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Housing Service

# Tenancy Management Policy

<b>Responsible Officer:</b>	Team Leader – Housing Management
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## Abandoned Tenancies

If we have reason to believe a house let to you under a secure tenancy is unoccupied, and that you do not intend to occupy it as your home, we will visit your home and carry out basic inquiries to try to find out where you are. We will also write to you asking you to let us know within three weeks if you intend to occupy the house.

If your house is not secure, we will arrange for it to be secured. We can if necessary force open doors in order to secure the house e.g. open windows.

If you do not contact us, we will write to you again, giving you one week to respond.

If you have still not been in contact, and we are unable to determine your whereabouts, we will issue an Abandoned Tenancy notice. This notice will state that we believe the house is unoccupied and that you do not intend to occupy it as your home. We will ask you to inform us in writing within four weeks if you intend to occupy the house as your home; and if at the end of four weeks it appears to us that you do not intend to occupy the house as your home, your tenancy will be terminated.

If there are any items of furniture or personal belongings left in the house, we will also serve a notice under the Scottish Secure Tenancies (Abandoned Property) (Scotland) Order 2002.

At the end of the four week period, if we have made inquiries and are satisfied that you do not intend to occupy the house as your home, we will serve a further notice on you, which will automatically end your tenancy from the date of service. We can then take possession of the house without any further proceedings.

If the house has not already been secured, it will be secured as soon as possible after serving the second notice.

If there are any items of furniture or personal belongings left in the property, we will take an inventory of these and arrange for them to be removed and stored for a period of six months. You will be recharged for the cost of storage of the items.

A copy of the inventory will be held on the Register of Abandoned Property for a period of five years, from the date on which possession of the house is taken.

Any unclaimed items will, after a period of six months from the date of end of tenancy, be sold or disposed of as appropriate. Any monies received from the sale of any property will be offset against any storage charges and rent account debt.

If at the stage of serving the first Notice or at any other stage of the proceedings, you contact us, then this procedure will be halted. We will then take appropriate action according to whether you intend to return to the house.

If you make contact with us after the termination of your tenancy, we will meet with you. If you are aggrieved by the termination of your tenancy, you can raise proceedings within 6 months after the date of the termination in the sheriff court. If it appears to the sheriff that we have failed to comply with legislation or that we did not have reasonable grounds or were in error in taking the action we did, the sheriff can instruct us to continue your tenancy (if the house has not already been let to a new tenant) or make other suitable accommodation available to you.

## Assignment of Tenancy

If you are a tenant of a council house, you can ask us for permission to pass on the tenancy to someone else who lives in the house with you, if they have been living in the property with you for at least 12 months and have been using it as their only or principal home.

The request should be put in writing to us and should include:

- The name of the person you want to pass on your tenancy to;
- Your relationship to the person;
- How long the person has lived with you in the house, and
- Any deposit or payment to be made to you as a result of passing on your tenancy e.g. for the sale of furniture in the house

We will not unreasonably refuse any request to pass on your tenancy. The following are the most common reasons why we would not agree to you assigning your tenancy:

- If a notice of recovery of possession or an order for recovery of possession has been served against you;
- If a payment, other than a reasonable rent or a deposit has been received by you in relation to the assignation;
- The assignation would result in substantial under-occupation or overcrowding;
- You have substantial rent arrears and have not made arrangements to reduce them, or have not stuck to an arrangement already in place;
- Legal action against your tenancy is ongoing or has been instructed by us
- A serious breach of your tenancy agreement is being investigated;
- There is reason to believe that the assignation of your tenancy would lead to a serious breach of your tenancy agreement;
- The prospective tenant has substantial outstanding housing arrears for a previous tenancy;
- There are major refurbishment works that need to be carried out to your property;
- Your house is currently a matrimonial home and your partner does not live with you but may have rights to the tenancy;
- Intergenerational (ie parent to a child) requests are considered on a case-by-case basis, taking in to account housing need in the area. Children of the tenant may have the right to succeed the tenancy, and as such do not need to be assigned the tenancy.
- Where the landlord (being a local authority or a registered social landlord) would not give the person the tenant wishes to pass the tenancy to reasonable preference under their allocations policy.

The examples given above are not an exclusive list, and do not alter our right to refuse permission on any reasonable grounds. We will notify you in writing of our decision within one month of receiving your completed request. If we do not agree to you passing on your tenancy we will tell you the reasons why.

You can appeal our decision by writing to the Senior Housing Officer, 8 North Ness Business Park, Lerwick, Shetland, ZE1 0LZ. If we do not agree or refuse your request within one month, you have the right to pass on your tenancy without our written consent.

If we agree to you assigning your tenancy the assignation will take effect from the start of the next rental fortnight.

An assignation of tenancy does not create a new tenancy therefore the prospective tenant will not have to sign a new tenancy agreement. The prospective tenant will be asked to attend a meeting to discuss the content of

the tenancy agreement and make them aware of their rights and responsibilities in relation to the tenancy.

You will both be asked to sign a document to show that you accept the terms of the assignment of tenancy.

## Homeswapper Scheme

Council tenants wishing to move to alternative accommodation within or out with Shetland are encouraged to organise mutual exchanges of property with other social tenants.

HomeSwapper.co.uk is for social tenants looking for a house swap (often called a "mutual exchange") whether it is a housing association or council house exchange.

You can register with the [Homeswapper Website](#) and can choose up to 9 areas to move to. You will then be matched to any suitable exchanges meeting your criteria. These matches are placed in 'My Matches', a page on the website that is available after you have logged in.

You can be prompted about new matches by email or text message. There is a charge for any tenant wishing to subscribe to the service.

Once two tenants agree they would like to swap houses, the mutual exchange can go ahead – subject to the formal approval required of each tenant's landlord.

## Mutual Exchanges

An exchange can be considered where the tenancy is a secure tenancy. Exchanges between tenants of the council and owner-occupiers or tenants in privately rented accommodation cannot be considered.

**We do not unreasonably refuse any mutual exchange however; the following are the most common reasons why we would not agree to you exchanging your tenancy:**

- Where a notice of recovery of possession has been served against one of the tenants
- An order for recovery of possession has been made against one of the tenants

- If a payment has been received by either tenant in relation to the mutual exchange
- The mutual exchange would result in substantial under-occupation or overcrowding
- Either tenant has substantial rent arrears and has not made arrangements to reduce them
- Legal action against one of the tenants is ongoing or has been instructed by us
- A serious breach of one of the tenancy agreements is being investigated
- There is reason to believe that the exchange would lead to a serious breach of one of the tenancy agreements
- There are major refurbishment works that need to be carried out to the property
- Either house is currently a matrimonial home and the partner does not live with the tenant but may have rights to the tenancy
- We are not satisfied that any tenant wishing to exchange in to one of our properties intends to remain in the property for at least 6 months
- If we have specially adapted the property, to meet the specific needs of the individual tenant, and the adaptations are not required by the proposed exchange tenant then the exchange may be refused. Similarly, the proposed exchange would result in a need for either property to be adapted or extended the exchange may be refused

The examples given above are not an exclusive list, and do not alter our right to refuse permission on any reasonable grounds.

In exceptional circumstances the Housing Service may relax the above conditions e.g. where a disabled tenant in an adapted property would significantly benefit from a move to alternative accommodation.

With the exception of repairs that are the Council's responsibility, an exchange tenant will be expected to accept the Council's property in its existing condition. Where any non-standard features exist e.g. garden sheds, built in kitchen appliances, shower etc. the incoming tenant will be expected to accept future responsibility for the maintenance, replacement and / or reinstatement of these.

If there is any damage or rechargeable repairs required within a property we may require the current tenant to reinstate to an approved standard prior to the exchange being approved.

Each tenant must put their request in writing to their own landlord. In the case of a joint tenancy each joint tenant must sign a written request. An exchange must not take place until consent has been given in writing and all parties have signed the necessary documents.

Please note that an exchange results in a new tenancy and this may affect your Right to Buy.

Help and further advice on mutual exchanges is available from Housing Staff.

## Permission to Sub-let a property

If you are a tenant of a council house, you can ask us for permission to sub-let your home, for example if you are going away to college or on extended holiday for a few months.

Requests should be made in advance and in writing and should include:

- The names and addresses of the people who you wish to sub-let the property to and their contact details;
- The amount of rent you intend to charge. This cannot be more than the council rent of your property, but can include a reasonable charge for furniture and electricity, if appropriate.
- A forwarding address and telephone number for you if the sub-let is agreed.

We will not unreasonably refuse you permission to sub-let your home. The following are the most common reasons why we would not agree to you sub-letting your property:

- If a notice of recovery of possession or an order for recovery of possession has been served against you;
- If a payment, other than a reasonable rent or a deposit has been received by you in relation to the sub-let;
- The sub-let would result in substantial under-occupation or overcrowding;
- You have substantial rent arrears and have not made arrangements to reduce them;
- Legal action against your tenancy is ongoing, or has been instructed by us;
- A serious breach of your tenancy agreement is being investigated;
- There is reason to believe that the sub-let would lead to a serious breach of your tenancy agreement;
- The prospective sub-lessee has substantial outstanding housing arrears for a previous tenancy;



- There are major refurbishment works that need to be carried out to your property;
- Your house is currently a matrimonial home and your partner does not live with you, but may have rights to the tenancy;
- You wish to sub-let your property for more than six months. (You can apply to sub-let for a longer period of time; however the sub-let will be reviewed every 4 months);
- We are not satisfied that you intend to return to the property at the end of the sub-let.

The examples given above are not an exclusive list, and do not alter our right to refuse permission on any reasonable grounds.

We will notify you in writing of our decision within one month of receiving your completed application. We will tell you the reasons for our decision. You can appeal our decision by writing to the Senior Housing Officer, 8 North Ness Business Park, Lerwick, Shetland, ZE1 0LZ.

If the sub-let is agreed, we will also write to the sub-lettees regarding the procedure and their obligations. If we do not notify you of our decision within one month, you have the right to sublet your property without our written consent.

## Permission to take in a lodger

Under the terms of the Housing (Scotland) Act 2001, Scottish Secure Tenants have the right to take in a lodger provided they obtain written permission from the landlord which cannot be unreasonably withheld.

Please be aware that if you receive Housing Benefit, the amount you receive may be affected if you take in a lodger. Please seek advice from SIC Finance Benefits Section on the impact this could have on your benefits before considering taking in a lodger.

We will consider requests to take in a lodger from tenants affected by the under occupancy rules introduced for Housing Benefit claimants in April 2013 where there are existing rent arrears. We must be satisfied that adequate steps are being taken to tackle the rent arrears and that taking in a lodger could help the household to positively reduce the existing rent arrears. This will be considered on a case by case basis and decisions made at the SIC's discretion.

If permission to take in a lodger is granted, this is normally for a period of 6 months, with a review date set at 4 months.

Tenants should be aware that they remain responsible for complying with all aspects of their tenancy agreement.

Requests to take in a lodger should be made in advance and in writing and should include:

- The names and addresses of the person/people you wish to take in as a lodger, as well as their contact details;
- The amount you intend to charge. This cannot be more than the council rent of your property, but can include a charge for furniture if appropriate;
- The reason for requesting to take in a lodger;
- The length of time you are requesting permission for this lodger to live with you.

We will not unreasonably refuse you permission to take in a lodger. The following are the most common reasons why we would not give permission to take in a lodger:

- If a notice of recovery of possession or an order for recovery of possession has been served against you;
- If a payment, other than a reasonable rent or a deposit has been received by you in relation to the lodger request;
- The lodger request would result in overcrowding;
- You have substantial rent arrears and we are not satisfied you have made or maintained arrangements to reduce them;
- Legal action against your tenancy is ongoing, or has been instructed by us;
- A serious breach of your tenancy agreement is being investigated;
- There is reason to believe that the lodger request could lead to a serious breach of your tenancy agreement;
- The prospective lodger has substantial outstanding housing arrears for a previous tenancy and have not made or maintained arrangements to reduce them;
- There are major refurbishment works that need to be carried out to your property;
- Your house is currently a matrimonial home and your partner does not live with you, but may have rights to the tenancy;
- We are not satisfied that you intend to occupy the property as your principal home.

The examples given above are not an exclusive list, and do not alter our right to refuse permission on any reasonable grounds.

We will notify you in writing of our decision within one month of receiving your completed application. We will tell you the reasons for our decision. You can appeal our decision by writing to the Senior Housing Officer, 8 North Ness Business Park, Lerwick, Shetland, ZE1 0LZ.

If the lodger request is agreed, we will also write to the lodger regarding the procedure and their obligations. If we do not notify you of our decision within one month, you have the right to take in a lodger without our written consent.

## Succession to a Scottish Secure Tenancy

If you are living in a council house and the tenant of the property dies, it may be possible for the tenancy to be passed on to you. You should contact the Housing Service to inform us that the tenant has died as soon as practicable. The Housing Officer for your area will then contact or visit you at home to find out if you can succeed the tenancy.

Under the terms of the Housing (Scotland) Act 2001, and amended in the Housing (Scotland) Act 2014, when a tenant dies the tenancy can be passed onto a qualified person.

If the qualified person then dies, the tenancy can be passed on to another qualified person as a second round succession.

If the second qualified person dies, the tenancy ends. Except, if you are a joint tenant and continue to use the house as your only or principal home, the Scottish Secure Tenancy will not be terminated. Or, if you are a qualified person, other than a joint tenant, you are entitled to continue as tenant of the house for a period not exceeding 6 months, but the tenancy ceases to be a Scottish Secure Tenancy during this time.

### Qualified Persons

You are a qualified person if:

- 1 The house was your only or principal home at the time of the tenants death and:
  - a) You were at that time—  
The tenant's spouse, or civil partner
  - b) You are the surviving tenant(s) of a joint tenancy.
- 2 The house was your only or principal home throughout the 12 months ending in of the tenant's death\*

- a) Partner (cohabitant of either sex and including same sex cohabitants)
  - b) Member of the tenants family aged 16 or over
- 3 The house was your only or principal home throughout the 12 months ending in of the tenant's death\*
- a) Carers aged 16 or over who have given up a previous only or principal home.

\* Note that the 12 month qualifying period only starts once the qualifying person, or the tenant has notified the Council that the person wishing to succeed to the tenancy is living in the house and that the house is that person's only or principal home.

**Special rule: Specially adapted house**

If your house has been designed or substantially adapted for occupation by a person whose special needs require accommodation of the kind provided by the house, for the purposes of a first round succession, you will only be a qualified person if you fall within paragraph 1, or if you fall within paragraph 2 or 3 and you have special needs requiring accommodation of the kind provided by the house.

For the purposes of a second round succession, you will only be a qualified person if you have special needs requiring accommodation of the kind provided by the house. If you do not have special needs for that accommodation, but you would otherwise be a qualified person, we must make other suitable accommodation available to you.

**Order of succession**

If you are a qualified person falling within paragraph 1, the tenancy will pass to you unless you decline the tenancy.

If the tenancy does not pass to a qualified person falling within paragraph 1 and you are a qualified person falling within paragraph 2, the tenancy will pass to you unless you decline the tenancy.

If the tenancy does not pass to a qualified person falling within paragraph 1 or 2, and you are a qualified person falling within paragraph 3, the tenancy will pass to you unless you decline the tenancy.

If there is more than one qualified person living in the property, agreement must be reached as to which one the tenancy shall be passed on to. Alternatively, with your agreement, the tenancy can be passed on to two or more qualified persons as joint tenants. If agreement cannot be reached with the qualified persons within four weeks of the tenant's death, we will decide which qualified person succeeds the tenancy.

If you are a qualified person but you do not wish to accept the tenancy, you must confirm this in writing within four weeks of the tenant's death. You must then vacate the property within three months. You will be liable to pay any rent only for the period after the tenant has died.

If there is no qualified person living in the property, or every qualified person declines the tenancy, the tenancy ends on the date of the tenant's death. In this instance a member of the tenant's family should contact the Housing Office as soon as practicable. Unless there are special circumstances, we normally ask for keys to be returned to the Housing Service within 2 or 3 weeks

## Variation to a Secure Tenancy

If you are a tenant of a council house, you can ask permission to change your tenancy from a joint to a sole tenancy or from a sole to a joint tenancy.

A Variation of Tenancy Agreement form is available at the Housing Office for you to complete. All persons involved in the change of tenancy agreement must sign the request and have it witnessed.

The following details must be completed:

- The name and current address of the person you want to add to your tenancy;
- Your relationship to the person and
- How long the person has resided in your home, or
- The name and current address of the person who wants their name to be removed from the tenancy.

We will not unreasonably refuse any request to change your tenancy agreement. The following are the most common reasons why we would not agree to a change in your tenancy agreement:

- Legal action to end your tenancy is ongoing, or has been instructed by us;
- A serious breach of your tenancy agreement is being investigated;
- There is reason to believe that the change of your tenancy agreement would lead to a breach of your tenancy conditions e.g. the change would result in serious overcrowding;
- Your house is currently being sub-let;
- The prospective tenant has substantial rent arrears or has been previously evicted for anti-social behaviour;

- The person you want to add to your tenancy has not been living in the house with you for at least 12 months;
- There is reason to believe that one or other of the proposed joint tenants does not intend to occupy the house as his/her main home;
- The house is currently a matrimonial home and your spouse does not live with you, but may have rights to the tenancy;
- Intergenerational (i.e. parent to a child) requests are considered on a case-by-case basis, taking in to account housing need in the area. Children of the tenant may have the right to succeed the tenancy, and as such do not need to be assigned the tenancy.

The examples given above are not an exclusive list, and do not alter our right to refuse permission on any reasonable grounds.

We will notify you in writing of our decision within one month of receiving your completed request. If we do not agree to your request we will tell you the reason why. You can appeal our decision by writing to the Senior Housing Officer, 8 North Ness Business Park, Lerwick, Shetland, ZE1 0LZ.

If we agree to the change in your tenancy, the variation will take effect from the start of the next rental fortnight. A variation does not create a new tenancy and you will not need to sign a new tenancy agreement, but we will meet with you to explain the terms of the existing tenancy agreement.

## Terminating a Joint Tenancy

**A joint tenant** can also terminate their part of the tenancy, without the permission of the other tenant, by writing to the Housing Service and the joint tenant(s), giving four weeks notice of their intention to terminate.

## Appeals and Complaints

We are committed to continuous improvement, and see customer complaints as an essential part of that process. It is important we have the opportunity to hear your complaints so that we can work together to resolve these without delay. The information given here does not replace your rights to use the Shetland Islands Council's Corporate Complaints Procedure or to refer a complaint to the [Scottish Public Services Ombudsman](#).

There is a separate and specific process for [appealing decisions on homelessness applications](#).

Further information on [how to make a complaint](#) is provided on our website.

## Performance Monitoring

The performance will be reported through the Scottish Housing Regulator Report Card which will be sent to all tenants annually.

For further information please contact us at:

Shetland Islands Council  
Housing Service  
Development Services Department  
8 North Ness Business Park,  
Lerwick  
Shetland  
ZE1 0IZ

Telephone **01595 744360**  
Freephone **0800 212 829**  
Fax **01595 744395**

In an emergency out with office hours please contact:

- Homelessness: **01595 695611**
- Council House Repairs: **01595 693972**
- Available 24 hours a day, 365 days a year

Email: [housing@shetland.gov.uk](mailto:housing@shetland.gov.uk)  
Website: [www.shetland.gov.uk/housing](http://www.shetland.gov.uk/housing)

**Our Office is Open**

Monday to Friday 9 am to 5 pm,

We are open during lunchtimes.

Information on the various housing options available in Shetland can be found online at [www.shetland.gov.uk/housing](http://www.shetland.gov.uk/housing)

**This Policy and other housing information can, on request, be made available in Braille, on tape, in large print and in different languages. For further information please telephone Housing on 01595 744360, or email [housing@shetland.gov.uk](mailto:housing@shetland.gov.uk).**