

Policy on:

Tenancy Management

**Compliant with Charter
Outcomes and Standards:**

Yes

Compliant with Equalities:

Yes – Equalities Impact Assessment Complete

Compliant with Business Plan:

Yes

Compliant with Risk:

Yes - Low

Date for Approval:

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Date for Review:

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Responsible Officers:

Housing Manager



Contents

1. Policy Purpose.....	3
2. Policy Scope	3
3. Supporting Legislation, Regulation, Policy, and Procedures.....	3
4. The Right to Information.....	4
5. Changes of Tenancy	4
5.1 Succession	5
5.2 Assignment.....	5
5.3 Joint Tenancies	6
5.4 Transfer of Tenancy (Exceptional Circumstances)	6
5.5 Subletting and Lodgers	6
5.6 Mutual Exchange.....	7
5.7 Permission to Reside.....	7
5.8 Appeals Process	7
6. Abandonment of Tenancy.....	8
6.1 Abandonment by a Joint Tenant	8
7. Forceable Entry	8
8. Securing Tenanted Properties.....	9
9. Temporary Absence from the Tenancy	9
9.1 Extended Absence	9
9.2 Tenants Serving a Custodial Sentence.....	10
10. Operate A Business from Home.....	10
11. Keeping of Pets	10
12. Pest Control	11
13. Staff Training and Code of Conduct	11
14. Equality and Diversity	11
15. Feedback and Complaints	12
16. Performance Management and Review	12

This policy is available, on request, in different languages and in other formats such as large print, audio format and braille as required.



1. Policy Purpose

The purpose of this policy is to clearly set out the how we manage the way in which individual tenancies are conducted through the operation of the Scottish Secure Tenancy Agreement (SST) or Short Scottish Secure Tenancy Agreement (SSST). This policy and its associated procedures aim to ensure that the rights and obligations contained in the SST/SSST are maintained for both tenants and the Association

This policy complies with legislative and regulatory requirements and meets our aims to deliver excellent customer service through professional and committed staff enabling customer needs to be met with positive results. We have developed a good understanding of our customers through a range of consultation and engagement methods.

2. Policy Scope

This policy has been developed in line with legislation, regulatory standards and good practice across Scotland and the UK. By taking account of good practice, we have made sure that we have created a policy that is fair and transparent about how we will apply the grounds within the tenancy agreement.

The Housing (Scotland) Act 2014 specifies that any tenancy offered by a registered social landlord such as Shire Housing Association must be a Scottish Secure Tenancy unless a Short Scottish Secure Tenancy can be offered.

We aim, in most cases to grant a Scottish Secure Tenancy agreement to all our prospective tenants. The use of the Short Scottish Secure Tenancy Agreement will be considered but not necessarily used where the circumstances set out within Schedule 6 of the Housing (Scotland) Act 2001 exist.

3. Supporting Legislation, Regulation, Policy, and Procedures

There are a range of legislative, regulatory, policies and procedures that support this policy such as:

- The Housing (Scotland) Act 2001 (as amended)
- The Scottish Social Housing Charter
- Performance Standards for Registered Social Landlords
- Common Housing Allocation Policy
- Anti-Social Behaviour Policy
- Complaints Policy
- Arrear Management Policy
- Void Management Policy
- Repair and Maintenance Policy
- Section 2 - Scottish Secure Tenancy Agreement



4. The Right to Information

As a Scottish Secure tenant, the landlord must provide a written tenancy agreement and information about the complaint's procedure. Additionally, tenants are entitled to ask for information about how their rent is set, how housing is allocated, the policies on transfers and exchanges and the policies concerning repairs and maintenance.

We have a tenant handbook that has been provided to all tenants and our staff will provide tenants with general information about their rights and obligations as part of the process of signing for their tenancy and throughout their tenancy, as necessary.

We will actively publicise information for example in newsletters, our annual report and on our website. We will also use these channels to communicate our performance and will also signpost customers to other support or advice services, such as citizens advice and advocacy groups.

We have a Customer Engagement Strategy that outlines our commitment to consulting with our tenants before making or changing any housing management policies that may affect them.

5. Changes of Tenancy

Scottish secure and short secure tenants have different rights that govern changes to the tenancy. This includes what happens to a tenancy on the death of the tenant, applying to have joint tenants and other circumstances outlined in the tenancy agreement.

Landlords must advise on the outcome of an application to make changes to a tenancy within 28 days of receipt and can only refuse permission if it is reasonable to do so. Examples of these reasons are outlined in housing legislation, the tenancy agreement, in our procedures and tenant information leaflets.

Our assessment for many of these potential changes include a 2-part test that the person taking on the tenancy has lived there for 12 months and the landlord has been notified of them living in the property. The 12-month residency period does not start until the landlord has been notified.

Listed below are examples of reasonable grounds for refusing permission:

1. The application has not been completed correctly, or the necessary information has not been provided within 7 days of request.
2. Any rent, deposit or other charge the tenant is proposing to take from new occupiers in relation to the tenancy is unreasonable.



3. The tenant has failed to notify Shire Housing Association that the proposed occupant was resident in the property and/or the proposed occupant has not resided at the property a minimum of 12 months.
4. We have served the tenant with a Notice of Proceedings warning them that we are seeking to have them removed from the property under Schedule 2, grounds 1-7 of the Housing (Scotland) Act 2001
5. We have obtained an order against the tenant for recovery of possession of the property (eviction)
6. The tenant has rent arrears equivalent to three month's rent charge and an arrangement to repay this debt has not been kept for a period of three months.
7. The house has been designed or adapted for occupation by a person whose special needs require accommodation of the kind provided by the house and if this change takes place, there would no longer be a person with such special needs occupying the house.
8. The accommodation within the property is not suitable to the needs of the proposed occupant and their family and/or they would not qualify for reasonable preference per the Common Housing Allocations policy.
9. This change would result in the property becoming overcrowded or under occupied following the definition found in Common Housing Allocation Policy.
10. The house is included in a Shire Housing Association sensitive lettings initiative and the proposed occupant does not meet the entry criteria.
11. We are intending to carry out work to the property which would affect the assignees occupation of the property
12. We have discovered an issue related to the tenant's proposed occupier and have advised them separately of this.

The above examples do not in any way alter our general right to refuse permission on other reasonable grounds and we will consider every case in its own merits. We have an appeals process outlined at 5.8 and reserve the right to remove permission where the tenant has failed to meet any of the conditions of the permission being granted.

5.1 Succession

A right to succession is a means of transferring a tenancy following the tenant's death to a qualifying person who resided with them in the house. Every Scottish Secure Tenant (SST) has the right to succeed, and legislation enables someone who was living in the home to seek the landlord's permission to take over the tenancy after the tenant's death. This right does not apply to tenants with a Short SST.

The 2-part residency test applies, and the 12-month residency period does not start until the landlord has been notified. There is an exception to this for the existing tenant's spouse, civil partner, or joint tenant if they were living in the property at the time of the tenant's death.

5.2 Assignment

An assignment is a means that allow tenants to pass the tenancy to someone else if they are leaving the tenancy and have no intention of returning to it. Every Scottish

Secure Tenant (SST) and short SST has the right to seek their landlord's permission to pass (assign) their home to a qualifying person.

The 2-part residency test applies, and the 12-month residency period does not start until the landlord has been notified.

5.3 Joint Tenancies

An application for a joint tenancy is a means that allow tenants to add another person onto the tenancy. All joint tenants have responsibility jointly and severally (solely) for the tenancy conditions stated within the tenancy agreement. Every Scottish Secure Tenant (SST) and short SST has the right to seek their landlord's permission to add a joint tenant. Joint tenancies are traditionally created due to marriages but can also be sons, daughters or other persons nominated by the tenant if they are aged 16 or over. There is no maximum number of joint tenants per property.

The 2-part residency test applies, and the 12-month residency period does not start until the landlord has been notified. This also applies to spouses, civil partners and co-habitees.

5.4 Transfer of Tenancy (Exceptional Circumstances)

There are only a few occasions where the tenancy of a specific property needs to be transferred in exceptional circumstances, from the existing tenant to another occupier. Such occasions can include:

- The compulsory transfer of the tenancy by order of the courts due to a relationship breakdown where a voluntary transfer cannot be agreed between the parties involved. Transfer of tenancy applications can be decided as part of a divorce or dissolution of civil partnership action, however applications for transfer can be made whilst applicants are still married, in a civil partnership or still living together.

Transfers of tenancy through the courts may also be sought by the Association using ground 15 of schedule 2 of the Housing (Scotland) Act 2001, however it should be noted that other suitable accommodation should be available for any existing tenants who may lose their home when the order takes effect.

5.5 Subletting and Lodgers

Every Scottish Secure Tenant (SST) and short SST has the right to seek their landlord's permission to sub-let their tenancy or take in a lodger. A sub-let is a means of the tenant letting all or part of their home to another person. A lodger is a person (usually not related to the tenant) who is being rented a room or part of the home. We will only grant permission for these changes for a maximum period of 11 months

The tenant must have held the tenancy for a minimum period of 12 months prior to making an application to sub-let or take in lodgers.

5.6 Mutual Exchange

A mutual exchange is a means of swapping your home with somebody else. Every Scottish Secure Tenant can apply to swap their home with other Scottish Secure Tenants.

Shire Housing Association welcomes applications for Mutual Exchanges between our tenants and tenants of other social landlords, including Local Authorities and Housing Associations. We do not operate a mutual exchange scheme where tenants can advertise their homes and find someone who wants to swap with them. Tenants must make their own arrangements to advertise their wish to exchange and where to display this information.

5.7 Permission to Reside

The tenancy agreement requires tenants to provide their landlord with an accurate record of the members of their household at the address stated. It is a condition of the tenancy agreement that the tenant must update their landlord immediately of any changes to their household information. We call this seeking 'permission for persons to reside' at the house. Tenants are entitled to have a member of their family living with them as long as this does not lead to overcrowding.

An Overcrowding assessment will be made against the criteria outlined in our Common Allocation Policy. We will also want to check the details tenants have provided on the new occupants for the prevention of tenancy fraud. If the tenant has not confirmed, in writing, all their household members, this will affect any later application to change the tenancy details, apply for assignation or succession to tenancy.

5.8 Appeals Process

Any applicant wishing to appeal our decision not to award a tenancy under the changes of tenancy grounds described in section 5 have 7 days to appeal the decision and should do so in writing stating the reason for the appeal and enclosing any latest information that is relevant.

The Housing Manager shall review the grounds for appeal against the qualifying criteria and any mitigating circumstances and make the decision to uphold or not uphold the appeal. Applicants shall be advised of this decision within 14 days of submitting their appeal.

This decision is final and completes the appeal process. Should the tenant fail to comply with our decision, Shire Housing Association reserve the right to consider further action that may include seeking repossession of the home at Court.



6. Abandonment of Tenancy

We can end a tenancy if we have completed a range of checks including our records, with neighbours and other agencies that subsequently gives us reasonable grounds to believe that the tenant has abandoned the house and are no longer using it as their sole and principal home. To end a tenancy in this way, we must serve a notice on the tenant (s) giving them 4 weeks' notice that we suspect that they are not living there.

We may force entry to the house to make it secure during these 4 weeks and the tenancy will end if the tenant has not replied to this notice in writing, within the stated period. Any goods left in the property shall be disposed of unless their value is assessed at being greater than the sum of 6 months storage.

Tenants have a right to apply to the Sheriff Court against this within 6 months of the tenancy being ended.

6.1 Abandonment by a Joint Tenant

We can serve a notice on a joint tenant if we suspect that they have abandoned the house. The process is like the house abandonment section above but the joint tenant's interest in the tenancy is ended 8 weeks after the notice and the remaining tenant's tenancy is not affected. As prescribed under section 20 of the Housing (Scotland) Act 2001, notice will be served on each of the joint tenants under the tenancy.

A joint tenant who is aggrieved by such action may raise proceedings by summary application to the Court, within eight weeks of the date of service of the second notice.

7. Forceable Entry

The 2001 Housing (Scotland) Act affords the right to landlords of Scottish secure tenancies to enter properties, this includes the provision for access to be taken on 24 hours' notice, for the purpose of viewing the condition of the property or carrying out necessary repair works. The Scottish secure tenancy agreement provides a contractual right to landlords to take access on 48 hours' notice, provided that every reasonable opportunity has been given to the tenant to grant access voluntarily.

We shall only consider taking access forcibly on a case-by-case basis having had regard to the circumstances and reasonable opportunities given to the tenant to grant access voluntarily. Forcible entry will be avoided where the tenant has reasonable grounds to refuse access.

The Association will enter a property which may still be occupied where:

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- a) It has been established that there is no one in the house able to provide access and there are circumstances that require the property to be made secure, either against vandalism or because of vandalism, and there is no reasonable way to secure the property without entry.
- b) There are circumstances where there is reason to be concerned about the safety or well-being of the tenant or neighbours. For example, the tenant may be trapped in the house and unable to attract attention.
- c) For viewing the condition of the property.
- d) Where the Association is carrying out necessary repair works.

Tenants have the right to challenge access based on landlords not giving every reasonable opportunity for access to be granted voluntarily. In all cases the procedures for taking entry must be followed and authorisation gained from a Senior Officer to any action being taken.

8. Securing Tenanted Properties

Property belonging to the organisation will be temporarily boarded up when it is not wind and watertight, to secure it against vandalism, or to prevent unauthorised access.

Before action is taken to completely secure any property, the procedural investigation set out within this Policy must be followed and authorisation of a Senior Officer obtained.

9. Temporary Absence from the Tenancy

9.1 Extended Absence

Extended absence is a means that allow tenants to leave their tenancy unoccupied for an agreed temporary period with the landlord's permission. Every Scottish Secure Tenant (SST) and short SST has the right to seek their landlord's permission to leave their tenancy unoccupied for an agreed period. Tenants must tell their landlord if they intend to go away for more than 4 weeks.

Landlords must advise on the outcome of an extended absence application within 28 days of receipt and can only refuse permission if it is reasonable to do so. Examples of these reasons are outlined in housing legislation.

We reserve the right to remove permission where the tenant has failed to meet any of the conditions of the permission being granted.
Tenants failing to keep us up to date with contact

information during a period of absence risk Shire Housing Association ending the tenancy on grounds of abandonment.

9.2 Tenants Serving a Custodial Sentence

Tenants who are serving a custodial sentence for example, in prison, a young offenders' institution or other detention centre on the instructions of a Court must tell us using the extended absence procedure where details of how ongoing tenancy liabilities and security of the home can be detailed. Shire Housing Association shall not take responsibility for securing the vacant home and its contents.

Permission will not be withheld unreasonably but consideration will be given dependant on the length of sentence, to the tenancy being ended on the condition that priority housing options are available at the end of the period of incarceration. Applicants in this category will be placed on the Strategic Needs Group within the Common Housing Allocations Policy.

Where a tenant has a lengthy custodial sentence, we shall apply Department of Work and Pensions timescale criteria based on the length of sentence and other factors, in our assessment of whether they can meet their ongoing obligations of tenancy. Where we have assessed that the tenancy obligations cannot be met, we shall offer advice that the tenancy is ended. Should the tenant refuse to give up the tenancy, the Association will consider seeking permission at Court for recovery of possession.

Where a married, co-habituating or other occupier remains in the home, the procedures relating to applications for joint tenancy or assignation shall be considered if necessary.

Where the relationship has been broken down the spouse/co-habitee will be advised to apply to the Court for the tenancy to be transferred under the matrimonial Homes (Family Protection) (Scotland) Act 1981.

10. Operate A Business from Home

A tenant who wishes to operate a business from their rented home must apply for permission. Every Scottish Secure Tenant and short SST has the right to seek the landlord's permission to operate a business from their home.

We shall advise on the outcome of an application to operate a business within 28 days of receipt and will only refuse permission if it is reasonable to do so. Any permission granted will be conditional on the tenant taking responsibility for obtaining any other necessary permission such as Planning. We reserve the right to remove permission where the tenant has failed to meet any of the conditions of the permission being granted.

11. Keeping of Pets



Tenants must get our permission to keep a domestic pet of any sort and ensure that any such pet is kept under supervision and control and does not cause nuisance and annoyance in the house or any common parts, the neighbourhood or further.

Landlords must advise on the outcome of an application to keep a pet within 28 days of receipt and can only refuse permission if it is reasonable to do so.

We reserve the right to remove permission where the tenant has failed to meet any of the conditions of the permission being granted.

12. Pest Control

Pest Control is not specified as a landlord responsibility in the tenancy agreement, but we recognise that it is not always easy to work out who is responsible or where to get help. Examples of typical pests and their treatments are outlined in our tenant information leaflets.

In some cases, the infestation can be considered as a tenant responsibility especially in the case of fleas brought in by household pet or vermin that has been attracted by food and rubbish.

We will always advise our tenants, in the first instance to seek advice from the Local Authorities Environmental Health Service on the pest and best way to control it. According to East Ayrshire Council's website, should treatment be needed by the Environmental Health Service, this is a chargeable service.

There may, in extenuating circumstances, be situations where Shire shall assist the Environmental Health service with Pest Control at our properties and this may also include support for the tenant with any Local Authority charges incurred.

Details of our approach to Pest Control is available in our procedures and tenant Information leaflets.

13. Staff Training and Code of Conduct

Shire Housing Association has a Staff Code of Conduct which outlines the standards of behaviour and conduct we expect from our employees.

We will ensure that our staff have the skills and capacity to meet the requirements of this policy effectively with staff receiving regular training and development. Staff can influence and comment on the policy through regular review.

14. Equality and Diversity



We are mindful of our obligations under the Equality Act 2010 to make sure people are treated fairly and are given equal access to services. The Equality Act 2010 introduced the term “Protected Characteristics” to describe groups against whom any sort of discrimination is unlawful. Section 4 of the Act specifies nine protected characteristics: Race, Sex, Disability, Age, Gender reassignment, Marriage and civil partnership, Pregnancy and maternity, Religion or belief and Sexual orientation. Shire will seek to promote and to achieve equality of treatment and opportunity for all groups in society without discrimination or prejudice on any ground.

We carry out Equality Impact Assessments when we review our policies and check policies and associated procedures regularly to ensure accessibility for all. We take appropriate action to address inequalities likely to result or resulting from the implementation of the policy and procedures.

15. Feedback and Complaints

Shire Housing Association strives to always provide an excellent customer service and welcomes feedback and comments from our customers. We will seek feedback via our website, e-mail, text, in writing and verbally to learn from service users’ experiences, using them to shape and develop our service.

We operate a Complaints Policy that is open and transparent, should any customer or service user feel the need to make a complaint against an individual or the organisation, the complaints policy and procedure will be implemented. All complaints will be recorded and dealt with under Complaints Policy and Procedures, which meet the requirements of the Scottish Public Services Ombudsman.

16. Performance Management and Review

In addition to the annual submission of performance against the Annual Return on the Charter to the Scottish Housing Regulator, the Management Board review and approve agreed Key Performance Indicators and targets on an annual basis and outcomes are monitored at quarterly meetings.

This policy will be reviewed every 3 years or earlier if deemed necessary due to legislative, best practice or other changes

