



Sub-letting

Guidance on the application process

WISHAW
& DISTRICT
HOUSING
ASSOCIATION



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Our Ref: ST/EH
Date: 24 December 2004

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Hand





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What is a sub-let?

A sub-let is where you, the legal tenant of a rented property, are not living in your house for a period of time and rather than leave it empty you decide to allow another person (the sub-tenant) to reside in the house on a temporary basis. Normally you would charge your sub-tenant a rent but even if you charged no rent (for example if you allowed a member of your family to live in the house) this would still be a sub-let.

Sub-letting is not the same as taking in a lodger which is when you still live in the property and only rent out part of the house.

Do I have a right to sub-let my home?

The law gives Housing Association tenants the right to sub-let, but only on a temporary basis and only once you have obtained the Association's permission. It is therefore essential that you get written permission from the Association BEFORE leaving your home and allowing another person to move in.

What if I don't ask the association for permission?

If you leave your home for any length of time and allow another person to live in the house while you are away without the Association's permission, the sub-let is illegal and the sub-tenant has no legal right to the property.

More importantly, you as the tenant will be in breach of your tenancy agreement and the Association can take legal action against you to evict both you and the unauthorised sub-tenant from the house and recover the property.

What should I do if I wish to sub-let my house?

Both you and the proposed sub-tenant must each complete a short application form and return both forms to the Association's office along with a proposed sub-letting agreement. The application will only be considered once all the necessary forms have been fully completed and submitted to the office.

Do I answer all the questions on the application form?

Yes. To enable the Association to consider your application fully, it is essential that we have all the information asked for in the form. If you are unsure of the answers to any questions or need help to complete the form please ask a member of staff for assistance.

What Is a Sub-Letting Agreement?

This is an agreement between you and the person you want to sub-let to and it needs to be signed by both of you.

The agreement must state how long the sub-let is for and provide details of the terms and conditions including:

- all proposed charges, especially the rent;
- arrangements for the payment of Council Tax and utilities like electricity, gas, phone etc;
- the provision and use of facilities such as washing machine, TV etc.

Your Housing Officer can help you draw up a Sub-Letting Agreement.

Will I automatically get the Association's permission to sub-let?

Permission to sub-let is at the Association's discretion. However we cannot unreasonably withhold consent.

In considering an application to sub-let, the Association must ensure that:

- the proposed charges (including the rent and any deposit) to the sub-tenant are reasonable;
- the terms and conditions of the sub-letting agreement are acceptable;
- the house will not be overcrowded;
- that the house will only be occupied by the persons agreed by the Association;
- the proposed sub-tenant does not have a history of anti-social behaviour;

- that all tenants and, where applicable, the tenant's spouse or partner are agreeable to the house being sub-let;
- all parties are fully aware of their rights, obligations and responsibilities;
- that you intend to return to your home within the stated period of time and resume using the house as your only or principal home.

In considering the reasonableness of the proposed charges to the sub-tenant, the Association will take into consideration:

- the size of the property and the current rent being charged by the Association;
- the furnishings and facilities being made available for the sub-tenant's use (e.g. audio and visual equipment, washing machine etc);
- arrangements for the payment of utilities such as gas, electricity, phone etc;
- arrangement for the payment of Council Tax.

Permission for a sub-let will not normally be given if the Association has served a Notice of Proceedings on you or where the court has granted an order for repossession of the property.

How long can I sub-let for?

A sub-let is only intended to be a temporary arrangement and you, as the tenant, still have an obligation to return to the house and to use it as your only or principal home. The Association will, therefore only give permission for a maximum of six months. If you find you need longer you will have to re-apply no later than ten weeks before the end of the sub-let period.

However, it is extremely important that you remember that a sub-let can only ever be a temporary arrangement. If it looks as if the sub-let is becoming a permanent arrangement, the Association may take legal action to end your tenancy and repossess the property.

Are there any conditions attached to permission being granted?

Permission for the sub-let will normally only be given on the following conditions:

- that you get the Association's approval for any changes to who the house is sub-let to or to any of the terms and conditions of the sub-letting agreement;

- permission is only given for the sub-tenants and members of their family named on the application form;
- that you as the tenant ensure that all the terms and conditions of YOUR tenancy agreement are adhered to, including the payment of rent;
- that any breach of your Scottish Secure Tenancy Agreement will, in effect, be breaking the conditions for consent and the permission for the sub-let will be withdrawn;
- permission for the sub-let is given for a maximum of six months;
- you, as the tenant, will be held responsible for the conduct of the sub-tenant and any legal action arising from the unacceptable behaviour of the sub-tenant will be taken against you;
- the sub-tenant has no right of succession upon the tenant's death;
- you return to live in the house at the end of the sub-let period;
- you and the sub-tenant are responsible for notifying all necessary agencies and statutory bodies (e.g. Benefits Agency, Housing Benefit, Council Tax etc);
- that you remain a Scottish Secure Tenant of the Association. If you terminate your tenancy permission for the sub-tenant will automatically be withdrawn.

If I sub-let my house do I still have any responsibility for it?

Even where the Association gives permission for the sub-let, you remain the tenant and the legal relationship between you as the tenant and the Association as your landlord remains the same. You therefore remain responsible for ensuring that the rent is paid and that the terms of the tenancy are adhered to, including all clauses relating to the behaviour of residents and visitors to the house.

Remember – If your sub-tenant behaves in an anti-social manner or causes any damage to the house, the Association will take action against YOU.

Do I have responsibilities to the sub-tenant?

As you have entered into a legal arrangement with the sub-tenant, you have responsibilities to the sub-tenant that you must fulfil.

If you have sub-let your house as furnished accommodation

including white goods such as a washing machine, cooker, fridge and freezer and audio and visual equipment like TVs, a video recorder and/or dvd, cd player etc, you are obliged to ensure that all these items remain in good working condition.

Perhaps most importantly, when you wish the sub-let to end, you **MUST** provide the sub-tenant with at least two months notice of the date you wish the sub-let to end.

There are also a number of other responsibilities you may have relating to safety etc and you are therefore strongly advised to seek independent legal advice before you enter into a formal sub-let agreement.

How long does it take to assess my application?

The Association must notify you of its decision regarding the sub-let within one month of the completed application form being received at the Association's office. If we do not reply within one month, permission is deemed to have been granted. However, you must **NOT** allow the sub-let to start before you either have written permission from the Association or before the one month period has expired.

Can I appeal the decision if the sub-let application is refused?

Any party directly affected by the Association's decision relating to an application to sub-let has the right to appeal any decision made by the Association in relation to the application.

Details on how to appeal a decision is available from the Association's office.

A copy of the Association's Sub-Letting Policy is also available from the office on request.

Further information

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Open: Monday – Thursday: 9.00am – 4.30pm and
Friday: 9.00am – 4.00pm
Closed for lunch: 12.30pm – 1.30pm