

Tollcross Housing Association Policy

Sub-letting Policy

Scottish Housing Charter Outcomes

1: Equalities

2: Communications

**6: Neighbourhood and
Community**

**11: Tenancy
Sustainment**

13: Value for Money

Date Draft Approved

May 2013

Date for Review

May 2016

Responsible Officer

Housing Manager

1.0 Introduction

- 1.1** The purpose of this policy is to set out the terms on which the Association will permit a tenant to sublet their tenancy.

2.0 Definition of Subletting

- 2.1** For the purposes of this policy, subletting is the grant of a tenancy by the Association's tenant (or tenants) to another person (or persons) who becomes the sub-tenant (or tenants) of the property. The original tenant ceases to reside within the property, while remaining responsible for meeting all the legal obligations of the tenancy, for the period of the subletting but intends to return at the end of the subletting. The sub-tenant resides within the property for the period of the sub-tenancy, but departs at the end of the sub-tenancy.
- 2.2** Tenants have the right to sublet their tenancy with the Association's permission, as defined in the Housing (Scotland) Act 2001 and as detailed within the terms of sections 4.1 and 4.2 of the Scottish Secure Tenancy Agreement.
- 2.3** Tenants shall be permitted to sublet their tenancy only with the written permission of the Association, and this will only be given where their request is in accordance with the terms of this policy. The Association will refuse consent only where it has reasonable grounds to do so.

3.0 Requests for approval of Subletting

- 3.1** All applications for permission to sublet a tenancy must be made in writing to the Association, using the Association's Subletting Application Form.
- 3.2** In the case of joint tenants, the Association requires the consent of all tenants before the request can be considered. In the case of tenants who have a partner, spouse, or cohabitee (and that partner, spouse or cohabitee is not a joint tenant), the consent of the spouse, partner, or cohabitee is also required.
- 3.3** The Association will consider the welfare reforms and other legislation when assessing the subletting request.

4.0 Circumstances where the Association will give permission for subletting

- 4.1** Where the request is made by the tenant to sublet the tenancy and

- The request is made for a good reason, for example because the tenant needs to be away from home for an extended period due to employment, to care for a relative etc.
- The request is for permission to sub let the property for not more than 12 months.
- The tenant intends to return the property at the end of the sublet.
- The tenant provides a forwarding address and telephone number and, if leaving Glasgow, provides contact details of another person in Glasgow who may be contacted in the event of an emergency.
- The tenant agrees to ensure that the conditions of tenancy are upheld during the sub-tenancy.
- If requested by the Association, the tenant agrees to end the sub-tenancy as soon as possible if the tenant or any visitors to the property are responsible for nuisance or anti-social behaviour.
- The tenant agrees to use the style of sub-tenancy agreement approved by the Association.
- Rent payments charged to sub tenant are reasonable, and may include an additional cost to cover furniture etc. Each case should be assessed on its merits. However the rent on the property should not exceed the rent charged by the Association.
- Deposits charged must not exceed 2 months rent as any further amount would be deemed to be a premium and therefore unlawful. Rent (Scotland) Act 1984, section 90 (3).

5.0 Circumstances where the Association will not permit subletting.

5.1 Grounds for refusal of request to sublet. Reasonableness is not defined within the act, but would include:

- If sufficient information is not provided by the tenant to allow a decision to be taken. In this situation, the applicant can reapply at any time.
- Where the Association has served on the tenant a Notice of intention to raise proceedings for possession, specifying a ground or grounds for recovery of possession.
- The Association has obtained a Court Order for recovery of possession of the house.
- Where the rent proposed is excessive.
- Where the deposit proposed is excessive.
- Where subletting would cause statutory overcrowding. Statutory overcrowding is defined by the Housing (Scotland) Act 1987, sections 135-139.
- Where subletting would cause underoccupation of the property within the definition contained within the Association's Allocation Policy.
- Where works proposed by the landlord would alter accommodation, which would affect sub-tenant or another person living in the house or/

- Where the sub-tenant had a previous history of anti-social behaviour. Where the subletting is proposed to a person or persons who has/have either:
 - i) Had an Anti-Social Behaviour Order issued against him/her or either of them **or**
 - ii) Has acted in an anti-social manner in relation to another person residing in, visiting or otherwise engaged in lawful activity or has pursued a course of conduct amounting to harassment of such a person or a course of conduct which is otherwise anti-social conduct in relation to such a person. The terms “anti-social”, “conduct” and “harassment” have the same meanings as are set out in Schedule 2 Part 1, Ground 2(2) of the Housing (Scotland) Act **or**
 - iii) If either of the above situations are believed to exist, a report confirming the Anti-Social behaviour Order, or the anti-social conduct or harassment shall be obtained from a reputable agency including a registered social landlord or the Police.
- Where the sub-tenant would be unable to fulfil the terms of the tenancy.
- Where the property has been specially designed or substantially adapted to meet the needs of a person with special housing needs, or is one of a group of properties with support services provided to the tenant, and the proposed sub-tenant does not require housing of that type or require the support services.
- Where the proposed terms of the subletting are not acceptable to the Association.
- In the case of joint tenants, the Association requires the consent of all tenants before the request can be considered. In the case of tenants who have a partner, spouse, or cohabitee (and that partner, spouse or cohabitee is not a joint tenant), the consent of the spouse, partner, or cohabitee is also required. All tenants must sign the sub-tenancy agreement in favour of the sub-tenant. If this is not done then the application to sub let may be refused.
- Whilst this Policy explains certain situations for approval and refusal, it cannot cover every scenario, therefore each request will be examined on it's individual merit.

6.0 Responding to requests for subletting

- 6.1** The Association will respond, in writing, to the request for permission to sublet the tenancy within one month of the date on which the request was received. We will also endeavour to complete the sublet request as quickly as possible.
- 6.2** Where we reply and give consent to the subletting, the tenant must provide the association with a copy of the sub-tenancy agreement.

- 6.3** Where the Association does not give consent to the proposed subletting, we will advise the tenant, in our reply, of the reasons for our refusal. The tenants will also be advised of their right to seek further information, review and appeal through the Association's Policy.

7.0 False Information

- 7.1** Anyone applying for subletting will have to sign the application form thereby certifying that the information is correct and no false or misleading information has been given or withheld in order to obtain a tenancy. Should the Association discover that an application has been falsified then the Association may take legal action to repossess the tenancy.

8.0 Appeals

- 8.1** Any applicant who feels their application for subletting has been unfairly dealt with has a right of Appeal. Appeals may be made by telephoning, in writing, emailing or in person.

- 8.2** Our appeals process is summarised as follows:

The Director of Housing Services/Housing Manager will deal with your appeal, and if you are still unhappy you can appeal further to the Chief Executive of the Association, if you are still unhappy you can appeal further to the Management Committee of the Association.

9.0 Complaints

- 9.1** Anyone who feels aggrieved by the service they have received from staff in carrying out their responsibilities in relation to this policy and its associated procedures can make an informal or formal complaint to the Association.

- 9.2** All complaints will be fully investigated in accordance with the Association's Complaints Procedure. A written guide on the complaints process is readily available to customers on request and is on display in the reception area of the office.

10.0 Equal Opportunities

- 10.1** The Association will seek to ensure that in implementing this policy and its associated procedures, no group, organisation or individual will receive less favourable treatment or be discriminated against regardless of their race, colour, ethnic or national origin, sex, marital status, disability, sexual orientation, religion, age or other grounds.

11.0 Policy Reporting

- 11.1** A Report will be submitted to the Operations Sub Committee, annually in April of each year.

The report will detail the number of applications received, number of sublettings granted and refused.

12.0 Policy Review

- 12.1** This policy will be reviewed in May 2016.

Angela Murray
Housing Manager
15 May 2013