



This document is available in other languages or formats.  
Please contact the office for details.



<b>Policy:</b>	Sub-Letting Policy
<b>Legal Requirements:</b>	Housing (Scotland) Act 2001 Housing (Scotland) Act 2014
<b>Regulatory Standards:</b>	<p>The Scottish Housing Regulator has set out Regulatory Standards for all Registered Social Landlords (RSLs) to ensure that RSLs deliver good outcomes and services for its tenants and service users through good governance and financial management.</p> <p>This policy evidences that the following Regulatory Standards are being met:</p> <p>Standard 2. The RSL is open about and accountable for what it does. It understands and takes account of the needs and priorities of its tenants, service users and stakeholders. And its primary focus is the sustainable achievement of these priorities.</p> <p>Standard 5. The RSL conducts its affairs with honesty and integrity.</p>
<b>Notifiable Events Guidance:</b>	In compiling this policy, consideration has been given to the Notifiable Events Guidance issued by the Scottish Housing Regulator and the impact of that guidance on the policy.
<b>Equality and Diversity:</b>	<p>The Association is committed to Equal Opportunities and will endeavour to ensure that all services are carried out in an undiscriminating manner in line with the Association's Equality and Diversity Policy.</p> <p>In particular, the Association will not discriminate on the grounds of age, disability, marriage and civil partnership, pregnancy and maternity, race, religion or belief, gender, gender reassignment or sexual orientation.</p>
<b>Human Rights</b>	<p>In compiling this policy, consideration has been given to "The Right to Adequate Housing" (Fact Sheet No. 21/Rev.1) published by the Office of the United Nations High Commissioner for Human Rights and the impact of that guidance on the policy.</p> <p>In particular, the Association is satisfied that this policy promotes the key aspects of the right to adequate housing – that it contains freedoms; entitlements; provides more than four walls and a roof; and protects against forced evictions.</p>
<b>Complaints:</b>	Although the Association is committed to providing high levels of service, we accept that there may be occasions where customers may not be satisfied with the service they have received. The Association values all complaints and uses this information to improve the services that it provides. The Association's Complaints Policy describes our complaints handling procedure and how to make a complaint.
<b>General Data Protection Regulation (GDPR):</b>	The Association will treat all customers' personal data in line with its obligations under the current data protection regulations and our Privacy Policy. Information regarding how data will be used and the basis for processing data is provided in the Association's Fair Processing Notice.
<b>Policy Author:</b>	Kevin Freeman
<b>Policy Review:</b>	In order to ensure that any change in circumstances is accommodated this policy will be subject to review every three years in the month of October.



---

<b>Policy Approval:</b>	This policy was last reviewed / approved by the Management Committee of Yoker Housing Association Limited at its meeting held on Thursday the 27th of October 2022.
-------------------------	---



### Statement of Policy Aims/Principles

5 Sub-letting is where a tenant of the Association wishes to let all or part of their house for a specific period of time. This policy aims to ensure that tenants applying to sub-let their house are treated in a fair and equitable manner and that applications are processed in accordance with legislation, good practice and the contractual terms contained within the Scottish Secure Tenancy Agreement (SST) or Short Scottish Secure Tenancy Agreement (SSST).

### Legal Requirements

10 The legal provisions that govern the right for a Scottish Secure Tenant or Short Scottish Secure Tenant to sub-let their property are contained within the Housing (Scotland) Act 2001 and the Housing (Scotland) Act 2014.

### Policy Details

15 A tenant who wishes to sub-let all or part of their home must apply in writing to the Association and must obtain the Association's written consent to do so.

In order for a tenant to sub-let their property the following eligibility criteria must be met:

- 20 • The tenant must have been the tenant of the house throughout the twelve months immediately before they apply for written permission to sub-let their home; or
- If they were not the tenant throughout that period, the house must have been their only or principal home during those twelve months. The previous tenant must have notified the landlord that the person who is now the tenant was living there. The twelve month period does not start until the Association is notified that the person is living at the property.

25 There are no residency conditions for the person that wants to live in the property as a sub-tenant.

30 Where tenants are married or in a civil partnership or if they are a joint tenant, they will be required to get permission from their partner or other joint tenant to sub-let the property. Tenants are required to demonstrate good cause for having to stay away from their home, such as employment, study or family commitments. The tenant must complete the relevant processes and must provide the necessary documentation in accordance with sub-letting procedures before a decision can be taken. The tenant must also provide satisfactory evidence that they intend to return and that the property will remain their principal home. The tenant and sub-tenant will be required to sign a mandate contained within the application form allowing the Association to approach any necessary person or agencies to validate the information provided on the form or supplied in support of the request.

35 Where approval has been granted to sub-let the property, a legal contract will continue to exist between the tenant and the Association, in which the tenant will remain responsible for ensuring that the tenancy obligations, including payment of rent, repairs and conduct of the tenancy are maintained. Where there is a breach in tenancy then the Association will enforce these conditions against the tenant. At the termination of the sub-let agreement, the Association will have no legal obligation to rehouse the sub-tenant.

40 Applications to sub-let will not be refused unless the Association has reasonable grounds for doing so. The legislation does not clearly define what is regarded as "reasonable grounds" for refusal. However, the following grounds are considered reasonable for refusing an application to sub-let:

- 45 • The tenant was neither the tenant of the house or occupied the house as their only or principal home for the twelve month period immediately before the written application to sub-let was received;
- A Notice of Proceedings for Possession has been served on the tenant specifying any of the 'conduct' grounds set out in paragraphs 1 to 7 of Schedule 2 of the Housing (Scotland) Act 2001;
- 50 • The Association has commenced legal action against the original tenant to recover the property. This includes abandonment proceedings;
- A Decree for recovery of possession has been granted by the court;
- The proposed rent level or any other tenancy payment (e.g. deposit) is considered to be too high;
- The application form is incomplete or contains false or misleading information;
- An unsatisfactory tenancy report (including rent arrears and anti-social behaviour) is received in relation to the proposed sub-tenant;
- 55 • The proposed lease is considered to be insufficient;
- Approval of the sub-let would result in the property becoming overcrowded;
- The Association believes that the tenant is to receive a payment, in return for making the application; and



**Policy Details (Continued)**

- The Association proposes to carry out work to the house or the building and the proposed work would affect the accommodation that would be occupied by the sub-tenant.

The Association will respond to an application to sub-let within one month of the application being received. The tenant will be advised in writing of the Association's decision. Where approval is not granted to sub-let the property, the Association will confirm the grounds on which the application has been refused.

**Appeals Process**

Tenants wishing a review of the decision to their request should write to the Association's Housing Services Department within fourteen days giving their reasons for appeal. The application will then be reviewed and a written response will be provided within five working days outlining any new decision. If the tenant is still dissatisfied then they should write to the Association's Director who will investigate all circumstances and will respond to the applicant in writing within five working days. If the tenant is still dissatisfied then the complaints procedures will apply.

**Risk Management**

By having a written policy and procedures on sub-letting, the Association is able to ensure that a uniform and professional approach is adopted throughout the organisation and the service delivered is compliant with law, best practice and internal policy.

Without a Sub-Letting Policy, the Association is at risk of poor tenancy information, providing wrong advice and acting unprofessionally.

**Policy Reporting**

A report on the number of applications to sub-let received by the Association as well as outcomes will be reported to the Management Committee on an annual basis and contained within the Tenancy Management Report.