

FORTH HOUSING ASSOCIATION LIMITED

SUB-LETTING & LODGERS POLICY

Code: HM10 – Tenant Services

Approval: January 2023

Review Date: January 2026

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



This document can be made available in alternative languages or formats (such as large print, audio etc). Please contact staff as required.

Policy Summary

This policy has been developed to show how Forth Housing Association manage sub-let and lodger requests from tenants.

Equalities

No equalities issues have been identified in the Equalities Impact Assessment Screening Questions and there is therefore no requirement to do a full Equality Impact Assessment.

Privacy

Data Protection legislation applies to customer records which will be managed accordingly. There is no requirement to do a full Privacy Impact Assessment.

Policy Owner

Name: Mareta Greig

Date of Next Review: January 2026

FORTH HOUSING ASSOCIATION LIMITED

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*

2.0 Principles

- 2.2 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.
- 2.3 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.

3.0 Aims and Objectives

- 3.1 The purpose of the Sub-letting & Lodgers Policy is to provide guidance to staff and tenants on how a request can be made and the likely outcomes.
- 3.2 The Policy further specifies conditions required to be met in order to obtain permission to either sub-let a property or request permission to accommodate a lodger.
- 3.3 Tenants must comply with our guidelines. Failure to do so could result in enforcement action, which might include court action.

4.0 Policy Framework

- 4.1 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.
- 4.2 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
- 4.3 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.

- 4.4 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.
- 4.5 The Association will ensure that the tenant understands the implications of subletting or having a lodger.
- 4.6 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.
- 4.7 The Sub-tenant or Lodger does not have rights of succession to the property.
- 4.8 The tenant will be responsible for any costs incurred by the Association in relation to the sub-let or lodging.
- 4.9 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.
- 4.10 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

5.0 Monitoring of the Policy

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

6.0 Complaints and Appeals

- 6.1 Forth Housing Association welcomes complaints and positive feedback, both of which provide information which helps us to improve our services. We use a complaints procedure developed by the Scottish Public Services Ombudsman (SPSO) and the Scottish Housing Regulator.

The complaints procedure allows for most complaints to be resolved by front line staff within a five day limit (first stage), or if the complaint is complex, a detailed investigation will be made by a manager within a 20 day limit (second stage). At the end of the second stage our response will be made by a director. If the customer remains dissatisfied, he/ she may then refer the matter to the SPSO.

At each stage we will advise the customer how the complaint should be taken forward and advise which agency would be most appropriate to consider the case.

7.0 Equalities

- 7.1 Equality and diversity underpin all our activities and services. When delivering our services, we never discriminate on the basis of sex or marital status, race, disability, age, sexual orientation, language, social origin, or of other personal attributes, including beliefs or opinions such as religious beliefs or political opinions. Full details of our Equalities Policy can be found on our website www.forthha.org.uk or can be obtained from our office.

8.0 Data Protection - Privacy

- 8.1 We recognise the importance of data protection legislation, including the General Data Protection Regulation, in protecting the rights of individuals in relation to personal information that we may handle, use and disclose about them, whether on computer or in paper format. We will ensure that our practices in the handling, use and disclosure of personal information as part of the processes and procedures outlined in this policy comply fully with data protection legislation. More information is available from our Data Protection Officer

9.0 Availability

9.1 This policy is available on our website and can be made available in a number of other languages and other formats on request.

10.0 Review

10.1 This policy will be reviewed at least every 3 years by the Management Committee and staff are responsible for ensuring that it meets legal and good practice requirements.

Appendix 1 Equality Impact Assessment Screening Questions

Forth Housing Association Ltd Equality Impact Assessment Screening Questions

Subletting & Lodgers

Will the implementation of this policy have an impact on any of the following protected characteristics?

- | | | |
|-----------------------------------|------------------------------|--|
| 1. Age | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Disability | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Gender reassignment | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Marriage and Civil Partnership | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 5. Pregnancy and Maternity | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 6. Race | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 7. Religion or belief | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 8. Sex | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 9. Sexual orientation | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

If you have answered 'Yes' to any of these points, please complete a full Equality Impact Assessment. If you have answered 'No', you need take no further action in completing an Equality Impact Assessment

Appendix 2 Equality Impact Assessment Screening Questions

Forth Housing Association - Privacy Impact Assessment

1. A substantial change to an existing policy, process or system that involves personal information
Yes No
2. A new collection of personal information
Yes No
3. A new way of collecting personal information (for example collecting it online)
Yes No
4. A change in the way personal information is stored or secured
Yes No
5. A change to how sensitive information is managed
Yes No
6. Transferring personal information outside the EEA or using a third-party contractor
Yes No
7. A decision to keep personal information for longer than you have previously
Yes No
8. A new use or disclosure of personal information you already hold
Yes No
9. A change of policy that results in people having less access to information you hold about them
Yes No
10. Surveillance, tracking or monitoring of movements, behaviour or communications
Yes No
11. Changes to your premises involving private spaces where clients or customers may disclose their personal information (reception areas, for example)
Yes No

If you have answered 'Yes' to any of these points, please complete a full Privacy Impact Assessment. If you have answered 'No', you need take no further action in completing a Privacy Impact Assessment.