

1.0 CONTEXT

- 1.1. It is a term of every Scottish Secure Tenancy that the Tenant may sub-let the property subject to certain conditions.
- 1.2. The Housing (Scotland) Act 2001, and more recently the Housing (Scotland) Act 2014, makes provisions for sub-letting and defines the circumstances in which it can be used.

2.0 AIMS

- 2.1 To ensure equality of opportunity and consistency of approach in dealing with requests from tenants to sub-let or take in lodgers.
- 2.2 To ensure compliance with legislation, guiding standards and best practice.
- 2.3 To mitigate risk.

3.0 DEFINITIONS

- 3.1 For the purposes of this policy, the following definitions will apply:
 - 3.1.1 *Sub-letting* describes a situation whereby the property is let in its entirety, by the tenant, to a person who is not the Principal Tenant with the written consent of the landlord of the property.
 - 3.1.2 *Lodging* describes a situation where the property is occupied in part, by a person who is not the Principal Tenant.
 - 3.1.3 It is a term of every Scottish Secure Tenancy Agreement that the Tenant is entitled to have members of their family¹ occupying the house with them, so long as this does not lead to overcrowding. Written receipt of family members joining the household will not be treated as a request for a lodger, and may still be rejected if the proposed change would lead to overcrowding as defined within GWHA's occupancy standard.
 - 3.1.4 *One Month* is the term used in legislation. For the purposes of this policy and in line with the tenancy agreement, GWHA will stipulate 28 days.

4.0 POLICY

4.1 Sub-letting

- 4.1.1 GWHA recognises there may be occasions where a tenant would wish to be absent from their home for a period of time, without terminating or jeopardising their tenancy.
- 4.1.2 Tenants who wish to pursue an application to sub-let their tenancy must make a written application to GWHA. To ensure a request is expedited and all information is available for GWHA's consideration, a tenant who wishes to pursue an application will be encouraged to complete form SL1: Application to Sub-let or take in a lodger. The written application must provide details of the proposed transaction, and of any payment which has been or is to be received by the tenant in reference to the sublet, and must be signed by both parties. GWHA will acknowledge receipt of all applications in 3 days.
- 4.1.3 Housing legislation defines that tenants are eligible to apply for their landlord's consent to sublet their home only where the house has been their only or principal home for a minimum of 12 months prior to the date of application.
- 4.1.4 GWHA will confirm consent or refusal (with reasons) to the Tenant in writing within 28 days of receipt of the application to sublet.
- 4.1.5 Where further information is required in order to fully consider the request, this will be sought from the tenant in writing. At the same time the tenant will be advised that the request is refused until such times as the information has been received and processed.
- 4.1.6 GWHA, as a matter of policy will permit sublets for a maximum 9 month term.
- 4.1.7 Where permission to sub-let is granted, it is the responsibility of the tenant during the period of the sublet:
 - a) To notify GWHA of any proposals to increase the sub-tenant's rent;
 - b) Not to increase the rent if GWHA objects to the proposed increase.
- 4.1.8 The principal tenant and the sub-let tenant are required to co-sign an authorisation mandate to permit the release of information pertaining to the tenancy during the period of the sub-let.

¹ This term includes the tenant's spouse, civil partner, co-habitee, parent, grandparent, child (including stepchildren), grandchild, brother, sister, uncle, aunt, niece, nephew; and any of those of your spouse

- 4.1.9 The principal tenant remains responsible for the conduct of the tenancy throughout the period of the sub-let. GWHA will liaise with the principal tenant directly in the event of any issues concerning conduct of tenancy for matters including, but not limited to payment of rent, anti-social behaviour, estate management, annual gas servicing, condition of property etc.
- 4.1.10 In cases where a tenant is suspected of sub-letting without express written permission the Tenancy Services Manager will make decisions regarding the most appropriate course of action, within the context of risk.

4.2 Lodgers

- 4.2.1 GWHA recognises there may be occasions where a tenant would wish to take a lodger within their home for a period of time.
- 4.2.2 Tenants who wish to pursue an application to take a lodger must make a written application to GWHA (SL1 form: Application to Sub-let or take in a lodger). The written application must provide details of the proposed transaction, and of any payment which has been or is to be received by the tenant in reference to the lodging. GWHA will acknowledge all applications in 3 days.
- 4.2.3 Housing legislation defines that tenants are eligible to apply for their landlord's consent to take in a lodger only where the house has been their only or principal home for a minimum of 12 months prior to the date of application.
- 4.2.4 GWHA will confirm consent or refusal (with reasons) to the Tenant in writing within 28 days of receipt of the application to take in a lodger. Where further information is required in order to fully consider the request, this will be sought from the tenant in writing. At the same time the tenant will be advised that the request is refused until such times as the information has been received and processed.
- 4.2.5 GWHA, as a matter of policy will permit Tenant's to take in a lodger for a maximum 9 month term.
- 4.2.6 Where permission to take in a lodger is granted, it is the responsibility of the tenant:
- To notify GWHA of any proposals to increase the lodgers rent;
 - Not to increase the rent if GWHA objects to the proposed increase.
- 4.2.7 The principal tenant remains solely responsible for the conduct of the tenancy throughout.
- 4.2.8 The tenant is responsible for ensuring that no-one living with them does anything that would be a breach of the Tenancy Agreement if they were the tenant. If they do, GWHA will treat the principal tenant as being responsible for any such action.
- 4.2.9 In cases where a tenant is suspected of taking in a lodger without express written permission the Tenancy Services Manager will investigate and propose the most appropriate course of action to the Services Director.

4.3 Exceptions

- 4.3.1 GWHA is entitled to refuse consent for sub-letting and lodgers if it has reasonable grounds for doing so. The following circumstances would constitute reasonable grounds for refusal, although this list is not exhaustive:
- A Notice of Proceedings for Recovery of Possession has been served on the tenant, under any of the grounds 1-7 of Schedule 2;
 - An order for recovery of possession of the house has been granted to GWHA in respect of the tenancy;
 - Where it appears to GWHA that a financial inducement (a payment other than reasonable rent or deposit given as security for the subtenant's obligations for the associated tenancy costs ie. Gas, electricity, telephone, home contents etc.) has been received by the Tenant in consideration of the sublet;
 - The property (or part thereof) is let at a profit, or where a deposit (in excess of two month's rent is charged by the principal tenant;
 - The proposed change would lead to overcrowding within the property;
 - The sublet period is in excess of 9 months, or is indefinite, or the arrangement *appears* to be permanent;
 - GWHA proposes to carry out work on the house, or in the building of which is forms part, where the proposed works will affect the accommodation.
 - Where, by GWHA's definition², the proposed change would result in the home being under-occupied.

² GWHA's occupancy standard is defined within the Housing Allocations Policy

- i) There are outstanding rent arrears , exceeding the value of one month's rent or rechargeable repairs.
- j) The tenant or proposed sub-tenant or lodger has a history of anti-social behaviour, or has been the subject of legal action in respect of a previous tenancy within the previous three years.

5.0 FEEDBACK, APPEALS AND COMPLAINTS

5.1 Feedback

- 5.1.1 GWhA Tenants and other customers may provide feedback about this document by emailing admin@glasgowwestha.co.uk

5.2 Appeals and Complaints

- 5.2.1 Applicants with a grievance arising from their application to sub-let their tenancy will be considered in accordance with GWhA's Comments and Complaints Policy.
- 5.2.2 Once the Association's Comments and Complaints Policy is exhausted, there is a right of appeal to the Scottish Public Services Ombudsman (SPSO). As the SPSO is unlikely to comment on matters of a legal nature, a review will focus on the proper application of the Association's policy, rather than the legalities of sub-letting.
- 5.2.3 The Housing (Scotland) Act 2001, Schedule 5, Part 2 gives Tenants a statutory right to appeal against a refusal to sub-let a tenancy to the Sheriff by way of summary application. Tenants are advised to seek legal advice, or assistance from an organisation such as Shelter Scotland or Citizen's Advice Scotland.

6.0 REVIEW

- 6.1 This policy will be reviewed every 5 years, or sooner, subject to a change in legislation or circumstance.
- 6.2 In the case of conflict between this policy and legislation, the latter will always preside.

7.0 DELEGATED AUTHORITY

- 7.1 Delegated authority is granted by the Management Committee to the Chief Executive and Staff to implement this Policy and the associated procedures.