

<b>Policy Name</b>	Scottish Secure Tenancy Assignations Policy
<b>Policy Category</b>	Housing Management
<b>Policy Number</b>	HM18
<b>Officer Responsible</b>	Head of Housing and Corporate Services
<b>Date to Management Committee</b>	July 2017 (Amended June 2019)
<b>Date to Your Voice Partnership</b>	
<b>Next Review Date</b>	June 2024

## 1.0 Introduction

1.1 Under the terms of the Scottish secure tenancy ("SST") agreement, and the short Scottish Secure Tenancy ("SSST"), tenants of Lochaber Housing Association Limited (the "Association") may pass on their tenancy and the tenancy rights and obligations to another person. This is known as an 'assignation'. Certain conditions apply, and the Association's written permission must always be obtained first.

## 2.0 Legislation

2.1 Scottish secure tenancies are governed by the Housing (Scotland) Act 2001, (the "Act") as amended by the Housing (Scotland) Act 2010 and the Housing (Scotland) Act 2014. Section 32 of the Act prescribes the conditions under which a tenancy may be assigned.

## 3.0 Information

3.1 In order to properly consider the application for an assignation of a tenancy, the Association should ensure that they have all the appropriate information required to sufficiently judge the application. The application form (Appendix 1) should be used but the Association are within their rights to request further information if required in particular circumstances.

3.2 The Association ensures that tenants are clearly advised of their rights and responsibilities regarding assignations through the following means:

- a) Guidance from their Housing Officer when explaining the Scottish Secure Tenancy agreement prior to signing the document;
- b) Clear information in the tenants' handbook;
- c) Information in the appropriate section in the Association's website.

#### 4.0 Applying to assign a tenancy

- 4.1 If a tenant wishes to assign their tenancy, they must apply to the Association in writing. This should be done using the Association's application form (appendix 1). The Association will normally process applications to assign a tenancy within four weeks of receiving them, subject to any investigations which the Association is required to carry out.
- 4.2 Consent will be given or refused by the Association in writing. Where consent is refused, clear reasons for the refusal will be given in writing.
- 4.3 If the Association has not responded to a request within one month with a decision or reasons for a decision being deferred, that application will be deemed to have been approved by the Association.
- 4.43 Both assignee and assignor must consent to the assignation in writing. Both parties will therefore be required to complete the Association's standard deed of assignation (Appendix 2) in the presence of a member of Association staff. The assignee and assignor do not have to attend the same meeting in order to sign consent; however, consent from both parties must take place on the same day.

#### 5.0 Conditions under which an assignation will be approved

- 5.1 In line with Section 32 of the Act, the Association may only give permission for an assignation where the assignee has lived in the property as their only or principal home for at least six months prior to permission being sought for the assignation. From 1<sup>st</sup> November 2019, the Association may only give permission for an assignation where the assignee has lived in the property as their only or principal home for at least twelve months prior to permission being sought for the assignation. The Association are within their right to ask for proof of residency of the 12 months, such as utility bills registered in the assignee's name dated from 12 months or more prior to the assignation request.
- 5.2 From 1<sup>st</sup> November 2019, in calculating the twelve months prior occupation required before consent may be given, the Association may only take into consideration any period of time after the tenant has notified the Association that an individual is living in the property as their only or principal home. Such notice could be given from 1<sup>st</sup> November 2018 onwards.
- 5.3 Although permission will not be refused unreasonably, the Association may also refuse permission in some cases: This will include but may not be restricted to situations where:
- The Association has not been notified that the proposed assignees has been living in the property as their only or principal home at least 12 months prior to the written request;

- a notice has been served on the tenant on any 'conduct' grounds of the Housing (Scotland) Act 2001;
- an order for recovery of possession has been granted against the tenant;
- the tenant will receive a payment or unreasonable rent or deposit for the transaction;
- the Association proposes to carry out work which will affect the accommodation available;
- the person applying to have the tenancy assigned to them would not normally have reasonable preference for an allocation to the property under the Housing (Scotland) Act 1987;
- the assignation would result in overcrowding as defined by section 135 of the Housing (Scotland) Act 1987;
- the assignation would result in under-occupation;
- where the proposed assignee has been subject to formal action for breach of tenancy or for anti-social behaviour within the last 5 years;
- the current tenant has substantial housing debts;
- where the current tenant has not been acting in a satisfactory manner and is currently the subject of a formal warning or legal action by the Association.

**Please Note: In addition to ensuring that the assignee has 'reasonable preference' in terms of the Housing (Scotland) Act 1987, the Association should be clear that the assignee sufficiently meets the Association's allocations policy and the application for an assignation can be refused on this basis.**

## 6.0 Rent arrears

6.1 When a tenancy is assigned, it is generally expected that the assignee takes on joint and several responsibility for any existing rent arrears. However, the Association recognises that there may be circumstances in which any rent arrears should be divided between the assignee and the assignor.

6.2 In such circumstances, the Housing Services Co-ordinator will decide whether the Association's permission to assign will be conditional upon a division of the debt, or on all debts being cleared. The assignee and assignor will then be required to accept these terms in writing before the assignation can proceed.

## 8.0 Monitoring

8.1 Ongoing monitoring will take place of all assignations. The numbers of applications, approvals and reasons for refusals will be recorded and reported to the Board of Management and the Regulator as required.

## 9.0 Appeals

- 9.1 Where an individual has been refused permission for an assignation of tenancy, they may appeal the decision by following the Association's complaints procedure.

The applicant is also entitled to appeal by summary to the Sheriff Court if they think an assignation has been refused unreasonably.