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SUB-LET PROCEDURE

PLACES FOR PEOPLE SCOTLAND

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**INTRODUCTION**

The sub-let procedure explains our approach to sub-let and explains the tenants’ rights to sub-let their property which are under pinned by the Housing (Scotland) Act 2001 and the Housing (Scotland) Act 2014.

This procedure provides staff guidance for dealing with sub-let requests. Within this document it details who can apply for a sub-let, reason for approval/refusals. All the relevant forms and letter templates and a customer information sheet.

Confidentiality And Information Sharing

All information received in connection with a sub-let is treated in the strictest confidence in accordance with our Confidentiality Policy. We comply with the requirements of the General Data Protection Regulation.

**WHAT IS A SUB-LET?**

Where an existing tenant lets all or part of their home to someone else who is known as a subtenant. We must have given written permission before they can sub-let. A subtenant will have exclusive use of the accommodation that is let to them. If a tenant sub-lets without permission from us, they are in breach of their tenancy agreement.

As a landlord, we cannot unreasonably withhold our permission. We must advise why a sub-let request has been refused.

**ELIGIBILITY**

Any tenant of Places for People Scotland who has a Scottish Secure Tenancy or Short Scottish Secure Tenancy has the right to apply to sub-let their property. Our responsibility is to assess the application and approve or refuse.

Current staff, former staff, Board Members and their relatives who are tenants may apply to sub-let. A sub-let will only be approved if it complies with the requirements of the Allocations Policy and has been approved by the Board of Management.

We should only consider giving the permission to sub-let when the tenant is planning to be away from their home for a temporary period. Permission to sub-let will only be granted for specific period of time during which the tenant may be away.

We must give our consent or refusal, in writing, within 28 days of receiving the written request, providing that all relevant information has been received. If we fail to respond within this time period then we are considered to have consented to the proposed arrangement.

**APPROVAL CRITERIA**

**The Tenant must have lived in the property as their principal home for a 12-month period before they can apply for a sub-let.**

**There is no legal relationship between the subtenant and us. The subtenant will pay rent to the tenant(s). The tenant will continue to be responsible for all the conditions of the tenancy or occupancy agreement including the conduct of the subtenant while in the property or vicinity. Rent should be paid to us directly from the tenant by direct debit.**

**Permission will only be granted on condition that the tenant has registered as a private landlord with the local authority and fulfilled the criteria for registration.**

**The tenant will remain responsible for ensuring that all conditions of their tenancy are fulfilled throughout the period of the sub-let. The property must be occupied by the only person(s) approved by us.**

**REFUSAL OF PERMISSION**

A sub-let request will not be approved if:

* We have served a legal notice advising that we may seek to evict the tenant.
* We have obtained an order for the tenant’s eviction
* The tenant has rent or service charge arrears. This may be relaxed at the discretion of Housing Management Team Leader.
* The tenant must have been a tenant for 12 months prior to applying.
* If they haven’t been the tenant for that period, they can still be given permission for a sub-let if they have been in the property for at least 12 months and became the tenant during that time, **but** we must have been informed previously that they were living in the property.
* We do not have the written consent of all tenants, including any joint tenants.
* We do not have written consent from any person who has occupancy rights under the Matrimonial Homes (Family Protection) (Scotland) Act 1981.
* There are other outstanding housing related payments including legal fees and rechargeable repairs, these must be paid in full before a sub-let will be approved.
* The proposed length of time of the sub-let is longer than 6 months.
* The amount of rent being proposed to charge the subtenant is higher than the rent charged by us. A tenant can charge their subtenant a service charge equivalent up to 20% of the rent. A refundable deposit charged by the tenant for damage to furnishings/property cannot be more than the equivalent to one month’s rent.
* The condition of the current property (including any garden area) currently occupied by the tenant is not of an acceptable standard as defined by the tenancy agreement.
* Where we intend to carry out work on the house, which would affect the part of the house connected with the change.
* The subtenant does not require the facilities or amenities provided in a specially adapted property (such as amenity or wheelchair houses) and/or the services associated with a property (such as the manager service in sheltered housing).
* The sub-let will result in the overcrowding of a property. Please refer to the Allocations Policy to see our definitions.
* Where the proposed subtenant is a registered Sex Offender and we have been advised by the Responsible Authorities and/or SOLO that the property is not suitable.
* A Short Scottish Secure Tenant (SSST) has proposed a sub-let for a longer period than the length of the SSST.

**APPLICATION STAGE**

1. **Application Form**

All received sub-let forms, must be passed to the Housing Officer. Housing Officers must ensure that the application form is fully completed. If the form is not fully completed with required documents it needs to be sent back to the applicant to complete. The 28 day timescale for approval does not start until the application form is fully complete.

1. **ACKNOWLEDGEMENT**

Housing Officer must acknowledge receipt within five working days: [Acknowledgement letter](#Sub_Ack).

Housing Officer should make an initial assessment of the application form to identify any immediate reason that the application process should not any further. If the sub-let cannot be approved the Housing Officer needs to write to our customer acknowledging the application form and refusing the sub-let application within the same letter. Examples would be customers who have a current Notice of Proceedings served against their tenancy, rent arrears, proposed length of sub-let is over 6 months.

Sub-let request must be recorded as a customer contact on Northgate.

**ASSESSMENT PHASE**

1. **TENANCY CHECKS**

Housing Officer needs to check the applicants tenancy file, anti-social behaviour files and their rent account.

Check the information submitted in the application form is and includes:

* Who the tenant wants to sub-let to – check Northgate to see if they have previously held a tenancy with us
* Details of the amount of rent and any other service charges
* Date when proposed sub-let is to start and end
* Is the tenant sub-letting part or all of their home
* Is there a copy of the subtenants sub lease agreement
* Proof they are registered as a private landlord
* Details of where the tenant will be during the sub-let period

If no issues identified, the Housing Officer must arrange the tenant at home to check condition of property.

1. **HOME VISIT**

The purpose of the visit is to explain how the process will work and to complete a property inspection.

Home visits must be recorded on Northgate as a customer contact using the code NO\_Visit. Refer to customer contact training manual.

**APPROVAL PHASE**

1. **DECISION MAKING**

Housing Officer needs to decide whether to approve the sub-let based on all of the information they have collated for the applicant. Issues to consider before approving:

* Why is the tenant wanting to sub-let? Is it a valid reason? Medical needs, work commitments, long term travel plans.
* Is it on a temporary basis?
* Duration of proposed sub-let
* Rent & Services charges that have been proposed
* Tenancy warnings
* Any anti-social behaviour issues
* Notice of Proceedings served
* Tenancy arrears – rent; rechargeable or legal fees
* For Shared Owners, they must have permission from their mortgage provider
* Condition of property and garden

Housing Officers must seek approval from a Housing Management Team Leader before officially approving a sub-let.

1. **COMMUICATION THE DECISION**

Housing Officer’s decision needs to be issued in writing to the sub-let applicant.

[Approval](#Sub_App) - Ensure this is saved into the tenancy file

[Refusal](#Sub_Ref) – Refusal letter need to be issued to the applicant, stating that the sub-let cannot go ahead. We must explain why the sub-let request has been refused.

**FOLLOWING APPROVAL – SUB-LET**

The SST or SSST between us and main tenant still stands. Main tenant continues to pay rent and is directly answerable to us. Housing Officer should arrange for an alert to be set up on Northgate to advise that the property is being sublet, name of subtenant and their contact details. Please follow the BS – Customer Service Alert Procedure.

The Housing Officer should diary when the sublet is due to end. Prior to the end date the Housing Officer should make contact with the tenant to remind them that the sub-let is due to end.

**INFORMATION**

A subtenant will be a common law tenant. Common law tenancies are not regulated by any specific laws. Subtenant rights depends mainly on what’s in their tenancy agreement. The tenancy is not a ‘statutory tenancy’.

If at the end of the sub-let the tenant does not move back into the property and is not granted an extension to the period of sub-let, we will take action to end the tenancy under non-occupation.

Once we have given permission to sub-let, we have little to no rights over the subtenant.

APPEALS

If a customer is unhappy with our decision at any stage or wishes to appeal our decision then this will be treated as a complaint and will be managed through our complaints procedure. Please log the dissatisfaction on Cirrus and this should be assigned to the Housing Management Team Leader at stage one. Stage two complaints will be investigated by the Housing Manager.

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**SUB-LET – CUSTOMER INFORMATION SHEET**

GENERAL INFORMATION

All Scottish Secure tenants and Short Scottish Secure tenants have the right to apply to sub-let their property.

A sub-let is where an existing tenant let’s all or part of their home to someone else who is known as a sub-tenant. They have exclusive use of the accommodation that is let to them.

You must have our written permission before you can sub-let your home.

HOW LONG CAN I SUB-LET MY PROPERTY?

We will only give our permission for 6 months. After this, we will review the application and may give you our permission to sub-let for a further 6 months, after which the sub-let will end.

At the end of the sub-let, you must return to live in your home. If you do not want to live I your home, we will tell you how to end your tenancy.

If you have a Short Scottish Secure tenancy, the sub-let will not be longer than length of your tenancy.

WHO PAYS THE RENT?

You will still be responsible for paying rent to us. If you are in receipt of housing benefit or universal credit you must inform housing benefit/universal credit.

HOW MUCH RENT CAN I CHARGE?

We will not allow you to charge any more than 20% above the monthly rental charge. The additional 20% is to cover items such as furnishings and insurance.

CAN I TRANSFER THE TENANCY TO THE SUB TENANT IN THE FUTURE?

No. If you are not returning to the property you would have to terminate your tenancy.

WHAT DO I HAVE TO DO BEFORE I CAN SUB LET?

You must have no rent arrears and there must be no outstanding costs for rechargeable repairs or legal costs.

If you are married, co-habiting or have a joint tenancy, we will need to have the other person’s consent before the sub-let commences.

You must be registered as a private landlord

You must have our written consent from us before you can sub-let.

You must provide us with contact details for you.

WHAT RESPONSIBILITIES DO I HAVE?

There is no legal relationship between your sub-tenant and us. The sub-tenant will pay rent to you, the principal tenant. You will continue to be responsible for all the condition of the tenancy agreement/occupancy agreement including the conduct of the sub-tenant while in the property. You will pay the rent/occupancy charge by Direct Debit.

You are responsible for advising your insurance provider, local authority, energy supplier, council tax and housing benefit.

You are responsible for advising the sub-tenant about their responsibilities and how they report repairs to us.

HOW LONG WILL THE APPLICATION PROCESS TAKE?

We will have to consider a number of things when you assessing your application, including length of sub-let, rent you are proposing to charge and reviewing how you have conducted your tenancy.

We must let you know, in writing, within 28 days of receiving your completed application form of our decision.

WHY WE MAY REFUSE A REQUEST?

Your application may not be approved if:

* You have any tenancy arrears
* If have a valid notice of proceedings served on you or action is being taken to repossess your home
* Your home, including garden, is in poor condition and is not to the standard stated within your tenancy agreement
* The exchange will result in overcrowding
* Amount of rent you are proposing to charge is too high
* Length of sub-let is over 6 months.

WHAT HAPPENS NOW?

We visit our tenant to make sure that the condition of their home is in an acceptable standard.

We will write to you within 28 days of receiving your application to confirm whether the exchange can go ahead. You cannot move until you have signed your new tenancy agreement.

If you have any questions and would like to know more sub-letting, please contact us at [CREHousing@placesforpeople.co.uk](mailto:CREHousingManagementInbox@castlerockedinvar.co.uk) or telephone on 0131 657 0600.

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|  |  |
| --- | --- |
| **Main Tenant Details** | |
| Your Name |  |
| Date of Birth |  |
| Contact Details  Phone:  Email: |  |
| Your Address:  (Including Postcode) |  |
| Do you have a husband/wife/civil partner? YES/NO | |
| Are you a Joint Tenant? YES/NO | |
| **Joint Applicant Details (only complete section if joint tenancy)** | |
| Your Name |  |
| Date of Birth |  |
| Contact Details  Phone:  Email: |  |

|  |  |  |  |
| --- | --- | --- | --- |
| **Current Household – Individuals who currently live with you** | | | |
| Name | | Date of Birth | Relationship to Tenant |
|  | |  |  |
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| **Property – Information about your home** | | | | |
| Property Type: | Flat: Main Door/ 4 in block/ Tenement/ Flat  House: Bungalow/ End Terrace/ Mid Terrace/ Detached | | | |
| Number of Bedrooms: | | | | |
| Do you have your own garden? YES/NO | | | | |

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| --- | --- | --- | --- | --- | --- |
| **About Your Proposed Subtenant** | | | | | |
| Name |  | | | | |
| Date of Birth |  | | | | |
| Current Address  (Including postcode) |  | | | | |
| Relationship to Tenant: | | | | | |
| UK resident | YES/NO | | Ethnic Origin: |  | |
| Are you required to register with the Police under the sexual offences act? | | | | | Yes/No |
| Has any action ever been taken against you for anti-social behaviour? | | | | | Yes/No |
| Has an ASB order been granted against you? | | | | | Yes/No |
| Have you ever been a Places for People Scotland Tenant? | | | | | Yes/No |
| Have you worked for Places for People Scotland either paid or voluntary? | | | | | Yes/No |
| Are you related to anyone who is a tenant/staff member/board member/previous employee of Places for People Scotland? | | | | | Yes/No |
| **About Proposed Sub-Let** | | | | | |
| Reason for Sub-Let: | | | | | |
| Will you remain in occupancy of the property? YES/NO  If NO, please complete below. | | | | | |
| What will your contact information be during sub-let:  Address:  Postcode:  Phone Number:  Email: | | | | | |
| How long is permission requested for? | |  | | | |
| What date do you wish permission to start from? | |  | | | |
| What payment will you receive from subtenant? | |  | | | |

**Declaration:**

I agree/understand that the tenancy will remain in my name(s) and I am responsible for all obligations of the tenancy as per the Scottish Secure Tenancy (SST) or Short Scottish Secure Tenancy (SSST) agreement. All contact/correspondence will be between Places for People Scotland and myself, not my subtenant.

I agree/understand that permission will be for a period of 6 months. At the end of this period I will either return to the property or terminate the tenancy. I will not be permitted to assign the tenancy to the subtenant at any time during or at the end of the term.

I agree/understand that Places for People Scotland will not become involved in any personal dispute between myself and my subtenant.

I agree/understand that the rent is due and payable by me and any arrears recovery action, if necessary, will be taken against me.

I agree/understand if there are any complaints or instances of anti-social behaviour received in my absence, contact/correspondence will be between myself and Places for People Scotland.

I agree/understand that any repairs can be reported directly to Places for People Scotland by my subtenant, however, the cost of any repairs deemed to be my/my subtenant’s liability, will be sent to me for payment.

I agree/understand that no arrangement to sub-let should be make unless written permission has been received from Places for People Scotland.

I have attached a copy of the tenancy agreement between myself and my subtenant that I intend to use that shows the amount of rent I intend to charge.

I have provided full details of the person(s) I wish to sub-let to including name(s), current address and date(s) of birth.

I declare that the information given in this form is true and if any details are found to be false will result in my application being refused.

Tenant Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Joint Tenant Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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| Our Ref: | |  |  |  | |
|  | |  |  |  | |
| Date: | | 30 November 2021 |  |  | |
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|  | |  |  |  | |
|  | | (Address 1)  (Address 2)  (Address 3)  (Address 4)  (Postcode) | **Housing Management** | | |
|  | | 1 Hay Avenue | | |
|  | | Edinburgh | | |
|  | | EH16 4RW | | |
|  | |  |  | |
|  | | Telephone: | 0131 657 0600 | |
|  | | Fax: | 0131 657 0700 | |
|  | |  |  |  | |
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|  | |  |  |  | |
| Dear | | | |
|  | | | |
| **Sub-Let Acknowledgement** | | | |
|  | | | |

I have received your sub-let application form at our office on DATE. Thank you for completing the application form.

To proceed with your application, I need to ensure that you meet our sub-let criteria. Our main condition is that you do not have any arrears associated with your tenancy and do not sub-let for longer than 6 months. Please find enclosed a customer information sheet. I have 28 days from date received to advise you of my decision.

I would like to visit you on DAY/DATE/TIME to complete a home inspection (our tenant).

Please contact me on 0131 657 0600 if you have any questions.

Yours sincerely

**Name**

**Housing Officer**

Telephone: 0131 657 0600

Email: [CREHousing@placesforpeople.co.uk](mailto:CREHousingManagementInbox@castlerockedinvar.co.uk)

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| Our Ref: | |  |  |  | |
|  | |  |  |  | |
| Date: | | 30 November 2021 |  |  | |
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|  | |  |  |  | |
|  | | (Address 1)  (Address 2)  (Address 3)  (Address 4)  (Postcode) | **Housing Management** | | |
|  | | 1 Hay Avenue | | |
|  | | Edinburgh | | |
|  | | EH16 4RW | | |
|  | |  |  | |
|  | | Telephone: | 0131 657 0600 | |
|  | | Fax: | 0131 657 0700 | |
|  | |  |  |  | |
|  | |  |  |  | |
| Dear | | | |
|  | | | |
| **Sub-Let Approval** | | | |
|  | | | |

I pleased to inform you that I have approved your sub-let application.

You indicated that your sub-tenancy would start on INSERT DATE, an alert has been created on our system to advise you are sub-letting your property.

Please note you can only sub-let for a 6 month period. At the end of the 6 month period, INSERT END DATE, you must return and occupy your property or terminate your tenancy. There is no legal relationship between your subtenant and us.

Please contact me on 0131 657 0600 if you have any further questions.

Yours sincerely

**Name**

**Housing Officer**

Direct Dial: 0131 657 0600

Email: [CREHousing@placesforpeople.co.uk](mailto:CREHousingManagementInbox@castlerockedinvar.co.uk)

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| --- | --- | --- | --- | --- | --- |
| Our Ref: | |  |  |  | |
|  | |  |  |  | |
| Date: | | 30 November 2021 |  |  | |
|  | |  |  |  | |
|  | |  |  |  | |
|  | | (Address 1)  (Address 2)  (Address 3)  (Address 4)  (Postcode) | **Housing Management** | | |
|  | | 1 Hay Avenue | | |
|  | | Edinburgh | | |
|  | | EH16 4RW | | |
|  | |  |  | |
|  | | Telephone: | 0131 657 0600 | |
|  | | Fax: | 0131 657 0700 | |
|  | |  |  |  | |
|  | |  |  |  | |
| Dear | | | |
|  | | | |
| **Sub-Let Refusal** | | | |
|  | | | |

I am writing to confirm that on this occasion, I have refused your sub-let request.

Your application has been refused because INSERT REASON.

Please contact me on 0131 657 0600 if you have any further questions.

Yours sincerely

**Name**

**Housing Officer**

Direct Dial: 0131 657 0600

Email: [CREHousing@placesforpeople.co.uk](mailto:CREHousingManagementInbox@castlerockedinvar.co.uk)