



Assignment Policy

If you have difficulty with reading this policy, including any difficulties with sight or hearing, or if you require this document translated into another language, please contact us and we will be happy to provide this information in a format that suits your needs.

Our Vision, Our Mission, Our Values

Our Vision

Elderpark Housing will lead the way in delivering outstanding customer services and great places to live.

Our Mission

To provide quality, affordable homes and excellent services which place a focus on our customers and enhancing our communities.

Our Values



Equality and Diversity Statement

Elderpark Housing are committed to ensuring people or communities do not face discrimination or social exclusion due to any of the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex or sexual orientation.

This document complies with our Equality and Diversity Policy.

We will regularly review this Policy and consider any equalities implications taking the necessary action to address any inequalities (either directly or indirectly) that result from the implementation of this Policy.

Executive Summary

Policy Author

The Housing Manager has developed this policy on behalf of the organisation. It applies to all tenants wishing to assign their tenancy.

Purpose of the Policy

The Assignment policy aims to ensure that EHA has an accountable process to identify, record and put in place procedures to deal with an assignment of tenancy, in accordance with legal provisions and contractual terms contained within the tenancy agreement.

This policy is written in accordance with the Association's Equality and Diversity Policy to ensure that tenants and residents in our community do not face discrimination, victimisation, harassment or social exclusion due to any of the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex or sexual orientation.

Aims and Objectives of the Policy

This policy is a key document within the Association and its aims and objectives are to:

- To give clear guidance on the process for dealing with Assignment requests
- To ensure that any assignment requests are dealt with within the existing legal provisions, regulatory requirements and best practice guidance
- To ensure that any assignment requests are dealt with in accordance with our equality and diversity policy
- To advise customers of the appeals process

Legislative and Regulatory Compliance

Elderpark Housing will seek to meet all of its legal obligations as set out in the following legislation:

- The Housing (Scotland) Act 2001, section 32 and Schedule 5, Part 2 as amended by The Housing (Scotland) Act 2014, section 12(2) that govern Assignment requests in respect of a Scottish Secure Tenancy.

In addition, we will meet the outcomes and standards contained within the Scottish Housing Regulator's Regulation Framework.

- **Outcome 1 Equalities** – ‘Social landlords perform all aspects of their housing services so that every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services.’
- **Outcome 2 Communication** – ‘Social landlords manage their businesses so that tenants and other customers find it easy to communicate with their landlord and get the information they need about their landlord, how and why it makes decisions and the services it provides.’
- **Standard 2** – ‘The landlord 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. In addition, its primary focus is the sustainable achievement of these priorities.’
- **Standard 5** – ‘The RSL conducts its affairs with honesty and integrity.’

Equalities

Elderpark Housing will ensure there is a consistent approach in promoting equality and diversity across all areas and this policy will be administered in accordance with this policy.

Privacy

This document fully complies with General Data Protection Regulations (2018) and once approved will be published on our website to ensure transparency of how Elderpark Housing will seek to ensure Equality and Diversity across everything we do.

Related Policies

Policy Title	Location
Equality and Diversity Policy	Hyperlink to location
Allocations policy	V:\Elderpark Policy Suite\Housing Management Policies\H2 Allocations Policy.pdf
Rent Arrears Policy	V:\Elderpark Policy Suite\Housing Management Policies\H4 Rent Arrears Policy.pdf
Anti-Social Behaviour Policy	V:\Elderpark Policy Suite\Housing Management Policies\H3 Anti-social Behaviour Policy.pdf

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1. Introduction

- 1.1 Elderpark Housing Association (EHA) is a registered social landlord, established in 1975. We have strived to improve the lives of our residents, create opportunities and build a safe and secure environment. The Association is a 'not for profit' organisation, registered and regulated by the Scottish Housing Regulator and is governed by a voluntary Management Committee of up to 15 people who employ a team of staff to manage the Association on a day-to-day basis.
- 1.2 The Management Committee is responsible for approving this Policy, and for overseeing its implementation. The Chief Executive and Management Team have operational responsibility for policy implementation, and for reporting to the Management Committee on areas relevant to assignation requests.

2. Purpose of Policy

- 2.1 The Assignation policy aims to ensure that EHA has an accountable process to identify, record and put in place procedures to deal with an assignation of tenancy, in accordance with legal provisions and contractual terms contained within the tenancy agreement
- 2.2 This policy is written in accordance with the Association's Equality and Diversity Policy to ensure that tenants and residents in our community do not face discrimination, victimisation, harassment or social exclusion due to any of the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex or sexual orientation.

3. Aims and Objectives

- 3.1 This policy is a key document within the Association and its aims and objectives are to:
 - To give clear guidance on the process for dealing with Assignation requests
 - To ensure that any assignation requests are dealt with within the existing legal provisions, regulatory requirements and best practice guidance
 - To ensure that any assignation requests are dealt with in accordance with our equality and diversity policy
 - To advise customers of the appeals process

4. Legal and Regulatory Framework

- 4.1 Elderpark Housing will seek to meet all of its legal obligations as set out in the following legislation:
- The Housing (Scotland) Act 2001, section 32 and Schedule 5, Part 2 as amended by (The Housing (Scotland) Act 2014, section 12(2) that govern Assignment requests in respect of a Scottish Secure Tenancy.
 - The Equality Act 2010
- 4.2 In addition, we will meet the outcomes and standards contained within the Scottish Housing Regulators Regulation Framework.
- 4.3 Outcome 1 addresses equalities and states that “Social landlords perform all aspects of their housing services so that every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services”.
- 4.4 Outcome 2 addresses communication and states that “Social landlords manage their businesses so that tenants and other customers find it easy to communicate with their landlord and get the information they need about their landlord, how and why it makes decisions and the services it provides”.
- 4.5 Standard 2 -The landlord 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. In addition, its primary focus is the sustainable achievement of these priorities.
- 4.6 Standard 5 - The RSL conducts its affairs with honesty and integrity.

5. Assignment Requests

- 5.1 Before requesting an assignment the tenant must have resided in the property as their only or principal home 12 months prior to any assignment request.
- 5.2 Assignment is only allowed where the proposed assignee has occupied the property as their only or principal home for 12 months following the date that the existing tenant or, or proposed assignee, has notified the landlord that the assignee is living in the property.
- 5.3 The rent account must be up to date and no other tenancy debt outstanding such as rechargeable repairs or court costs.
- 5.4 Housing staff will obtain at least one document confirming occupancy as the principal home. Any of the following documents are satisfactory:

- A recent bank statement
- A letter from the DWP or another official agency

6. Consent and Timescales

- 6.1 A Scottish Secure tenant wishing to assign their tenancy can only do so with the consent in writing from the Association.
- 6.2 We will not withhold such consent unreasonably.
- 6.3 We will respond to any requests to assign a tenancy within one calendar month, otherwise consent will be deemed to have been given.

7. Grounds for Refusing Consent

7.1 Reasonableness is not defined legally and each case must be considered on its own merits. Specific reasons mentioned in the Housing (Scotland) Act 2001 as amended by the Housing (Scotland) Act 2014 where it may be reasonable to refuse consent is detailed below:

- The qualifying criteria noted above has not been fulfilled
- The tenant has not been residing in the property as their only or principal home 12 months prior to any assignation request
- Where the proposed assignee is below 16 years of age
- The proposed assignee must have occupied the property as their only or principal home for 12 months following the date that the existing tenant or, or proposed assignee, has notified the landlord that the assignee is living in the property.
- A Notice of Proceedings has been served that specifies any of grounds 1 to 7 (Schedule 2)
- An order for recovery of possession has been made against the tenant
- Consent to the assignation request would cause statutory overcrowding
- Proposed works by the landlord that would affect the accommodation to be used by the assignee, or other person living in the house as a result of the transaction
- The landlord would not give the proposed assignee reasonable preference under their allocations policy

- Where, in the landlord’s opinion, the assignation would result in the home being under occupied
- Where the proposed assignee has been suspended from the Association’s housing list under Section 20B(6)(a) or (b) of the Housing (Scotland) Act 2014
- it appears to the landlord that a payment other than—
 - a) a rent which is in its opinion a reasonable rent, or
 - b) a deposit which in its opinion is reasonable, returnable at the termination of the assignation and given as security for accounts for supplies of gas, electricity, telephone or other domestic supplies and for damage to the house or contents, has been or is to be received by the tenant in consideration of the assignation.

7.2 Notice of Proceedings

It is reasonable to refuse an assignation request where a Notice of Proceedings is in force, for example, for rent arrears. However, each situation should be treated on its merits. For example, where a Notice is in force but the tenant has gone into a nursing home and housing benefit has stopped resulting in arrears. In this case, it may be reasonable to grant an assignation. The assignee would only be liable for arrears accrued since the date the tenancy was assigned to him or her. Likewise, the assignee would not be liable for the previous tenant’s rechargeable repairs.

7.3 Order of Recovery for Possession

Where an order for recovery of possession has been obtained, any request to assign the tenancy should generally be refused as the Association will be on the point of evicting the tenant, for example, because of serious anti-social behaviour. The court order for recovery of possession sets a date for recovery that

- (a) ends the tenancy and
- (b) entitles the Association to recover possession at that date. (Housing (Scotland) Act 2001, section 16 (5)).

7.4 Statutory Overcrowding

Statutory overcrowding is defined by the Housing (Scotland) Act 1987, sections 135-137.

7.5 Works Proposed by Landlord

Prior to granting consent, it is necessary to check whether there are any works intended that are likely to affect the accommodation, for example, major improvement works that may change the nature of the house such as the size of accommodation.

7.6 No Reasonable Preference under the Allocations Policy

Where the Association would not give the proposed assignee reasonable preference under their allocations policy, they can refuse the assignment. A list of the reasonable preference groups is contained within the Allocations policy.

7.7 Under Occupation

Where in the Association's opinion the assignment would result in the home being under occupied an assignment request can be refused.

7.8 Suspension from the Housing List

Where the proposed assignee has been suspended under Section 20B(6)(a) or (b) of the Housing (Scotland) Act 2014 the assignment request can be refused on anti-social behaviour or previous convictions. Details of suspension under the Section 20B (6)(a)(b) are contained within the Association's allocations policy.

8. Reasons for Refusal Continued

8.1 This list is not exhaustive and each case will be assessed individually on its merits. For example, other possible reasons where an assignment request may be refused are:

- Where another person's occupancy rights are likely to be adversely affected
- Where the proposed assignee is unable to understand terms of the transaction, for example, because of a serious learning disability. In such cases, however, the Housing Officer must carry out a tenancy sustainment Housing Options interview evaluate possible options and support
- Where the existing tenant is unable to clear the arrears and make good rechargeable repairs
- Where the assignee has been convicted of using a previous tenancy for illegal or immoral purposes or has an Anti-Social Behaviour Order (ASBO) out against them within the past 3 years
- Where there is substantial damage or disrepair to the property caused by the tenant, a member of the household or a visitor to the property
- The prospective assignee has deliberately omitted, distorted or given false information on their application
- Where the assignee has previously been evicted from the Association's property

9. Monitoring of the policy

- 9.1 In order to comply with its service commitments, the Association will monitor the effects of Assignment procedures, such as appeals or complaints about the process.

Complaints and Appeals

- 9.2 Complaints will be dealt with in line with the Association's Model Complaints Handling Procedure
- 9.3 Tenants will be advised of their right to appeal to the sheriff in cases of refusal. This represents good practice by ensuring that tenants are encouraged to use appeal mechanisms available and ensure a right to a fair hearing. This is important also given the Association's commitment to promote the Human Rights Act 1998 that enables individuals to invoke the European Convention of Human Rights in the UK courts. Article 6 of the Convention provides individuals with the right to a fair hearing.

10. Review

- 11.1 The Association will review this policy at least every 3 years. The next review will therefore take place in January 2024 or earlier to take account of:
- Applicable legislation, rules, regulations and guidance.
 - Developments in best practice.

Equality Impact Assessment

Name of Policy to be assessed	Assignment	New policy or revision of existing?	Revision of existing policy
Person(s) responsible for assessment		Elaine Somerville	
Briefly describe the aims, objectives and purpose of the policy.	The Assignment policy aims to ensure that EHA has an accountable process to identify, record and put in place procedures to deal with an assignment of tenancy, in accordance with legal provisions and contractual terms contained within the tenancy agreement		
Who is intended to benefit from the policy? (e.g. applicants, tenants, staff, contractors)	The policy will benefit tenants		
What outcomes are wanted from this policy? (e.g. the measurable changes or benefits to members/ tenants / staff)	<p>The outcomes are:</p> <ul style="list-style-type: none"> • To give clear guidance on the process for dealing with Assignment requests • To ensure that any assignment requests are dealt with within the existing legal provisions, regulatory requirements and best practice guidance • To ensure that any assignment requests are dealt with in accordance with our equality and diversity policy • To advise customers of the appeals process 		
Which groups could be affected by the policy? (note all that apply)			
Age	x	Disability	
Gender reassignment		Marriage and Civil Partnership	
Pregnancy and Maternity		Race	
Religion or Belief		Sex	
Sexual Orientation			
If the policy is not relevant to any of the equality groups listed above, state why and end the process here.			
The legislation and guidance is clear on the entitled parties that can be assigned a tenancy. The implementation of this policy is in accordance with the Association's Equality and Diversity policy. The law states that individuals must be 16 years and over to obtain a Scottish Secure Tenancy.			
Have those affected by the policy / decision been involved?			
Tenants were previously notified of policy changes through newsletters and our website.			

Describe the likely positive or negative impact(s) that the policy could have on the groups identified above.	Positive Impact(s)	Negative Impact(s)
	None	None
What actions are required to address the impacts arising from this assessment? (This might include: additional data, putting monitoring in place, making adjustments, taking specific action to mitigate any potentially negative impacts)	N/A	

Signed:	Elaine Somerville
Dated:	19/1/21

GDPR Impact Assessment

Name of Policy to be assessed	Assignment	New policy or revision of existing?	Revision of existing policy
Person(s) responsible for assessment		Elaine Somerville	
Briefly describe the aims, objectives and purpose of the policy.	<p>This aims and objectives of the policy are to:</p> <ul style="list-style-type: none"> • To give clear guidance on the process for dealing with Assignment requests • To ensure that any assignment requests are dealt with within the existing legal provisions, regulatory requirements and best practice guidance • To ensure that any assignment requests are dealt with in accordance with our equality and diversity policy • To advise customers of the appeals process 		
Which type of data will be used by implementation of this policy? (e.g. personal, sensitive or special category)	Personal data will be used to implement this policy.		
What outcomes are wanted from this policy? (e.g. necessary to meet legal obligations)	<p>The outcomes that are wanted from this policy are: The Association has an accountable process to identify, record and put in place procedures to deal with an assignment of tenancy, in accordance with legal provisions and contractual terms contained within the tenancy agreement</p>		
Which groups could be affected by the policy? (note all that apply)			
Tenants	x	Committee	
Employees		Contractors	
If the policy is not relevant to any of the data groups listed above, state why and end the process here.			
Have those affected by the policy / decision been involved?			
Tenants were previously notified for policy changes through newsletters and our website. Tenants and assignees are aware of the use of their personal data when making a request for an assignment.			
Describe the likely positive or negative impact(s) that the policy could have on the groups identified above.	Positive Impact(s)		Negative Impact(s)
	None		None

What actions are required to address the impacts arising from this assessment? (This might include: additional data, putting monitoring in place, making adjustments, taking specific action to mitigate any potentially negative impacts)	The Association has systems and checks in place to ensure that personal data remains confidential.	

Signed:	Elaine Somerville
Dated:	20/1/21