

Governance: Housing Management

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Guidance: Housing (Scotland) Act 2001

Forth's Scottish Secure Tenancy Agreement

ASSIGNATION POLICY

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FORTH HOUSING ASSOCIATION LIMITED

ASSIGNATION POLICY

1.0 Introduction

- 1.1 Assignment describes the process that takes place when a tenant (the principal tenant) transfers the rights and responsibilities of their tenancy to another person. It is not the formation of a new tenancy, as the other person will take over any problems with the tenancy such as rent arrears.

2.0 General Principles

- 2.1 The Association's tenants have the right to assign their tenancy provided that the eligibility criteria are met and they have the prior written consent of the Association.
- 2.2 The Association will ensure that the principal tenant and the person who will be assigned the tenancy (assignee) understand the implications of the assignment and of any tenancy problems which may be transferred such as rent arrears.
- 2.3 It is the responsibility of the principal tenant to advise the statutory authorities, including Scottish Power, British Gas, etc of the assignment arrangements.
- 2.4 All information received in connection with an application for assignment is strictly confidential. The Association complies with the requirements of the Data protection Act 1998.

3.0 *Application to Assign a Tenancy*

- 3.1 *The Association will consider any application to assign a tenancy where the tenant has formally applied in writing for permission to do so.*
- 3.2 *Consent to assign a tenancy will only be given where it is reasonable to do so in consideration of the circumstances of the tenant and the assignee.*

4.0 Assignment of Your Tenancy

- 4.1 If you want to assign your tenancy, the house must have been the only or principal home of the person to whom you want to assign the tenancy for at least 6 months before the date of your written request.
- 4.2 We will not unreasonably refuse permission for an assignment. Reasonable grounds for refusing permission include the following:
- *A Notice of Recovery of Possession has been served against you;*
 - *An Order for Recovery of Possession has been made against the tenant;*
 - *The proposed assignment would result in specially adapted accommodation (such as wheelchair housing) or accommodation with additional services (such as sheltered housing) being occupied by an assignee who did not require such accommodation);*
 - *The proposed change would lead to an overcrowding situation;*

- The Association intends to carry out work on the house which would affect the part of the house connected with the proposed change;
- *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;*
- *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;*
- *The Assignor has outstanding debt owed to the Association in terms of their tenancy*
- *Where either party has provided false information in relation to the assignation or has provided false information in order to bring about the assignation*
- *Where the proposed assignee has pursued a course of anti-social behaviour, or has been convicted of using a previous tenancy for illegal or immoral purposes, or has had an ASBO granted against them or a member of their household within the last three years*

These examples do not in any way alter our general right to refuse permission on reasonable grounds.

- 4.4 If you are a joint tenant, we will need the other tenant's written consent to the proposed change.

5.0 Transfer of Tenancy of Marital Home

- 5.1 This is a compulsory assignation which can be imposed in appropriate circumstances by the courts for example where there is a history of domestic violence, without the consent of either the landlord or the existing tenant.

- 5.2 In these circumstances the tenancy is transferred from one spouse to another. The new tenant takes on all the liabilities of the tenancy, apart from the existing rent arrears, which remains the responsibility of the spouse who was the original tenant.

- 5.3 If there is a joint tenancy, the court has the power to grant the tenancy to one party only.

6.0 Permission

- 6.1 Your Tenancy Agreement requires you to obtain our permission for an assignation. You must make your request in writing. We will not refuse the request unreasonably.

- 6.2 We will reply to your written request within one month of receipt of the written application. If we refuse this kind of permission, we must notify you of the reasons for our refusal in writing within one month of receipt of your application. If we do not reply within one month, we are taken to have agreed to your request *under the terms of Schedule 5, Part 2 of the Housing (Scotland) Act 2001*

7.0 Data Protection

- 7.1 When implementing the policies and procedures of Forth Housing Association all staff and committee members must adhere to and be aware of the requirements of the Association's approved Confidentiality Policy and the Data Protection Act 1998. In situations where there may be any doubt about the requirements of the Data Protection Act 1998 it is recommended that the Association seeks the views of its legal advisors.

8.0 Equal Opportunities

- 8.1 Forth Housing Association believes that certain sectors of the population are disadvantaged by individual and group values, as well as by organisational structures. Forth Housing Association seeks to avoid all such forms of discrimination by ensuring that there will be no discrimination on the grounds of race, colour, nationality (including citizenship), ethnic or national origins, religion, social background, disability, marital status, responsibility for children or dependants, gender, age or sexual orientation.

9.0 Appeals

- 9.1 Any appeal on a decision where consent had been refused should be made initially to the Housing Manager. Where the Housing Manager upholds the original decision, the tenant can pursue any further grievance through the Association's Complaints Procedure. This does not prejudice the tenant's right to raise a Court Action under Schedule 5 Part 2 of the Housing (Scotland) Act 2001.

10.0 Review Period

- 10.1 This Policy/Procedure will be reviewed no later than five years from the date of approval.
- 10.2 Consideration will be given to any changes in legislation, good practice or operational changes which may affect the content.

ASSIGNATION PROCEDURES

1.0 Assignment Procedure

- 1.1 The principal tenant must apply to the Association in writing, giving details of the proposed assignment. The assignee will complete a housing application form.
- 1.2 Housing Management staff will meet the principal tenant to discuss the implications of the assignment and carry out an inspection of the tenancy along with the Technical Services Assistant.
- 1.3 Housing Management staff will also meet or contact the assignee to obtain details to ensure that their circumstances comply with the eligibility criteria of this Policy.
- 1.4 The assignee will be advised of any tenancy problems which they will have to accept prior to the assignment proceeding and the implications of this.
- 1.5 If the assignee meets all the criteria, then the principal tenant will be advised in writing that the assignment can proceed. The Association must advise the tenant in writing within one month of receiving the assignment request, giving either consent or refusal.
- 1.6 An arrangement will then be made for the principal tenant and assignee to call into the office at which point the principal tenant can formally assign the tenancy over in writing by completing a minute of variation.
- 1.7 Housing Management staff will be responsible for all the relevant paperwork, computer system updates and all records amended within two working days of the assignment being completed.

MINUTE OF VARIATION OF TENANCY AGREEMENT

between

FORTH HOUSING ASSOCIATION LTD

and

[Tenant Name]

Subjects: [Address]

MINUTE OF VARIATION OF TENANCY
AGREEMENT

between

FORTH HOUSING ASSOCIATION which is registered with Communities Scotland and is therefore subject to Communities Scotland registration criteria and having its offices at 2 Viewfield Place, Stirling FK8 1NQ (who and whose successors are hereinafter referred to as "the Landlord") in respect of the Tenancy Agreement after mentioned

and

[**Tenant Name**] residing at [**Address**], (who and whose successors are hereinafter referred to as "the Tenant") in respect of the Lease after mentioned

WHEREAS the Landlord and the Tenant have entered into a Tenancy Agreement dated [**Enter initial start of tenancy date**] in respect of the property known as and forming [Address]; AND WHEREAS it has been agreed between the Landlord and the Tenant to vary the terms of the said Tenancy Agreement; THEREFORE the Landlord and the Tenant hereby agree as follows:-

(ONE) **Clause 1 of the said Tenancy Agreement is hereby varied to the effect that [Enter Tenants Name] is now the sole tenant of the property**

(TWO) Except as herein expressly altered or varied the provisions of the said Tenancy Agreement shall remain in full force and effect and the Landlord and the Tenant hereby confirm the said Tenancy Agreement and its whole clauses and content: IN WITNESS WHEREOF

On behalf of the Landlord

Full Name:Witness:

(Name in Full)

Signature:

Address in Full:

Place of Signing:

.....

Date of Signing:

On behalf of the Tenant

Tenant's Name in Full:

Witness:

(Name in Full)

Signature:

Address in Full:

Address of Tenant:

.....

Place of Signing:

Date of Signing:

* To be signed by every Tenant