

# **FORTH HOUSING ASSOCIATION LIMITED**

## **SUB-LETTING & LODGERS POLICY**

Governance:	Housing Management
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Cross Reference:	HM 03 Allocations HM 11 End of Tenancy Procedures HM 19 Start of Tenancy Procedures MO 08 Minimum Standard For Re-let Properties
Guidance:	Housing (Scotland) Act 2001 Housing (Scotland) Act 2014  Forth's Scottish Secure Tenancy Agreement
Regulatory Standards Of Governance and Financial Management	Standard 4 - 4.1, 4.2 Standard 7 - 7.5



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## **SUB-LETTING & LODGERS POLICY**

### **1.0 Introduction**

- 1.1 The purpose of this policy is to outline Forth's requirement to accept and consider any application to sub-let a tenancy or take in a lodger as set out in the *Housing (Scotland) Act 2001*, and as amended by the Housing (Scotland) Act 2014
- 1.2 Sub-letting describes the process which takes place when a tenant (the principal tenant) rents all or part of their home to another person. This person then becomes the sub-tenant of the principal tenant.
- 1.3 A lodger can be defined as a person, who is not related to the tenant as someone who occupies a room or rooms of a tenanted property and may receive services in relation to the accommodation - meals, laundry services, utility bills etc.

### **2.0 General Principles**

- 2.1 Tenants have the right to sub-let their homes or take in a lodger provided the eligibility criteria are met and they have the prior written consent of the Association.
- 2.2 If a tenant wants to sub-let all or part of their tenancy, the tenant must have been the tenant of the house for the 12 months immediately before they apply for written permission to sub-let their home
- 2.3 If the tenant wanting to sub-let has not been the tenant for that 12 month period, they can still be considered for a sub-let if they have been in the property for at least 12 months and became the tenant during that time, but we must have been informed previously in writing that they were living in the property. For example, this could be someone who was living with a former tenant as part of their household and then became the tenant by succession during the 12 month period. They would be able to apply to sub-let as long as we had been notified that they were living in the property as part of the household.
- 2.4 In assessing an application, Forth will not withhold consent unreasonably. The Association will take account of both the tenant's and the proposed sub-tenant's/lodgers circumstances both of which should satisfy the criteria set down in Section 32 and Part 2 of Schedule 5 of the Housing (Scotland) Act 2001 and Section 12(2) of the 2014 Act.
- 2.5 The Association will ensure that the tenant understands the implications of subletting or having a lodger.

- 2.6 There is no legal relationship between the sub-tenant or Lodger and the Association. The principal tenant will continue to be responsible for all the conditions of the tenancy and to pay rent directly to the Association.
- 2.7 The Sub-tenant or Lodger does not have rights of succession to the property.
- 2.8 The tenant will be responsible for any costs incurred by the Association in relation to the sub-let or lodging.
- 2.9 The period of the sub-let/lodging will be for a maximum of six months. The sub-let may be extended beyond this maximum period at the discretion of the Association.

### **3.0 Reasons For Which An Application May Be Refused**

- 3.1 Although the list is not exhaustive, below are some of the grounds under which an application to sub-let/lodging may be refused:-
- A Notice of Recovery of Possessions has been served against the tenant on any of the “conduct grounds” set out in paragraphs 1-7 of Schedule 2 of the Housing (Scotland) Act 2001
  - An Order for Recovery of Possession has been made against the tenant
  - A payment has been received by the tenant, in cash or in kind, in consideration of the sub-let/lodging other than a reasonable rent or deposit
  - The sub-let/lodging would lead to an overcrowding situation
  - The property in question has had substantial adaptation of has design features which are not required by the sub-tenant.
  - Where there is substantial damage or disrepair to the property caused by the tenant, a member of the household or a visitor to the property
  - Where a scheme has been specifically designated for a particular client type and the prospective sub-tenant/lodger does not meet the criteria
  - Where the term or the conditions of the sub-letting/lodgers arrangement are deemed to be unreasonable
  - The tenant has outstanding debt owed to the Association in terms of their tenancy
  - The prospective sub-tenant/lodger has deliberately omitted, distorted or given false information on their application
  - The prospective sub-tenant/lodger has pursued a course of anti-social behaviour or has been convicted of using a previous tenancy for illegal or immoral purposes or has an Anti Social Behaviour Order (ASBO) out against them within the past 3 years

### **4.0 Appeals and complaints**

This section summarises our appeals and complaints system; information on these procedures are available as requested.

## **4.1 Appeals**

Any individual requesting to sublet their tenancy or take in a lodger can appeal against a decision taken in line with this policy. They should appeal in writing to the Tenant Services Manager stating the grounds of their appeal.

If the individual remains dissatisfied with the decision, a written appeal can then be lodged with the Appeals Committee at the next appropriate meeting after the receipt of the appeal. This is subject to ratification by the Management Committee whose decision is final.

## **4.2 Complaints**

Complaints are different from appeals. Any complaints are dealt with under our Complaint Policy.

For example, an individual may complain if we don't:

- apply the Subletting and Lodgers Policy properly; or
- provide services in line with our published organisational standards.

We give tenants a copy of our complaints policy and procedure when they sign their tenancy agreement. We inform all applicants in our general information pack.

This information includes details about the Scottish Public Services Ombudsman; this agency deals with complaints involving failure to implement services properly (maladministration).

Applicants must use our internal complaints system before contacting the Ombudsman.

## **5.0 Policy Review and Period**

- 5.1 Management Committee will review this policy at least every 3 years, and staff are responsible for ensuring that they meet legal and good practice requirements.