

TRAFALGAR HOUSING ASSOCIATION: SUB-LETTING, ASSIGNATION, LODGERS, AND JOINT TENANCY POLICY

REVISED APRIL 2019

1 INTRODUCTION

1.1 This document sets out Trafalgar Housing Association policy when considering applications from tenants to:

- sub-let all or part of their house;
- assign their tenancy; or
- take in a lodger
- become a joint tenant of the Association

2 AIMS AND OBJECTIVES

2.1 This Policy seeks to provide clarity to tenants wishing to: sub-let all or part of their house; assign their tenancy; take in a lodger, become a joint tenant of the Association; to set out the requirements, including those applicable from November 1, 2019 and reasons for refusal

3 EQUALITIES

3.1 As part of our commitment to equal opportunities, if required, this policy can be made available in large print or audio tape or translated into another language. We are also committed to meeting Outcome 1 of the Scottish Social Housing Charter which states that Social landlords perform all aspects of their housing services so that: - every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services

4 LEGISLATION

4.1 This Policy takes account of the Housing (Scotland) Acts 1987 (as amended) 2001, 2014

5. SCOTTISH SOCIAL HOUSING CHARTER APRIL 2017

5.1 Our approach is informed by the following Scottish Social Housing Charter, April 2017, outcomes and standards:

Outcome 2 – Communication, Social landlords manage their businesses so that *tenants and other customers find it easy to communicate with their landlord and get the information they need about their landlord, and how and why it makes decisions and the services it provides;*

Outcome 13 – Value for Money – *tenants, owners and other customers receive services that provide continually improving value for the rent and other charges they pay.*

6. APPLICATIONS TO SUB-LET, ASSIGN A TENANCY, TAKE IN A LODGER OR APPLY TO ENTER INTO A JOINT TENANCY

6.1 The Association will consider written applications to sub-let all or part of the house, assign a tenancy, take in a lodger or apply to become a joint tenant of the Association. Anyone who requires support to submit a written application will be assisted to do so by Association staff.

6.2 From November 1, 2019 there will be new residency and notification requirements that have to be met for sub-letting, assignation or adding a joint tenant to a tenancy agreement.

6.3 From 1 November 2019 if a tenant wants to

- sublet all or part of the house,
- or assign the tenancy,
- or enter into a joint tenancy

the house must have been their only or principal home for at least 12 months immediately before the date of the written request to sublet/assign the tenancy/or to enter into a joint tenancy.

Where an individual was not previously the tenant throughout that period, the house must have been their only or principal home during those 12 months and the tenant must have told us that they were living there. The length of time the person who wants to sublet all or part of the house or assign the tenancy or enter into a joint tenancy, has been living in the property starts from the date the Association is notified that the person is living in the property as their only or principal home.

A tenant can give us notice of someone living with him/her before November 1, 2019 and that time will count towards the length of time they have been living at the property.

Prior to November 1, 2019, the relevant period is 6 months.

6.4 All applications will be investigated to ensure that no false or misleading information is presented. Written applications must include:

- details of the proposed change including who the tenant wants to sub-let or assign to, or have as a lodger or joint tenant;
- the amount of rent and any other payments (including a deposit) the tenant proposes to charge (if any);
- when the tenant wants the sub-letting, assignation, lodging or joint tenancy to take place;
- in the case of sub-letting or taking in a lodger, the terms on which the tenant intends to sub-let or take in a lodger (prior to granting consent), the Association will require that the tenant provides a written agreement for lodgers or sub-tenants and that the terms of this agreement are acceptable to the Association); and
- in the case of assignation or joint tenancy requests, confirmation that the property has been the only or principal home of the person to whom the tenant wants to assign the tenancy or enter into a joint tenancy, for throughout the period of 12 months ending with the date of the application.
- Alongside this, the Association must have been notified of this, either by the tenant or any other person who was the tenant of the house in question when the notice was given that the house in question was the person's only or principal home prior to the start of the twelve month period.

7 PERMISSION TO SUB-LET, ASSIGN A TENANCY, TAKE IN A LODGER OR ENTER INTO A JOINT TENANCY

- 7.1 Provided the criteria as set out in Section 5 of this Policy have been met, the Association will not unreasonably withhold permission to sub-let, assign a tenancy, take in a lodger or to enter into a joint tenancy.

8 GROUNDS FOR REFUSING PERMISSION

- 8.1 In addition to the criteria set out in Section 5, not being met, reasons for refusal and their applicability are shown below

| REASON | ASSIGNATION | SUB LET | LODGER | JOINT TENANCY |
|---|--------------------|--------------------|---------------|--------------------------|
| *The Association would not give the proposed individual reasonable preference/priority under its allocations policy | YES | NA | NA | NA |
| *The assignment would result in the property being under-occupied | YES | NA | NA | NA |
| The Association proposes to carry out work on the house, or on the building of which it forms part, which would affect the part of the house connected with this proposed change | YES | YES | YES | NA |
| The proposed change would lead to the offence of over-crowding under section 139 of the Housing (Scotland) Act 1987 | YES | YES | YES | NA |
| A notice under Section 14 (2) of the Housing (Scotland) Act 2001 has been served on the tenant specifying that the Association may seek recovery of possession on grounds contained | YES | YES | YES | YES |

| | | | | |
|--|-----|-----|-----|-----|
| in Schedule 2 of 2001 Act – including rent arrears and/or anti-social behaviour | | | | |
| An order for recovery of possession has been granted against the tenant | YES | YES | YES | YES |
| It appears to the Association that the tenant proposes to receive a payment or an unreasonable rent or deposit | YES | YES | YES | NA |

*Applicable from November 1, 2019

In addition to the reasons shown above, the Association considers it reasonable to refuse consent where:

- the house was designed or adapted for persons with special needs and there would be no person living in the house who required those designs or adaptations;
- the prospective joint tenant or proposed individual is under 16 years of age;
- the proposed individual holds another tenancy;
- the proposed individual has former tenant arrears, or any other liability in respect of any previous tenancy, in excess of one month's rent and no arrangement for payment has been made and maintained for a minimum of three months;
- the proposed individual has a history of anti-social behaviour and there are reasonable concerns that they may commit further anti-social acts;
- the proposed individual has been evicted from any previous tenancy for anti-social behaviour;
- the proposed individual does not consent to tenancy references being sought in respect of any previous tenancy; do you seek refs for lodgers
- the application cannot be processed until further information is received and this information will not be available within one month of the date the application was received;

- the tenant, or the prospective joint tenant, assignee or lodger or anyone who would be living with them, is required to register with the police and the accommodation is not deemed appropriate following a risk assessment.

8.2 If the tenant is unhappy about our refusal, in respect of assignation or subletting, or taking in a lodger, the tenant has the right of application by summary application to the Sheriff Court, in accordance with Schedule 5, Part 2 of the Housing (Scotland) Act 2001.

9 TIMESCALES

- 9.1 The Association will reply in writing to requests to sub-let, assign a tenancy, take in a lodger, or enter into a joint tenancy, within one month of receipt of the written application. If we do not reply within one month, we are taken to have agreed to the request. If we refuse to give permission, we will notify the tenant of the reasons for refusal in writing within one month of receipt of the written application.

10 SUB LETTING

10.1 The period of a sub-let will normally be no more than 12 months. If the tenant wishes the sub-let to continue beyond this time, a written request should be made one month before the sub-let is due to end. The sub-let may only be extended with the written consent of the Association.

10.2 If permission is given to sub-let, the tenant is not relieved of any tenancy obligations and must ensure that the sub-tenant adheres to the terms and conditions of the tenancy agreement at all times.

10.3 If the tenant or sub-tenant does not adhere to the terms and conditions of the tenancy agreement, the Association may commence legal proceedings for recovery of possession of property.

10.4 If the tenant does not re-occupy the house at the end of the period of the sub-let, the Association will commence legal proceedings for recovery of possession of property and the sub-tenant will be instructed to vacate the house.

11 PERFORMANCE MONITORING

11.1 Reports on the number and outcome of applications to assign, sublet or take in lodgers, or enter into a joint tenancy, will be made annually as part of our management information to the Management Committee.

12 ROLES AND RESPONSIBILITIES

12.1 The Housing Manager is responsible for the implementation of this Policy with the Management Committee being responsible for its oversight.

13 COMPLAINTS

13.1 Should any tenant be dissatisfied with the implementation of this policy they should contact one of the Association's staff to try to have the matter resolved.

13.2 If the matter is not resolved they should write, stating the facts to the Director who will give a written reply.

13.3 If, after exhausting the Association's complaints procedure (full details of which are available on our website, from staff or located in our reception) a tenant is still unhappy, they should contact the Scottish Public Services Ombudsman (SPSO):

- Scottish Public Services Ombudsman
Bridgeside House
99 McDonald Road
Edinburgh
EH7 4NS

Telephone 0800 377 7330 – free phone or 0131 225 5300

Fax 0800 377 7331
Text 0790 049 4372
E-mail ask@spsso.org.uk

SPSO
Freepost

13.4 Complainants will also be advised, as appropriate, of their right to make application to the Sheriff Court.

14 REVIEW OF POLICY

14.1 This Policy will be reviewed every three years or earlier if required by changes in legislation, guidance or practice.

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