



POLICY ON ASSIGNATIONS, SUBLETTING, SUCCESSION, JOINT TENANCY & LODGERS

POLICY IMPLEMENTATION CHECKLIST	
Policy Guardian:	Director of Customer Services
Author:	Housing Manager
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Data Protection compliant:	Yes
Health & Safety compliant:	N/A
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KPIs / reporting arrangements implemented:	
Training Completed:	
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POLICY STATEMENT: ASSIGNATIONS, SUBLETTING, SUCCESSION, JOINT TENANCY & LODGERS

1.0 Introduction

- 1.1 This policy of this policy is to outline the Associations management of their tenant's rights within either their Scottish Secure Tenancy Agreement (SST) or Short Scottish Secure Tenancy Agreement (SSST).
- 1.2 These legal rights granted under the Housing Scotland Act 2001 and amended by the Housing (Scotland) Act 2014.
- 1.3 Comprehensive procedures are in place to support the implementation of this policy.
- 1.4 All existing tenants of Caledonia Housing Association (CHA) who held either a SST or SSST were informed in writing prior to 1 November 2018 of the changes to their rights which come in to effect either from 1 May or 1 November 2019.
- 1.5 All new tenants since 1 November 2018 have been provided with information leaflets explain the changes and when they would be applies.
- 1.6 New Model SST and SSST Agreements which incorporate the changes will be granted to new tenants with effect from 1 May 2019.

2.0 Requests to Assign a Tenancy

- 2.1 If a tenant wants to assign their tenancy (pass the tenancy to someone else), this needs CHA's consent as the landlord. Section 12(2) of the 2014 Act makes the following changes:
 - the house must have been the tenants only or principal home during the 12 months immediately before they apply for written permission to pass their tenancy to someone else (previously there was no qualifying period); and
 - the person they wish to pass their tenancy to must have lived at the property as their only or principal home for the 12 months before the tenant applies (previously the qualifying period was 6 months); and
 - the 12 month period cannot begin unless CHA has been told that the person is living in the property as their only or principal home. CHA must have been told this by the tenant, a joint tenant, or the person the tenant wishes to pass their tenancy to. If CHA has already been told that the person is living in the property we do not have to be notified again.

CHA can refuse permission to assign a tenancy if it is reasonable to do so. Two new reasons when CHA can refuse an application for assignation have

been added to the existing list of reasons at section 32 of the Housing (Scotland) Act 2001. These new reasons are:

- where CHA would not give the person the tenant wishes to pass the tenancy to priority under CHA allocations policy;
- where, in CHA's opinion, the assignation would result in the home being under occupied.

2.2 This change will come into effect from 1 November 2019. As is already the case, before a tenant can assign (pass) their home to someone else they must ensure that they have applied to CHA for permission.

3.0 Requests to Sublet

3.1 If a tenant wants to sublet all or part of their tenancy, this needs CHA consent as the landlord. Section 12(2) of the 2014 Act makes the following changes:

- 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 (previously there was no qualifying period), or
- if they were not the tenant throughout the whole of that period, the house must have been their only or principal home during those 12 months; and the tenant must have told us that this person was living there prior to the start of those 12 months.

3.2 This change will come into effect from 1 November 2019. If the tenant has already told CHA that the person is living there then no further notification is needed. As is already the case, before the tenant can sublet their home they must ensure that they apply to CHA for permission.

4.0 Succession

4.1 The 2014 Act changes some of the rules around when certain people can succeed to (take over) a Scottish Secure Tenancy on the death of the tenant. This does not apply where the tenancy was a Short Scottish Secure Tenancy.

4.2 To ensure rights to succession are protected the tenant must have told CHA that the person wishing to succeed to a tenancy has moved in with them at the time they do so.

4.3 If at the time of the tenants death their spouse and/or civil partner lives in the property this qualifies them to succeed the tenancy.

Unmarried Partners

Section 13(a) and 13(d) of the 2014 Act make changes to the rules on succession for unmarried partners:

- the house must have been the unmarried partner's only or principal home for 12 months before they qualify to succeed to the tenancy (previously this was 6 months); and
- the 12 month period cannot begin unless CHA has been told that the individual is living in the property as their only or principal home. CHA must have been told that by the tenant, a joint tenant, or the person who wishes to succeed to the tenancy.

Family Members

Section 13(b) and 13(d) of the 2014 Act make changes to the rules on succession for family members:

- the house must have been the family member's only or principal home for 12 months before they qualify to succeed to the tenancy (previously there was no qualifying period, the person simply had to be living there at the time of the tenant's death); and
- the 12 month period cannot begin unless CHA has been told that the family member is living in the property as their only or principal home. CHA must have been told that by the tenant, a joint tenant, or the person who wishes to succeed to the tenancy.

Carers

Section 13(c) and 13(d) of the 2014 Act make changes to the rules on succession for carers:

- the house must have been the carer's only or principal home for 12 months before they qualify to succeed to the tenancy (previously there was no qualifying period, the person simply had to be living there at the time of the tenant's death and have given up a previous home to provide the care); and
- the 12 month period cannot begin unless CHA has been told that the carer is living in the property as their only or principal home. CHA must have been told that by the tenant, a joint tenant, or the carer.

4.4 These changes will come into effect from 1 November 2019. If CHA has already been told by the appropriate person then CHA do not have to be notified again.

5.0 Requests to create a Joint Tenancy

5.1 If a tenant wants to add a joint tenant to their tenancy agreement, this needs CHA's consent as the landlord. Section 12(1) of the 2014 Act makes the following changes:

- the proposed joint tenant must have lived at the property as their only or principal home for the 12 months before the tenant can apply for them to become a joint tenant (previously there was no qualifying period); and
- the 12 month period cannot begin unless CHA has been told that the person is living in the property as their only or principal home. CHA must have been told that by the tenant, a joint tenant, or the person the tenant now wishes to become a joint tenant. If CHA has already been told that the person is living in the property CHA does not have to be notified again.

5.2 This change will come into effect from 1st November 2019. Before the tenant can add a joint tenant to their tenancy agreement, as is already the case they must ensure that they have applied to CHA for permission. The person the tenant wishes to add as joint tenant, and any existing joint tenants, must apply along with the tenant.

6.0 Requests to create a Sole Tenancy from Joint Tenancy

6.1 This is not included in the 2014 Act. Section 13 of the Housing (Scotland) Act 2001 allows a joint tenant to end their interest in a tenancy by giving 4 weeks' notice in writing to CHA and to each of the other joint tenants. On death a joint tenancy ends on the date of death of the joint tenant.

7.0 Requests to take in a Lodger

7.1 This is not included in the 2014 Act. CHA will treat applications where the tenant is requesting permission to let part of the property as an application to take in a lodger.

7.2 The difference between lodging and sub-letting from the Association's perspective is that sub-lets involve the tenant moving away from the tenancy for a period of time; whereas a lodger will rent part of the tenancy and the tenant will remain resident in the tenancy with the lodger.

7.3 Tenants wishing to take in a lodger must make a written request, stating the duration, the charges and tenancy details of the proposed lodging arrangement.

7.4 CHA will not normally give permission to allow the tenant to take in a lodger for more than 6 months before being reviewed. The permission to take in a lodger will not confer any rights to the tenancy, which would remain subject to separate application and consideration.

7.5 The secure tenancy and the requirements and responsibilities of the tenancy agreement will remain with the tenant for the period of the lodging.

8.0 Equal Opportunities

8.1 This policy complies with CHA's Equal Opportunities Policy. The Association will ensure the promotion of equal opportunities by publishing information and documentation in different formats/languages as required.

- 8.2 The Association will ensure that no individual is discriminated against on the grounds of sexual or marital status, on racial grounds, or on grounds of disability, age, sexual orientation, language or social origin, or other personal attributes, including beliefs, or opinions, such as religious beliefs or political opinion.
- 8.3 All communication with tenants or other customers will be in 'plain language' and it will be made clear who the most appropriate person is to contact in the event of a query.
- 8.4 The Association will make appropriate arrangements for communicating with tenants and other customers who have special needs such as people with sight, hearing or learning difficulties, for example by using signers.

9.0 Review

This policy will be reviewed 3 years from the date of implementation, which will be the date the policy is approved by the Board of Management or earlier if deemed appropriate.