



Estate Management Policy

Scottish Social Housing Charter Outcomes - Outcome 6 Estate management, anti-social behaviour, neighbour nuisance and tenancy disputes

Social landlords, working in partnership with other agencies, help to ensure that:

- tenants and other customers live in well maintained neighbourhoods where they feel safe.

This outcome covers a range of actions that social landlords can take on their own and in partnership with others. It covers action to enforce tenancy conditions on estate management and neighbour nuisance, to resolve neighbour disputes, and to arrange or provide tenancy support where this is needed. It also covers the role of landlords in working with others to tackle anti-social behaviour.

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1.0 INTRODUCTION

The Estate Management Policy seeks to ensure that tenants (and other customers) live in well maintained neighbourhoods where they feel safe. It defines the Association's approach to enforcement of the terms of the Tenancy Agreement in relation to the following areas: -

- General estate management issues
- Vandalism & Graffiti
- Pets
- Use of the house by the Tenant
- Duty to occupy the house
- Succession
- Sub-Letting and Lodgers
- Assignment
- Joint tenancies

The Estate Management Policy is complemented by:

- the Factoring Policy in relation to private owners in factored stock or where the Association owns or maintains common areas.
- the Maintenance Policy in relation to environmental maintenance and employment of contractors;
- the Customer Engagement Strategy in relation to the involvement of residents in relation to this aspect of the Association's services;
- the Equalities Policy in relation to meeting the different needs of the whole community served by OTHA.
- Our strategies for dealing with low demand properties.

1.2 Aims

The Policy aims to: -

- To promote conditions in which each resident can have quiet enjoyment of their home and to support tenants in adhering to the terms of their tenancy.
- To maintain the standards of the properties and surroundings within our ownership.
- To clarify the Association's policy in respect of keys terms of the Tenancy Agreement.
- To clearly define the respective responsibilities of the residents and the Association.
- To prevent breaches of tenancy and deal with breaches of tenancy in a prompt, cost effective, innovative, responsive and effective manner.
- To promote multi-agency working and co-ordination with local services provided by Inverclyde Council.
- To develop and encourage full participation by residents in the estate management of their area.
- Set targets against which the performance of staff and effectiveness of the service can be monitored.

1.3 Legal Framework

The Estate Management Policy will comply with:

- The Housing (Scotland) Act 2014 and the Housing (Scotland) Act 2001 – these specify the Scottish Secure Tenancy Conditions which provide the framework for the contractual tenancy arrangements and lays down the rights and responsibilities of landlord and tenant. The Housing (Scotland) Act 2014 came into force on 30 July 2018 and it changes some aspects of the law in respect of Scottish Secure Tenancies.
- Antisocial Behaviour (Scotland) Act 2004 – this makes provision for antisocial behaviour strategies, introduces anti-social behaviour orders as well as defining local authority powers to deal with a range of anti-social behaviour.

1.3 Responsibilities

The Housing Services staff team has responsibility for implementation of the Estate Management Policy.

The association may employ contractors to maintain landscaped and common areas where residents choose not to carry out maintenance themselves.

The Housing Officer/Housing Assistant teams have responsibility for:

- Estate Visits and close inspections
- Gardens
- dealing with problems
- handling complaints in their areas of responsibility
- monitoring the day to day effectiveness of cleaning and landscape maintenance services
- Vehicles
- Vandalism/Graffiti
- Unsatisfactory or poor condition of properties

The Senior Housing Officer has responsibility for: -

- monitoring the performance of all staff
- assisting the staff to deal with serious or persistent breaches of tenancy and dealing with all cases of harassment
- monitoring the operation of the policy, reporting to the Housing and Technical Services Sub-Committee (HTSSC) and carrying out the review of the policy
- liaison with other service providers to maximise their service.

1.4 Dealing with Breaches of Tenancy

The Housing Services staff team will endeavour to ensure tenants are fulfilling all conditions of the Tenancy Agreement. Breaches of tenancy do however, range from the very trivial to the very serious. The constraints put on the Association by limits on resources and by the costs of some remedies in response to a breach of tenancy must be taken into account. The response to an issue will be proportionate to the seriousness of the problem. The Housing Services staff will decide on whether legal action will be taken with the tenant having recourse to the Association's complaints procedure if they are dissatisfied with the decision'.

Where issues are not primarily of a housing nature, other agencies will be involved in order to resolve the problem, for example, the Police, the Health and Social Care Partnership (HSCP), Community Safety and Resilience. The Association will liaise with the relevant agency to ensure that they fulfil their responsibilities as well as working jointly to maximise the effect of any action taken.

1.5 Information to Tenants

It is important that all tenants are clear about their responsibilities and obligations. The details of the Tenancy Agreement and the obligations imposed on tenants will be defined in detail at the time of the tenancy signing and reiterated at the New Tenant visit.

The Tenant will also be issued with a Tenants Handbook, which provides an explanation of the key terms of the Tenancy Agreement and the Association's expectations. The Tenant Newsletter will be used to highlight issues, confirm the Association's Policy and to reinforce the responsibilities imposed on the Tenant imposed by the Tenancy Agreement. The general standards of service delivery that the tenant should expect will also be publicised through the newsletter.

When dealing with individual tenants, the staff will explain clearly the Association's policy and response to the relevant issue so that the tenant clearly understands the service, which is being provided.

1.6 Tenant Engagement & Feedback

The Association aims to ensure that its services are responsive to the needs of the communities that it serves. In practical terms, this means that the Association will:

- Take account of tenants' and residents' views when making decisions regarding the nature and type of services which are delivered.
- Consult with tenants when monitoring the quality of services.
- Respond positively to deal with individual complaints.
- Encourage any attempt to raise issues collectively by organising close meetings or public meetings if any demand is expressed.
- Measure satisfaction with complaints handling and other aspects of the service.

2.0 GENERAL ESTATE MANAGEMENT ISSUES

2.1 Back Court and Common Landscaped Areas

The Association will provide an environmental maintenance service to maintain the backcourt areas and common landscaping for all its tenants. Where the majority have stated that they do not wish this service and the area is maintained to an acceptable standard, the service will not be provided.

2.2 Cleaning of Common Close Areas

Residents are expected to make their own arrangements in conjunction with their neighbours to take turns cleaning the common areas within the tenement. The Housing Services staff will monitor the standard of cleanliness and make sure the tenants adhere to their tenancy conditions by:

- Carrying out regular inspections
- Responding to complaints regarding the performance of individual tenants

A close cleaning service may be offered where the residents unanimously agree to the service and, in certain circumstances, imposed where standards are unacceptably low and recharged as appropriate.

2.3 Close Window Cleaning

A window cleaning service may be offered for cleaning of common windows where residents agree unanimously to pay for the service and where it is not practical for residents to clean common windows.

2.4 Bulk Refuse/Items of Furniture

All residents are responsible for the disposal of items of bulk refuse/furniture by arranging for uplift by the local authority or another contractor of their choice. The Association will arrange for the removal of items as soon as reasonably possible where they pose a health and safety risk to residents. The cost of removal will be recharged to the resident responsible where they can be identified.

2.5 Policy on Pets

Tenants may keep a pet in line with their tenancy agreement subject to the following conditions:

- Tenants are obliged to ensure that their pets do not cause a nuisance to their neighbours.
- The dog is not allowed out on its own or without a lead
- The dog is not left alone for long periods particularly if it is likely to bark
- The pet does not cause a deterioration of or foul in any part of the property including the common areas.
- The pet is not prohibited by the Dangerous Dogs Act 1991.
- The association is entitled to require removal of the pet if it is causing a nuisance or damage.

If a tenant owns a dog(s) they are asked to complete a dog registration form and this information will be held on a database.

Tenants will be notified of any breach to allow them to rectify the breach. Tenants who persistently breach the above conditions will be required to remove their pet from the premises.

In certain cases, pets may not be allowed due to the design, location or the use of the house. Where a property has a lift, the keeping of pets is likely to be refused. Under these circumstances the tenant will sign a Scottish Secure Tenancy Agreement that specifies that dogs are not permitted.

2.6 Children's Use of Back Courts and Common Areas

The Association considers that it is reasonable to allow young children who are under responsible supervision to play in the backcourt area as long as consideration towards other neighbours is shown. If goodwill between neighbours does break down, this use of the backcourt area will be reviewed by the Housing Officer/Housing Assistant teams and may be banned. If there is a clear breach of tenancy due to the behaviour of children, the tenancy may be at risk.

2.7 Private Areas

The Tenant will be responsible for the upkeep of areas allocated to their single property for their exclusive use. The tenant must not remove, destroy or chop down any bushes, hedges or trees without our permission.

Gardens will be inspected by the Housing Officer/Assistants during the wider estate walk arounds, during close inspections and also following any comment or complaint from residents.

T. If the standard of a private area is poor or damage/nuisance is caused to another property, action will be taken to ensure the area is properly maintained. Any remedial works or works of maintenance will be recharged in full.

2.8 Vandalism and Graffiti

The Association will treat vandalism and non-offensive graffiti as an urgent repair and will notify the police in all cases. Removal of offensive graffiti or graffiti which constitutes harassment will be categorised as an emergency repair.

2.9 Vehicles

Residents should not park untaxed or un-licenced vehicles, caravans, boats or large trailers, horseboxes or mobile shop units. Abandoned vehicles dumped in the Association's car parks will be reported to Inverclyde Council and action will be taken to remove these vehicles.

2.10 Performance Targets

The Housing Officer/Housing Assistant teams will carry out estate management inspections for all closes on a quarterly basis as a minimum. Closes that require extra attention will be inspected more often as required. Ad hoc inspections will be carried out to respond to complaints or where standards are unsatisfactory as part of the management of improvement. The performance in respect of inspection rates and details of the nature of estate management issues will be reported to the HTSSC on a quarterly basis.

3.4 How we deal with your complaint

All complaints will be treated seriously and with impartiality until evidence has been gathered to provide a fuller picture as to the justification behind the complaint. Tenants will be kept informed at all stages of the action, which is proposed in response to their complaint, and their wishes will be taken into account.

The association will maximise the use of resources and services provided by other agencies to assist in the prevention and alleviation of anti-social behaviour. An effective partnership will be built with the relevant services including the Community Warden Service, the Police Service, the Environmental Protection Team, Community Safety and Resilience, the Anti-Social Investigation Team, Mediation Service, and the Anti-Social Behaviour Enforcement Team. The association will attend the appropriate multi agency tasking and co-ordinating meetings to ensure co-ordination of all agencies efforts to combat anti-social behaviour.

Clear records will be kept of all complaints and action taken, particularly if legal action may result. All discussions will be recorded and confirmed by letter.

Confidentiality regarding the source of any complaint will be maintained. Respecting the complainant's request for confidentiality may limit the action, which can be taken. In some cases, the identity of the complainant may be obvious and this should be discussed with the complainant where this fact may have a bearing on the case. The identity will not be revealed unless the complainant specifically gives permission for the identity to be revealed and the complaint cannot be properly dealt with whilst keeping their identity secret. A protocol has been signed to allow release of information between the agencies in line with their statutory functions.

Complainants will be given a realistic explanation as to the action, which the Association may or may not be able to take. For example, the ultimate sanction of eviction would only be possible in the most extreme of cases. The most common response to a complaint would be letters, visits and a close monitoring of the situation.

Attempts will be made to verify any statements made, especially where third party reports, for example, from the Police, Community Wardens or other neighbours, can be obtained. Tenants should be encouraged to keep a log of incidents detailing the date and time, to contact the Police, Community wardens or other services where appropriate, especially where legal action is a possibility and supporting evidence will be required. Verification can help to establish where problems are occurring because of a neighbour dispute rather than a clear-cut case of breach of tenancy. Sound monitoring equipment will be used where appropriate.

Where after investigation, the complaint is found to be without substance, or the complainant will not follow reasonable and specific steps to assist the association to resolve the complaint, the complainant will be informed that no action will be taken.

In the case of disputes between neighbours, where complaints and counter complaints are present, with neither party clearly in the wrong, mediation will be promoted as the appropriate response.

Where a complaint cannot be verified, the Association will limit its response to bringing the matter to the other party's attention and recording their response. The Association can consider whether other ways of gaining evidence exist and whether it would be reasonable to pursue this path in relation to the seriousness of the complaint.

Pre-emptive or preventative action can be taken wherever appropriate to prevent a breach of tenancy, for example, by use of sensitive allocations, providing a clear description of the terms of the tenancy agreement at tenancy signings, intensive estate management in problem closes or involvement of other agencies where their involvement may be helpful.

The response to a complaint will depend on:

- the severity of the complaint
- the evidence available or obtainable to support the complaint
- the wishes of the person making the complaint
- the response of the Tenant who has committed the breach
- The area of responsibility which may be shared with other service providers

Category 1 Complaints

The Housing Officer/Housing Assistant teams will deal with Category 1 complaints. The normal response to the more routine type of complaint is to issue a warning to the Tenant who has committed the breach. Intensive estate management with increased levels of inspections will often be useful once the Tenant's responsibilities have been clearly defined.

Other agencies will be involved if relevant. In cases involving noise where there is no independent verification of the complaint, the use of sound monitoring equipment or the out of hours call out service will be sought.

Consideration of any preventative action can also be relevant. For example, physical improvements to the property, such as improved fencing or installation of controlled entry systems may be of assistance to remove a problem.

Category 2 Complaints

The Housing Officer/Housing Assistant teams will deal with complaints in this category. The usual response to the more routine type of complaint will be to issue a warning to the Tenant who has committed the breach. If the breach is particularly serious or is persistent then the appropriate Notice of Proceedings will be served and if the problems continue, the Housing Officer/Housing Assistant teams will continue to collect evidence to build a case for repossession. Residents will also be asked to keep a log of incidents to assist with any legal action.

Where other agencies have relevant responsibilities, they will be involved at an early stage either by the Association or by encouraging the Tenant to make a complaint directly. The Association will always make a complaint to the Police when its property has been damaged. Joint working with HSCP will be pursued where this may be helpful.

Category 3 Complaints

The Senior Housing Officer and Housing Officer may jointly deal with the complaint if required

If criminal acts are being alleged, the Police will be informed and the complainant will be encouraged to make a complaint to the Police. If juveniles are involved, a report can be submitted to the Reporter to the Children's Panel. Liaison with the ASIST Team will take place at an early stage to identify if any additional evidence may be available to support legal action.

If sufficient evidence is available to support a court action for repossession the appropriate notice will be served and court action instructed. If, in the opinion of the Senior Housing Officer after taking legal advice, insufficient evidence is available to support a case for repossession, a Notice of Proceedings will be issued at this point and a warning issued. The Senior Housing Officer will consider whether an Antisocial Behaviour Order may be appropriate and liaise with the ASIST Team to pursue this avenue.

Steps will then be taken to collect evidence to support a case and the Tenant who has committed the breach will be formally warned of this fact. This process relies on good record keeping in relation to all complaints and the action taken in response to them. The use of diaries for Tenants/Residents to record any incidents accurately and timeously can be promoted.

If intimidation is a factor, the Housing Officer/Housing Assistant teams will consider alternative ways of collecting evidence.

3.5 Anti-Social Behaviour

The Association will act positively in partnership with other agencies and local residents to reduce and alleviate anti-social behaviour occurring within its area of operation. The strategy adopted will include a positive strategic approach to prevent anti-social behaviour and the application of appropriate punitive action in relation to individuals where appropriate.

Serious anti-social behaviour is likely to result in several complaints, although the information received may be informal due to intimidation of local residents. Where criminal acts are being committed, the Association should pass on information to the Police and may do so without further investigation. Liaison with the ASIST Team and Community Warden Service will take place at an early stage and throughout the course of the complaint.

In these extreme cases, building a case for eviction has to begin early with good record keeping and the use of diaries of anti-social behaviour and co-operation with the Police & ASIST Team. Where intimidation is a factor, the Association can consider alternative ways of collecting evidence such as the use of covert cameras or professional witnesses as well as maximising the input of the Community Warden Service and the ASIST Team Out of Hours Service.

In certain circumstances of Anti-Social Behaviour the Housing (Scotland) Act 2014 allows Housing Associations to convert a tenancy from a Scottish Secure Tenancy (SST) to a Short Scottish Secure Tenancy (SSST) which means this gives tenants fewer rights and less protection from eviction. However the tenant will have the right to appeal against any decision to convert a tenancy to a SSST.

3.6 Neighbour Disputes

Care will be taken to distinguish between genuine breaches of tenancy and disputes between neighbours. The root cause of a complaint may be a conflict of lifestyles coupled with intolerance of each other's behaviour rather than one party committing breaches of tenancy.

The Housing Officer/Housing Assistant teams will be required to investigate adequately to form a view of the truth of allegations. Counterclaims and retaliation will be discouraged. The Housing Officer/Housing Assistant teams may have to be assertive to try and calm the situation and to reduce the involvement of the Association. Neighbours will be encouraged to sort their problems out between themselves where this is possible. Mediation will be promoted subject to the consent of at least one party and the criteria for successful mediation being met.

3.7 Harassment

Oak Tree Housing Association will not tolerate harassment of any Tenant by another person or persons on the grounds stated in the Tenancy Agreement. Where a complaint of harassment is received, the Association must react positively in line with the Equalities Policy to actively discourage the behaviour.

Allegations must be discussed in detail with the victim to gain a full picture of the harassment. The allegations are assumed to be true in the first instance. The victim's wishes are given paramount consideration at all stages when dealing with the complaint. Steps will be taken immediately to remedy damage or remove graffiti to minimise distress.

Possible options to deal with a case of harassment are as follows:

- Pursuing a management allocation
- Making a joint complaint to the Police
- Legal action to terminate the tenancy of the perpetrator, if a tenant
- Seeking an Anti-social Behaviour Order

These will be pursued subject to the wishes of the victim. The Housing Manager will oversee action in all cases of harassment and all cases will be reported to the HTSSC.

3.8 Performance Targets

The indicators to measure performance for complaints are:

Number of complaints received.

Number of cases resolved and % resolved within locally agreed target timescales.

Satisfaction % with resolution achieved for cases resolved in period.

The Scottish Housing Regulator defines "resolved" and "local agreed timescales" as

Resolved - where the landlord has taken appropriate measures, as set out in its ASB policies and procedures, to address the cause of the anti-social behaviour complaint; or where the landlord does not have the authority or powers to resolve it has provided a full explanation of the landlord's position.

Locally agreed target timescale - Timescales set by the landlord, following consultation with its tenants, for managing their range of anti-social behaviour cases. It is acceptable for timescales to vary depending on the severity of the anti-social behaviour.

3.9 Monitoring and Review

The SDM Complaints Module keeps a record of all complaints received, the category of the complaint and action taken including response times. The performance in respect of response times and details of the nature of complaints made will be reported to the HTSSC on a quarterly basis.

4.0 DUTY TO OCCUPY THE HOUSE

4.1 Under the terms of all the tenancy agreements, Tenants have a duty to occupy their house. A property which lies empty is a waste of public resources as well as being at risk from vandals. The Association will attempt to ensure that properties are occupied by Tenants.

An abandoned house is one which is unoccupied and where the Tenant has no intention of occupying it as their home. The following policy lays down the policy in response to an abandoned property.

Before determining whether the house has been abandoned the Housing Officer/Housing Assistant teams will make strenuous efforts to locate the Tenant, confirming that the house is empty and that it is the intention of the Tenant not to occupy the house.

Once the Housing Officer is confident that the house has been abandoned, the policy below will apply:

4.2 Abandonments In Scottish Secure Tenancies

The Housing (Scotland) Act 2001 makes statutory provision for a procedure to end a tenancy in the case of an abandoned house without going to court.

The Act calls for the service of 2 notices, one giving one month's notice in writing of the intention to end the tenancy, the second notice bringing the tenancy to an end

Service will be by delivery through the letterbox by the Housing Officer/Housing Assistant witnessed by another member of staff.

If no contact is made by the Tenant and continued efforts to gain information regarding their whereabouts or intentions are unsuccessful, the tenancy will end at expiry of the notice. Entry will be forced and witnessed by the Housing Officer/Housing Assistant who will take a full inventory and take photographs of the tenant's property on the premises and the condition of the house.

The house will be cleared and locks changed. The house will be re-let as soon as possible. Notice shall be served on the tenant, by recorded delivery if necessary, that their property is available for delivery to them on payment of the expenses incurred in dealing with the property. If items are left in the flat then these will be stored for 28 days to allow time for the tenant to collect their belongings. However, if the value of the property exceeds the cost of storage and any arrears owing, it will be stored for 6 months.

If the Tenant makes contact within 6 months from the end of tenancy, they may show good cause for not making contact within the 28 days and their continuing intention to occupy the house in which case they will be reinstated as the Tenant. In practice if the house has been re-let, this may mean that an alternative let will be offered. They will be informed of their right to appeal to the court within 6 months of the repossession if this is refused.

4.3 Abandonment by a Joint Tenant

Where a joint tenant has abandoned the joint tenancy and after making enquiries, the Association is satisfied that they are not occupying the house and do not intend to occupy it as their home, the Housing Officer/Housing Assistant teams may end their interest in the tenancy by the service of two notices to their current address or if they know of any forwarding address..

Where a joint tenant is aggrieved by this action, they will be informed of their right of recourse to the court. The Association will comply with any order of the court.

The Senior Housing Officer will keep a record of abandoned homes. Details will be reported to the HTSSC for their information

5.0 SUB-LETTING AND LODGERS

From the 1st November 2018 Housing (Scotland) Act 2014 a tenant applying to sub-let a property must have lived there, as their only principal home, for 12 months. The Scottish Secure Tenancy Agreement specifies that if a tenant wishes to take in a lodger or sublet all or part of their house, the Tenant must obtain the Association's written permission. The Tenant must tell us in writing the details of who they wish to sublet to or take as a lodger, the amount of rent and other payments to be charged and the proposed start date of the arrangement.

The Association will not unreasonably refuse consent. Consent of any joint tenant or spouse will be required before such a request is considered. Consent is automatically granted if a response is not made within one month to any such request. There is a right of appeal to a Sheriff if permission is unreasonably withheld.

5.1 Conditions for Approval of a Sub-let

The Association will only consider permitting a sub-let in circumstances where a Tenant is unable to occupy their property for a temporary period to allow them to gain assistance in meeting their rental obligations.

The Tenant will choose and be responsible for the sub-Tenant who will have no rights against the Association relating to the occupation of the property. The granting of permission does not absolve the Tenant from any of the responsibilities of their tenancy

Approval will normally be granted if the following conditions are complied with:

- The Tenant has had a valid reason for being absent from the property for a temporary period. This will normally be a period less than 6 months and rarely up to one year. A valid reason will normally be related for example to employment, a prison sentence or family circumstances requiring the Tenant to leave the area. The intention to return must exist.

- The proposed rent does not exceed the rent charged by the Association. A reasonable charge may be levied in addition for services provided for costs, which are included in the charge made.
- The contact name of the Tenant and a local contact name are available if the Tenant is leaving the area.
- The house will not be overcrowded.

An application may be refused for the following reasons:

- The rent or other charges are unreasonable
- The Association is seeking or has obtained decree for eviction.
- The property would be overcrowded
- Work to the property is proposed which conflicts with the request
- There is no intention for the tenant to return to the property
- There are rent arrears or other liabilities due to the association in excess of a month's rent or other serious breaches of tenancy
- Consent of a joint tenant or spouse has not been forthcoming
- There is concern about the ability of the proposed sub-tenant to comply with the terms of the tenancy agreement. This decision can only be taken on the basis of clear evidence and the reason must be communicated to the parties with details of their right of appeal.

The Housing Officer/Housing Assistant will interview both the Tenant and the proposed Sub-Tenant to gain sufficient information to make a recommendation to the Housing Services Manager as to whether the sub-let should be granted. All parties must be made aware of their rights and responsibilities and of their right to appeal against any decision made including the right to refer the issue to a Sheriff.

5.2 Conditions for approval to take in a Lodger

The application will normally be approved if the following conditions are satisfied:

- The application will not result in overcrowding
- The rent and other charges are reasonable

The application is likely to be refused if:

- The Association is seeking or has obtained decree for eviction
- The rent or other charges are unreasonable
- The property would be overcrowded
- Work to the property is proposed which conflicts with the request
- The tenant is not intending to live in the property
- There are rent arrears or other liabilities due to the association in excess of a month's rent or other serious breaches of tenancy
- Consent of a joint tenant or spouse has not been forthcoming
- There is concern about the ability of the proposed lodger to comply with the terms of the tenancy agreement. This decision can only be taken on the basis of clear evidence and the reason must be communicated to the parties with details of their right of appeal.

5.3 Short Scottish Secure Tenancies

No sub-lets will be permitted for Short Scottish Secure Tenancies.

5.4 Sharing Owners

The Occupancy Agreement governing the contractual arrangements on which the Shared Ownership arrangement is based contains agreement to occupy the house as their only or main home and a prohibition of sub-letting in whole or in part of the house without the Associations prior written consent. Sub-letting a shared ownership property should not be a long-term situation.

Sharing Owners will be required to request permission in writing prior to a sub-let giving full details as in the case of Tenants described above. The sharing owner status as a part owner of their property requires that they should have greater freedom over disposal of their property. The presumption will be that permission to sub-let will be granted unless substantial grounds for refusal exist. Conditions may be imposed in relation to the period of sub-let or any other matter as the Housing Services Manager sees fit.

The Sharing Owner will be required to seek permission from their lender (if relevant) where a sub-let is requested.

The Sharing Owner will retain control over the rent to be charged, as they will retain financial responsibility for their mortgage, rental and insurance commitments and for any repair obligations arising out of the sub-let.

6.0 SUCCESSION

A succession is where a person may succeed to the tenancy after the Tenant's death. Following the death of a Tenant, the Tenancy Agreement states the law governing the entitlement to a succession.

Under the new Housing (Scotland) Act 2014 – partners or other family members or carers will have to have lived in the property for at least 12 months as their only principal home before being able to succeed the tenancy. There is no qualifying period for the tenant's spouse, civil partner or joint tenant but in all cases the person must have been living in the house as their only or principal home at the time of the tenant's death.

It is important to note that when the new residing requirements come into place, the Association must have been notified that the person is living in the house because the qualifying period dates from the time that the landlord was notified.

In summary, following the death of a Tenant the tenancy will pass in order of the following:

Level One

- the husband or wife or co-habitee if the property was their only or principal home at the time of death; OR
- a joint tenant, if the property was his or her only or principal home at the time of death.

I. If more than one person qualifies for the tenancy under Level One, they must decide among themselves who should get the tenancy. If they cannot agree, the Association will decide.

Level Two

If no one qualifies at Level One, or a qualified person does not want the tenancy, it may be inherited by a member of the family as long as:

- he or she is aged at least 16 at the date of death;
- the property was his or her only or principal home at the date of death.

If more than one person qualifies for the tenancy under Level Two, they must decide among themselves who should get the tenancy. If they cannot agree, the Association will decide.

Level Three

If no-one qualifies at Level One or Level Two, or a qualified person does not want the tenancy, it will be inherited by a carer as long as:

- he or she is aged at least 16 at the date of death;
- the property was his or her only or principal home at the date of death;
- he or she gave up another only or principal home before the death of the tenant;
- He or she is providing, or has provided, care for the tenant or a member of the tenant's family.

If more than one person qualifies for the tenancy under Level Three, they must decide among themselves who should get the tenancy. If they cannot agree, the Association will decide.

Where the house has been designed or substantially adapted for a person with special needs, if someone qualifies for the tenancy at Level Two or Three, the Association will have the right to terminate the tenancy and offer that person suitable alternative accommodation. Where, in the case of such a property, at the point of a second succession someone qualifies at Level One, Level Two or Level Three and does not have special needs requiring accommodation of that kind, we have the right to terminate the tenancy and offer that person suitable accommodation.

From 1 May 2019, the Housing (Scotland) Act 2014 specifies that an Association can ask a Sheriff to grant an order to end a tenancy of an adapted property that is not being occupied by someone who needs the adaptations.

If more than one person is qualified to succeed, the Association will determine who will succeed after consideration of all the circumstances of the case including the welfare of all affected persons and the age and attributes of the individuals involved. The Housing Services Manager will make a recommendation to the HTSSC who will make the final decision.

A maximum of two successions will be permitted unless there is a surviving joint tenant following the last death. Where a succession is refused because of a previous succession, the qualified person will be allowed to stay for up to 6 months to assist them with finding alternative accommodation.

The Association recognises that the death of a Tenant is likely to be a traumatic time for the family and staff will be considerate in dealing with all aspects of a succession. Where a case does not fall within the criteria above, but undue hardship may result from failing to grant a succession, the Housing Services Manager may refer the decision to the Housing Management Sub Committee who may make a discretionary

award of a tenancy. The needs of the person involved must be set against the needs of the applicants on the Association's waiting list.

Consideration will be given to the circumstances of the person(s) involved, the housing options open to them, the length of time resident in the property, and the suitability of the property for their needs.

Where a property does not match the needs of a person qualified to succeed they should be offered a more suitable property of similar quality. They will retain the right to refuse. Where the property does not match the needs of someone who is being offered a discretionary tenancy, they will be offered a more suitable property of similar quality rather than the tenancy of their current home.

Proof will be required regarding all aspects of the case although this will be requested tactfully. A person wishing to succeed to a tenancy must notify the Association within 28 days of the death.

7.0 ASSIGNATION

An assignation is where the Tenant wishes to assign the rights and responsibilities of the tenancy onto another person. The Scottish Secure Tenancy Agreement allows for assignation of the tenancy with the written consent of the Association, which will not be unreasonably withheld. The property must have been the only or principal home of the person to whom the tenancy is to be assigned for at least 6 months prior to the date of the request. From November 2018 the qualifying period will change to 12 months.

The request must be submitted in writing and if an intimation of refusal or consent is not given within one month, consent is deemed to have been granted. The consent of any joint tenant, spouse or co-habitee will be required before consideration can be given to any request. The reasons for any decision will be given as well as the details of the right of appeal. Apart from utilising the Association's appeals procedure, the tenant has the right of appeal to the sheriff if consent is unreasonably withheld.

Under the Matrimonial Homes Act (Family Protection) (Scotland) 1981, a spouse or co-habitee has occupancy rights in 'marital' home. In the one case the rights are conferred automatically by marriage, in the other the rights have to be applied for in court. A spouse or co-habitee can apply to have the occupancy rights of the other party terminated which effectively means the tenancy can be assigned to them.

The Association will comply with any court order relating to assigning a tenancy. The Association must also consider cases where a Tenant voluntarily wishes to assign the tenancy. In doing this however, the needs of the parties involved must be set against the needs of those on the Association's waiting list for housing. There is an obligation to avoid people using assignation as a way to 'queue jump'.

An assignation (other than one awarded by a court) will only be granted if the following conditions are complied with:

- The person to whom the Tenant wishes to assign the Tenancy consents to the assignation of tenancy and to the assumption of all the obligations of the tenancy.
- The assignation is to a person who would have otherwise been entitled to succession rights as defined by the tenancy agreement had the Tenant died.
- The assignation satisfies one of the following conditions:

- (1) In the opinion of the Housing Services Manager, a valid management benefit exists from allowing the assignation or
- (2) The assignation is proposed as a result of circumstances acting upon the Tenant and the refusal of the assignation would lead to undue hardship to the person(s) involved. An assignation will not be approved if the Tenant is voluntarily giving up the tenancy and has not given due consideration of the needs of their family, except in the case of a relationship breakdown between spouses or co-habitees.

In addition, the application is likely to be refused if:

- The Association is seeking or has obtained decree for eviction
- The assignation would lead to the property being overcrowded
- The assignation would lead to the property being under-occupied
- There are rent arrears or other liabilities due to the Association in excess of a month's rent or other serious breaches of tenancy
- Consent of a joint tenant or spouse has not been forthcoming
- There is concern about the ability of the proposed assignee to comply with the terms of the tenancy agreement. This decision can only be taken on the basis of clear evidence and the reason must be communicated to the parties with details of their right of appeal.

The decision as to whether an assignation should be granted will be taken by the Senior Housing Officer after looking at all the circumstances of the case including:

- the reasons for the proposed assignation,
- the needs of the individuals involved,
- the options open to the family members,
- the suitability of the accommodation in the short and long term
- the demand from direct applicants for the property.

8.0 Joint Tenancies

A joint tenancy is where a tenancy is held jointly by two people. A tenant may apply to have their tenancy converted to a joint tenancy. The Association will not unreasonably refuse permission. The tenant must submit their request in writing giving details of the identity of the proposed joint tenant. From November 2019 the Housing (Scotland) Act 2014 specifies that when requesting to add a new tenant to the tenancy agreement the new tenant must have lived in the property as their principal home for 12 months before making the application.

The application is likely to be refused if:

- The Association is seeking or has obtained decree for eviction
- There are rent arrears or other liabilities due to the Association in excess of one month's rent or other serious breaches of tenancy
- Consent of any spouse or co-habitee has not been forthcoming
- Permission to reside has been refused

9.0 REVIEW OF POLICY

The Estate Management Policy will be reviewed every 4 years, or as required due to changes in the law, by the Housing and Technical Services Sub-Committee.