeal to the sheriff court within 6 months from the date the tenancy was ended.

Joint Tenancy Abandonment

Where WSHA has reasonable grounds for believing a joint tenant is not occupying the home and does not intend to occupy it as their home, WSHA will follow a similar process. Rather than ending the tenancy, this will only terminate the interest of the tenant no longer living there. However, WSHA must wait a further 8 weeks before ending the interest in the tenancy.

Right of appeal

A tenant who considers they have not abandoned their part of a joint tenancy can request a review of the process by the Director of Housing and Community Services within 2 months of their part of the tenancy ending. They also have a legal right of appeal to the sheriff court within 6 months from the date their part of the tenancy was ended.

3.2 ASSIGNATION OF TENANCY

Assignment is the transfer of a tenancy from the tenant to another person. It will only be granted to someone who has lived there, as their only or principal home, for 12 months after the tenant has notified us in writing that this person moved in. This notification must be in writing and have been acknowledged and recorded by WSHA.

Applications for assignation must be in writing to WSHA and must be responded to within 1 month of receipt of the completed application. Each application will be considered individually and consent may be refused if WSHA considers it reasonable to do so.

Consent may be withheld on the following grounds:

- A Notice of Proceedings has been served that specifies any of grounds 1 to 7 (Schedule 2)



- An order for recovery of possession has been made against the tenant
- The tenant has rent arrears
- consent to the assignation request would cause statutory overcrowding.
- There are proposed works by the landlord that would affect the accommodation to be used by the assignee
- Another person's occupancy rights are likely to be adversely affected
- The proposed assignee is below 16
- The proposed assignee does not have the capacity to understand terms of the transaction
- The proposed assignee is unable to fulfill the terms of the agreement, for instance, to repay debt transferred with the tenancy or cover the rental charge for the property
- The proposed assignee has a history of anti-social behavior
- The proposed assignee has not occupied the home as their only principal home for 12 months immediately preceding the tenant's formal application to assign and the tenant did not notify WSHA in writing when the tenant moved in
- Insufficient evidence to support their claim they have lived at the property for the previous 12 months
- If the applicant would not fall into any of the reasonable preference categories under the Housing (Scotland) Act 1987 (amended)
- It will result in the property being under-occupied based on the landlord's standards on under-occupying, unless in exceptional circumstances

This list is not exhaustive and case law has shown that other factors that may be considered, for example if there is reason to believe the transaction is for financial gain, or to get around allocation rules.

Right of appeal

A tenant can make a request to the Director of Housing and Community Services to review the decision to refuse an assignation request within 5 working days of being notified of the decision. They also have the right to appeal the decision at the sheriff court but must apply within 21 days of notification of the refusal.

3.3 BUSINESS USE

Generally, a Scottish Secure Tenancy is let solely as a place to live and tenants wishing to engage in business activities are expected to do so from suitable commercial premises.



However, some home-based activities are acceptable and may be approved. Tenants who wish to operate a business from their home must apply for permission to do so. Each case will be assessed on its own merits.

Applications from tenants to run a business from their home must be in writing to WSHA and will be responded to within 28 days of receipt of the completed application. Each application will be considered individually and consent may be refused if WSHA considers it reasonable to do so.

This includes consideration of, but is not limited to, the following:

- Will the nature of the activities to be undertaken constitute a change of use of the property in terms of, or in any way conflict with, current planning legislation?
- Will the proposed activities be undertaken solely by the tenant or a member of the tenant's household who normally occupies the property as their principal home or involve the engagement of employees?
- What is the potential for the business activities to cause nuisance or annoyance to neighbours and other residents?
- Will there be sales representatives or customers calling at the property?
- Will there be business-related deliveries, collections or visits to the property by third parties?

Right of appeal

A tenant can make a request to the Director of Housing and Community Services to review the decision to refuse a request to allow a business to be operated from the tenancy within 5 working days of being notified of the decision.

3.4 JOINT-TENANCIES

A tenant can apply to have someone added to their existing tenancy agreement as a joint tenant. Both the existing tenant and the prospective tenant must apply in writing for permission. Applications will be responded to within 4 weeks of receipt of the completed application. Each application will be considered individually and consent may be refused if WSHA considers it reasonable to do so.

The proposed joint tenant must have lived at the property as their only or principal home for at least 12 months, however the 12-month period does not start unless WSHA has been informed in writing that the person is living in the property as their only or principal home. This applies to anyone, including the tenant's spouse, civil partner, or co-habiting partner.



WSHA will not withhold permission unreasonably as long as the residency test has been met. Reasons for refusal can include:

- The proposed joint tenant has a history of anti-social behaviour.
- The proposed joint tenant is unlikely to be able to sustain the terms and conditions of tenancy, for example due to incapacity.
- WSHA has concerns that the sole tenant is under duress or being 'forced' to apply for a joint tenancy.

Right of appeal

A tenant can make a request to the Director of Housing and Community Services to review the decision to refuse an assignation request within 5 working days of being notified of the decision. They also have the right to appeal the decision at the sheriff court but must apply within 21 days of notification of the refusal.

3.5 MUTUAL EXCHANGE

WSHA will consider requests for mutual exchanges from our tenants who have lived at the property for a minimum of 12 months prior to the application. Tenants may exchange with another Scottish Secure Tenant of WSHA, other housing association or a local authority.

Applications for mutual exchange must be in writing to WSHA and will be responded to within 4 weeks of receipt of the completed application. WSHA reserves the right to refuse the request if it considers it reasonable to do so or we suspect coercion or there is financial gain.

Grounds for refusal for a mutual exchange include:

- The exchange would worsen the housing conditions of either party i.e., one of the parties has a medical condition which would not be improved by the move.
- The exchange would not make best use of the WSHA's housing stock (i.e., a property would be under-occupied by more than one room or overcrowded as defined in the WSHA allocations policy).
- The exchange was proposed for financial gain
- The tenant has not been a tenant of WSHA for 12 months.
- Either party in the exchange request has rent arrears
- Eviction action has been started for either party
- Either household is the subject of complaints of antisocial behaviour
- There are adaptations in the home that are not needed by the other party.



This list is not exhaustive.

If it is subsequently discovered that there was financial gain from the exchange or that either party to the exchange provided false or misleading information, legal action will be taken to recover the tenancy.

Right of appeal

A tenant can make a request to the Director of Housing and Community Services to review the decision to refuse an assignment request within 5 working days of being notified of the decision. They also have the right to appeal the decision at the sheriff court but must apply within 21 days of notification of the refusal.

3.6 PARKING AREAS

In some WSHA developments parking areas have been created both within the curtilage of the property and in off-curtilage parking bays. Unless a parking space is allocated to a particular address all parking areas are available for use by all residents, this includes disabled parking spaces as long as a Blue Badge is displayed.

These parking areas are intended to facilitate the parking of private cars used by tenants in their normal day to day activities. They are not intended for the long-term off-street parking and storage of vehicles that are only used periodically or for vehicles that are not roadworthy, untaxed or are in a state of disrepair.

If such vehicles or vehicle components are observed or reported to WSHA the first action is to liaise with the tenants concerned to provide guidance and assistance. In the absence of cooperation or a concern that a vehicle is abandoned this will be reported to Glasgow City Council and/or the DVLA and legal action taken to enforce the conditions of tenancy, where these have been breached.

Permission for caravans, trailers, or boats

Permission to keep a caravan, trailer or boat on areas designated for parking will only be considered if it would not lead to nuisance or annoyance to neighbours, pose an obstruction or pose a safety risk. Permission will not be granted to park a caravan, trailer, or boat at the front of a property.

Permission for works vehicles

Permission will not be granted for works vehicles such as HGV vans and lorries to be parked in areas not designated for this purpose.



Right of appeal

A tenant can make a request to the Director of Housing and Community Services to review the decision to refuse a request to park a vehicle within 5 working days of being notified of the decision.

3.7 SUB-LET

Sub-letting is where a tenant lets out all, or part, of their home to someone else. WSHA will consider sub-letting requests from those tenants who have been a tenant for 12 months before they applied to sub-let.

Permission to sublet is limited to a 6-month period in the first instance, after which time the tenant must move back into their property or request one final extension of 6 months. A sub-let tenant is **not** a tenant of the Association.

If the tenant is away temporarily and the sub-let is for all of the home, permission will only be granted on condition that the tenant has registered as a private landlord with the local authority and fulfils the criteria for registration. The tenant will remain responsible for making sure that all conditions of their tenancy agreement are fulfilled through the period of the sublet.

The tenant must apply in writing for permission to sublet by completing an application form which provides the following information:

- Name and address of sub-let tenant
- Address history for last 5 years
- Length of sub-let
- Rent and any deposit charge for sub-let
- Copy of the proposed sub let lease

The request will be responded to within 4 weeks of receipt of the completed application.

Consent may be withheld on the following grounds:

- A Notice of Proceedings has been served that specifies any of grounds 1 to 7 (Schedule 2)
- The tenant has rent arrears
- An order for recovery of possession has been made against the tenant
- The sub-let would cause statutory overcrowding



- Another person's occupancy rights are likely to be adversely affected
- The proposed sub-lessee is below 16
- The proposed sub-lessee does not have the capacity to understand terms of the transaction
- The proposed sub-lessee is unable to fulfill the terms of the agreement
- The proposed sub-lessee has a history of anti-social behavior
- Insufficient evidence to support their claim they have lived at the property for the previous 12 months
- If the applicant would not fall into any of the reasonable preference categories
- The sub-let is a short term let

This list is not exhaustive.

Right of appeal

A tenant can make a request to the Director of Housing and Community Services to review the decision to refuse an assignation request within 5 working days of being notified of the decision. They also have the right to appeal the decision at the sheriff court but must apply within 21 days of notification of the refusal.

3.8 SUCCESSIONS TO TENANCY

A succession can only arise on the death of the tenant, and where there is a relevant qualifying person. It will be a difficult time for the family and WSHA will apply this policy sensitively and in a timely manner.

Applications for succession must be in writing to WSHA and will be responded to within 4 weeks of receipt of the completed application.

On the death of a Scottish secure tenant the tenancy passes to a 'qualified person'. They must have occupied the address as their only or principal home at the time of the tenant's death. The maximum number of times a tenancy can be succeeded is twice.

If someone who is not a joint tenant is living in the property and would have succeeded if the second succession had not already taken place, they are entitled to remain in the property for six months. They will have no security of tenure during this time, the entitlement is purely to allow time for them to find alternative accommodation.



Levels of succession

There are three levels of succession:

- Level 1 - spouse, civil partner and joint tenant (no length of residency requirement)
- Level 2 - family and cohabitee (12-month residency requirement from when the tenant notified us in writing that the family member/cohabitee had moved in)
- Level 3 - carer (12-month residency requirement from when tenant notified us in writing that the carer had moved in)

Successors at both levels 2 and 3 must be living at the property at the time of death and have been using it as their principal/main home. A level 3 carer must also provide evidence that they gave up their main/principal home when they moved in to care for the tenant.

If no written confirmation of length of residency has been given to WSHA at least 12 months previously, there will be no entitlement to succeed to the tenancy. WSHA can refuse a succession request from anyone who does not satisfy these conditions. If someone who has no right to succeed is living in the property they will be given one month's notice from being notified they cannot succeed the tenancy.

Rent arrears

Except in the case of joint tenants, any outstanding rent arrears or other tenancy related debt left by the deceased will be written off.

Notification of right to succeed

If a qualifying person declines the tenancy, WSHA will do its best to establish whether there are any other qualifying persons in either of the other levels of succession, in order of priority.

Vacating the property

Where the qualifying person declines the tenancy, they must vacate the tenancy within 3 months of the death of the tenant.

Payment of rent

WSHA cannot take rent from the person applying to succeed to the tenancy whilst the application is being processed but if they successfully succeed to the tenancy the applicant will be liable for the rent from the date of death of the tenant.



It may be possible to raise a charge referred to as 'Violent Profits' for use and occupation if someone remains unlawfully and whilst legal advice and action is sought or where rent is not otherwise payable.

Adapted or Specially Designed Properties

If the property was designed or substantially adapted for use of people with special needs, no one will qualify under level two or three unless they require that type of accommodation. They will instead be made one offer of alternative suitable accommodation and the original tenancy terminated.

Housing need

If a person qualifies to succeed a tenancy but this will result in over or under occupying the property. WSHA will consider transferring the applicant to an alternative property that is more suitable.

Prevention of homelessness

In all cases where people occupying a tenancy are refused succession WSHA will assist them to find alternative accommodation, this includes assessing them within WSHA's allocations policy.

Right of appeal

A tenant can make a request to the Director of Housing and Community Services to review the decision to refuse a request to succeed a tenancy within 5 working days of being notified of the decision. They also have the right to appeal the decision at the sheriff court but must apply within 21 days of notification of the refusal.

4. Equal Opportunities Testing

In accordance with the Association's Equality and Diversity Policy, this Policy has been considered to assess whether there is any likelihood that its presentation or operation could lead to discrimination. The conclusion of this exercise is that it is believed that the Policy should operate in a non-discriminatory way.

5. Policy Review

This policy will be reviewed every 3 years.

