



Change of Tenancy 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 Values, Our Strategic Objectives

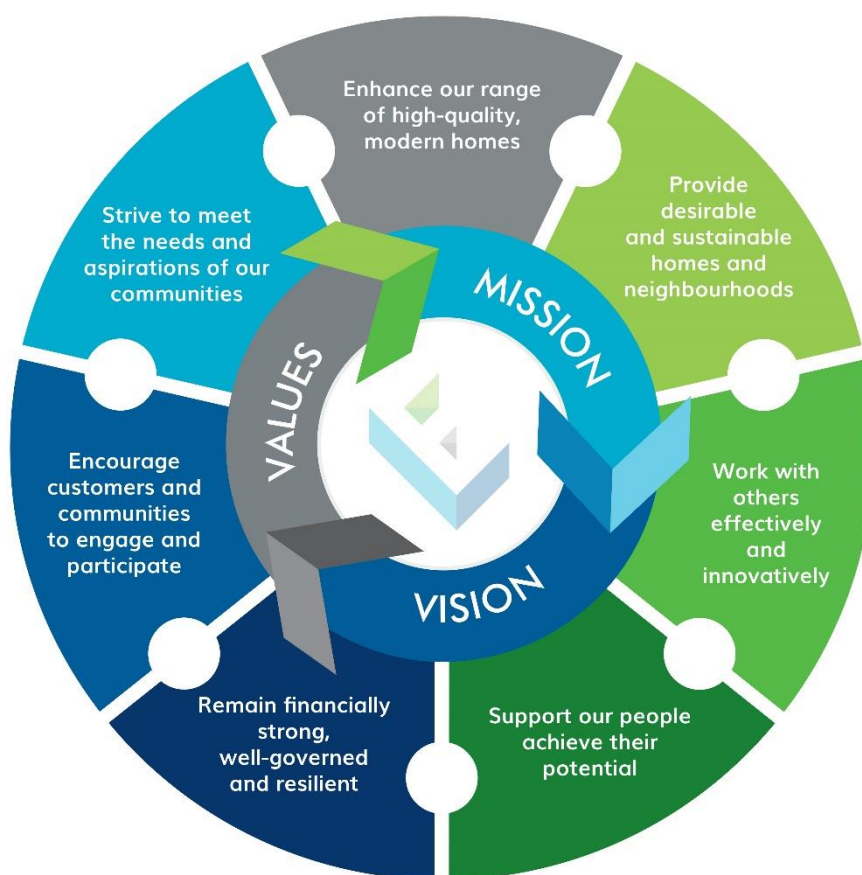
Our Vision

A vibrant neighbourhood where everyone can prosper.

Our Values

Caring, Reliable, Fair, Open and Adaptable

Our Strategic Objectives



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

This Policy has been developed by the Housing Manager

Purpose of the Policy

The Change of Tenancy Policy aims to ensure that that all tenancy change requests are handled in compliance with legal requirements and the contractual terms outlined in the tenancy agreement

Aims and Objectives of the Policy

The aims of this policy are to:

- To give clear guidance on the process for dealing with any change of tenancy requests this includes sole to joint tenancy, joint to sole tenancy, succession and assignation requests.
- To ensure that all change of tenancy requests are dealt with in accordance with legislation and the contractual terms of the tenancy agreement
- To ensure that any change of tenancy requests are dealt with in accordance with our equality and diversity policy
- To ensure that any change of tenancy requests are dealt with in accordance with our allocations policy
- To make the most effective use of available stock and manage the turnover of lettable properties in an efficient manner.
- To help make EHA neighbourhoods vibrant and sustainable places for our tenants to live.

Legislative and Regulatory Compliance

EHA will assess change of tenancy requesting in line with all applicable legal and regulatory requirements. The main legal requirements relating to change of tenancy requests set out in the Housing (Scotland) Act 1987, as amended by the Housing (Scotland) Act 2001 and the Housing (Scotland) Act 2014.

In addition, the legal requirements set out in other legislation, including:

- Human Rights Act 1998
- Data Protection Act 2018
- General Data Protection Regulation (GDPR)

- Matrimonial Homes (Family Protection) (Scotland) Act 1981
- Children Scotland Act 1995
- Civil Partnership Act 2004
- Immigration and Asylum Act 1999
- Protection from Harassment Act 1997
- Management of Offenders etc (Scotland) Act 2005
- Equality Act 2010
- Adult Support and Protection (Scotland) Act 2007

Scottish Social Housing Charter

Our policy also takes account of the Scottish Social Housing Charter. The SHR use the outcomes and standards in the Charter to assess the performance of social landlords.

The key outcomes that have been considered in the development of this policy are:

Outcome 1 - 'Equalities'

- EHA support the right to adequate housing.
- Every tenant and other customer have their individual needs and rights recognised,
- is treated fairly and with respect, and receives fair access to housing and housing services.

Outcome 2 - 'Communication'

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'.

Outcome 3 - 'Participation'

Tenants and other customers are offered a range of opportunities that make it easy for them to participate in, and influence their landlord's decisions at a level they feel comfortable with.

Outcomes 7, 8 and 9 - 'Housing Options'

- People looking for housing get information that helps them make informed choices and decisions about the range of housing options available to them;
- Tenants and people on housing lists can review their housing options;
- People at risk of losing their homes get advice and information on preventing homelessness.

Outcome 10 'Access to Social Housing'

People looking for housing find it easy to apply for the widest choice of social housing available and get the information they need on how the landlord allocates homes and their prospects of being housed.

Outcome 11 'Tenancy Sustainment'

Tenants get the information they need on how to obtain support to remain in their home; and ensure suitable support is available, including services provided directly by the landlord and by other organisations.

Equalities

We promote equal opportunities throughout all of our housing services; including our allocation policy and related procedures. We seek to ensure that priority for housing is based on housing need and that our policies are fair and accessible to everyone applying for a home or living within our communities.

Equality Impact Assessment (EIA)

An EIA is a tool to help identify whether or not policies, practices, procedures and services have an adverse impact on a particular community or group of people. We completed an EIA for this allocation policy to identify any barriers that could detrimentally affect under-represented communities or groups who may be disadvantaged by the way we carry out our business.

The EIA process focuses on the 'protected characteristics' as outlined in the Equality Act 2010.

These are:

- Age
- Disability
- Gender Reassignment
- Marriage and Civil Partnership
- Pregnancy and Maternity
- Race
- Religion or Belief
- Sex
- Sexual Orientation

As a result of the EIA, we have put some positive actions in place and will continue to review these:

- publishing the allocation policy in other formats and other languages, as required
- auditing the allocation policy against equality standards (plain language, accessible formats and so on)
- publicising the allocation policy widely to promote access to our housing list
- working with other organisations to promote equality objectives

Privacy

Any personal data collected will be in line with GDPR requirements and accessible only by those who require this information for specific purposes.

Related Policies

Policy Title	Location
Allocations Policy	V:\Elderpark Policy Suite\Housing Management Policies\H2 Allocations Policy.pdf
Domestic Abuse Policy	V:\Elderpark Policy Suite\Housing Management Policies\H13 Domestic Abuse Policy.pdf
Tenancy Sustainability Policy	V:\Elderpark Policy Suite\Housing Management Policies\H19 Tenancy Sustainability Policy.pdf
Anti-Social Behaviour Policy	V:\Elderpark Policy Suite\Housing Management Policies\H3 Anti-social Behaviour Policy.pdf
Entitlement, Payments and Benefits Policy	V:\Elderpark Policy Suite\Governance Policies\G16 Entitlements, Payments and Benefits Policy.pdf
Equality, Diversity and Inclusion Policy	V:\Elderpark Policy Suite\Governance Policies\G13 Equality, Diversity and Inclusion Policy.pdf

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1. Introduction

Elderpark Housing (EHA) was established in 1975 and currently owns approximately 1341 homes with the majority being in Central Govan although we also have a number of properties within the areas of Ibrox, Kinning Park and Cessnock.

Elderpark's approach to processing change of tenancy requests aligns with our vision, to create vibrant neighbourhood where everyone can prosper.

2. Purpose of Policy

The Change of Tenancy Policy aims to ensure that we have an accountable process to identify, record and put in place procedures to deal with a change of tenancy request, in accordance with legal provisions and contractual terms contained within the tenancy agreement.

This policy details processes for dealing with the following types of tenancy change:

- From a sole to a joint tenancy ;
- From a joint to a sole tenancy;
- Assignment (transferring the tenancy to an eligible named person);
- Succession (succeeding to the tenancy following the death of the current tenant).

3. Aims and Objectives

The aims of this policy are to:

- To give clear guidance on the process for dealing with any change of tenancy requests this includes sole to joint tenancy, joint to sole tenancy, succession and assignment requests.
- To ensure that all change of tenancy requests are dealt with in accordance with legislation and the contractual terms of the tenancy agreement
- To ensure that any change of tenancy requests are dealt with in accordance with our equality and diversity policy
- To ensure that any change of tenancy requests are dealt with in accordance with our allocations policy
- To make the most effective use of available stock and manage the turnover of lettable properties in an efficient manner.
- To help make EHA neighbourhoods vibrant and sustainable places for our tenants to live.

4. Legal and Regulatory Framework

Our policy is compliant with the relevant Scottish and UK legislation, including relevant housing legislation. A list of key legislation is included at Appendix 1.

In developing our policy, we have also taken account of all relevant statutory guidance and practice-related publications.

As a Registered Social Landlord (RSL), we are regulated by the Scottish Housing Regulator (SHR). The SHR's statutory objective is to safeguard and promote the interests of current and future tenants, homeless people and other people who use services provided by social landlords.

Our policy also takes account of the Scottish Social Housing Charter. The SHR use the outcomes and standards in the Charter to assess the performance of social landlords. The key outcomes that have been considered in the development of this policy are:

➤ **Outcome 1 'Equalities'**

'Every tenant and other customer have their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services'.

➤ **Outcome 2 'Communication'**

'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'.

➤ **Outcome 3 'Participation'**

To ensure that tenants and other customers find it easy to participate in and influence their landlord's decisions at a level they feel comfortable with.

➤ **Outcomes 7, 8 and 9 'Housing Options'**

'People looking for housing get information that helps them make informed choices and decisions about the range of housing options available to them'.

'Tenants and people on housing lists can review their housing options'.

'People at risk of losing their homes get advice on preventing homelessness'.

➤ **Outcome 10 'Access to Social Housing'**

People looking for housing find it easy to apply for the widest choice of social housing available and get the information they need on how the landlord allocates homes and their prospects of being housed.

➤ **Outcome 11 ‘Tenancy Sustainment’**

Ensure that tenants get the information they need on how to obtain support to remain in their home; and ensure suitable support is available, including services provided directly by EHA and by other organisations.

5. Equal Opportunities

EHA will ensure that we comply with all relevant obligations in relation to the Equality Act 2010 (‘the Act’).

EHA will put measures in place to ensure that we do not discriminate in relation to the nine ‘protected characteristics’ set out in the Act:

1. Disability
2. Age
3. Race (including Gypsy Travellers)
4. Gender reassignment
5. Sexual Orientation
6. Pregnancy and Maternity
7. Religion or Belief
8. Sex (Gender)
9. Marriage and civil partnerships (just for the first aim of the public sector equality duty)

EHA will give ‘due regard’, or consciously consider, the need:

- To eliminate discrimination, harassment and victimisation.
- To advance equality of opportunity between those who have protected characteristics and those who don’t.
- To foster good relations between those who have protected characteristics and those who don’t (tackling prejudice and promoting understanding).

By implementing these measures EHA will comply with the Public Sector Equality Duty imposed by s149 of the Act.

6. Providing Information and Advice

We will undertake to provide a high quality of advice and support to assist all tenants and prospective tenants looking to change their tenancy and will seek to secure appropriate advice and information from external agencies where necessary.

A summary of this policy can be made available in a number of other languages, in Easy Read, large print or in audio format, if requested. Where requested we will offer translation and interpreting services.

In cases of succession, we will ask an applicant to supply written evidence to support their application, for example, proof that they have been living in the property.

7. Holding and Reviewing Your Information

EHA will collect and hold personal information regarding applicants and their prospective households in accordance with our Fair Processing Notice. We will keep any information you give us confidential. We will not discuss your application with anyone other than you (or your representative) unless you give us written instructions to do so.

We are registered in the Data Protection Register. We will let you see any information we hold about you in line with the Data Protection Act 2018. You must ask us in writing and a charge may apply.

8. Timescale for Responding to Request for Change of Tenancy Requests

It is important to ensure that the initial logging, checking of the application form and sending of the initial response, are completed promptly. Under the Housing (Scotland) Act 2001 if we do not give a final decision or an interim reply **within 28 days from date of receipt** of an application (for a sole/ joint tenancy or assignation) then we will be deemed to have approved the application.

Where more time and/or more information is needed and a final reply will not be possible within 28 days, we will write to the applicant around day 21/22 to advise that additional time will be required, giving the reason(s) where applicable, e.g. waiting for a reply from a former landlord. Where possible an indication will be given of when a final reply will be sent.

9. Types of Tenancy Changes

9.1 Sole to Joint

9.1.2 Eligibility for Applying for a Joint Tenancy

Anyone over the age of 16 years may apply to become a joint tenant.

Where the applicant is the spouse or civil partner of the current tenant, they have a legal right to be listed as a joint tenant without a qualifying period.

However, under the Housing (Scotland) Act 2014, in all other circumstances, including carers and family members, there is a requirement that the applicant must be known by the Association to have lived in the property as their only home for a minimum of 12 months.

This 12-month qualifying period will only begin once the Association is notified that they are living in the property.

9.1.3 Granting Request for Joint Tenancy

Prior to granting a joint tenancy we will contact the existing tenant and proposed joint tenant to undertake a home visit. During this visit, we will check the information given in the application form, ensure both persons are clear about their rights and responsibilities, as joint tenants, and check the condition of the property.

Once we are satisfied with all the information provided a letter will be sent approving the change and advising that the request has been granted.

Where a joint tenancy has been granted the tenant, the proposed joint tenant will be asked to sign a Minute of Variation of the original tenancy agreement. All joint tenants will be joint and severally liable for all responsibilities of the tenancy agreement and will be advised of this at the time of signing.

9.1.4 Refusing Request for Joint Tenancy

Applications for joint tenancies will only be refused where there are reasonable grounds for doing so. The following grounds would be considered as reasonable for refusing an application for joint tenancy.

- The property has not been the proposed joint tenant's only or principal home during the 12 months immediately before the application is received
- The tenant, joint tenant or proposed joint tenant failed to notify us that the person they wish to become a joint tenant is living in the property
- The proposed joint tenant has been suspended from EHA Housing Waiting List under Section 20B (6) (a) or (b) of The Housing (Scotland) Act 2014.
- The joint tenancy can be refused on anti-social behaviour or previous convictions. Details of suspensions under the above section are contained within our allocations policy.
- The proposed joint tenant has outstanding tenancy debt with us amounting to more than one month's rent and has not kept to a reasonable payment arrangement for 3 consecutive months or more.
- A Notice of Proceedings has been served on the tenant specifying any of the grounds set out in paragraphs 1 to 7 of Schedule 2 of The Housing (Scotland) Act 2001.
- We have commenced legal action against the original tenant to recover possession of the house, including abandonment proceedings
- The approval of the joint tenancy would lead to overcrowding

- The proposed joint tenant has previously been evicted by us or other social housing tenancy within the last five years
- We are proposing to carry out work to the house or building that would affect the accommodation that would be occupied by the proposed joint tenant

9.2 Joint to Sale

In accordance with Section 13 of the Housing (Scotland) Act 2001, a joint tenant who wishes to end their interest in the tenancy may do so by giving 4 weeks' notice in writing to EHA and to any other joint tenant (s).

There are no grounds for refusing such an application.

The notice may be by letter or by completing the Change of Tenancy form. EHA will not accept notice verbally.

Following receipt of a letter or form the HO will respond in writing. The letter will:

1. Confirm the date when their interest in the tenancy will cease (this date will be 4 weeks plus 2 days from the date of our letter, or at an earlier date if agreed);
2. Remind the terminating tenant of their legal responsibilities up to the end of their tenancy (and beyond, if appropriate);
3. Confirm the amount of rent and any other charges due by the termination date.

At the same time the HO will write to the remaining tenant(s) to:

1. Advise them that we have been notified of the other tenant's intention to end their interest in the tenancy in 4 weeks;
2. Confirm the amount of rent and any other charges due by the termination date.

If the remaining tenant(s) wishes to continue with the tenancy the HO will make arrangements for them to sign a new minute of variation after the 4 week notice period has ended. The joint tenancy will be amended on Rubixx to remove the previous tenant.

If there is difficulty in contacting the remaining tenant(s) the HO will decide on the appropriate follow-up action, including initiating the Abandonment Procedure.

If the remaining tenant returns the form stating that they do not wish to continue with the tenancy the HSO will arrange for the tenancy to be terminated.

The 28 days' notice will start from the date the remaining tenant(s) completed the form.

The HSO will write to the remaining tenant(s) to confirm their termination date and advise that, if this is later than the date the first joint tenant's notice expires, then the remaining tenant will be responsible for the tenancy for the final period.

10. Assignment

A tenant may assign (transfer) their tenancy to a member of their household (this includes carers) if the following conditions are met:

- They must be, aged 16 or over;
- EHA must have been advised that they live in the property and their details are on the tenancy records;
- It has been their only or principal home for at least 12 months prior to submitting a Change of Tenancy form.

A tenancy can be assigned to a sole or to joint tenants. (This section assumes assignment to sole tenant).

Following receipt of a completed form the HO will:

1. Acknowledge receipt within 2 working days
2. Enter diary prompts at e.g. 14, 21 and 28 days to ensure that a final or interim reply is sent within the 28 day statutory period;

10.1 Eligibility checks for Assignment

The HO will carry out the checks required to confirm that the proposed new tenant (assignee) satisfies the residential qualification, including:

1. Checking on whether we have a record of the assignee as a member of the household and they meet the qualifying criteria;
2. Check whether the existing tenant has rent arrears and/or other outstanding charges such as rechargeable repairs;
3. Check whether there is any record of anti-social behaviour on the part of the assignee.

As part of the checking process the HO will visit the property. If the property is in a poor condition this may be a reason for refusing the application. The HO may also advise the current tenant of any work they need to do before the tenancy can be assigned.

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
- Driving license

10.2 No Record of the Assignee

Where we do not have a record of the proposed assignee being part of the household the HSO will write to the tenant and advise that in accordance with Section 12(2) of the Housing (Scotland) Act 2014 the tenant has a responsibility to inform their landlord of all people resident in their property. As HO has no record of assignee the application will be refused and will be issued with a letter to confirm this.

10.3 Reasonable Grounds for Refusal

Reasonableness is not legally defined and must be assessed based on the individual circumstances of each case. However, the Housing (Scotland) Act 2001, as amended by the Housing (Scotland) Act 2014, outlines specific situations where it may be considered reasonable to refuse consent. These are detailed below:

- 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
- 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
- Where the existing tenant is unable to clear the rent arrears and any outstanding rechargeable repairs balance

- 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

11. Succession

If a tenant with a Scottish Secure Tenancy dies, there are rights for other members of the household, subject to certain conditions, to succeed to the tenancy.

The Housing (Scotland) Act 2014, Section 13 describes those who may qualify to succeed a tenancy on the death of the current tenant.

If the property is specially adapted, there are additional conditions.

11.1 General

The following members of the household can succeed:

- A husband, wife or civil partner;
- An opposite-sex or same-sex partner, provided they have lived with the deceased tenant for at least twelve months
- Another joint tenant;
- A member of the tenant's family aged at least 16 years where the house was the person's only or principal home [throughout the period of 12 months ending with] the tenant's death;
- A carer providing, or who has provided, care for the tenant or a member of the tenant's family where—
 - (a) The carer is aged at least 16 years,
 - (b) The house was the carer's only or principal home [throughout the period of 12 months ending with] the tenant's death, and
 - (c) The carer had a previous only or principal home which was given up.

A qualifying person will succeed to the tenancy from the day following the death of the current tenant.

If the other member of the family has not been registered as living in the property for 12 months, they would not be able to succeed the tenancy.

If there is a recorded history of anti-social behaviour consideration may be given to granting a Short Scottish Secure Tenancy in the first instance.

11.2 Notification of Death and Arranging Succession

As soon as we become aware of the death of a tenant the relevant HSO will seek to contact the remaining tenant/spouse/civil partner/co-habitee/family member, as appropriate, to confirm:

1. if there is a surviving joint tenant, that they wish to remain as the sole tenant;
2. if there is no surviving joint tenant, whether there is someone who qualifies to succeed to the tenancy;
3. if there is a qualifying person, whether or not they wish to succeed.

Following any checks etc, where it is clear that there is a qualifying person who wishes to succeed, the HSO will arrange for that person to complete the Application for Succession.

Where there is no qualifying person, the HO will arrange for the tenancy to be terminated, implementing the procedure **Action on the Death of a Tenant Procedure**

11.3 Levels of Succession

There are three levels of priority for succession to a Scottish Secure Tenancy (SST)

11.3.1 First Priority

The first priority is accorded to:

- the tenant's spouse or civil partner
- someone living with the tenant as husband or wife: this can include a same-sex partner
- a surviving joint tenant.

There is no length of residency requirement if a spouse, civil partner or surviving joint tenant succeeds to the tenancy.

For someone living with the tenant as husband or wife, there is a requirement that the house must have been their only or principal home for a minimum of 12 months prior to the death of the tenant. The length of residency is only counted from the point at which the tenant notified the landlord that the person in question had moved in.

A secure rent will continue from the date of succession where the successor is a level one successor, a spouse, partner, civil partner or joint tenant.

If the successor is not a level one successor the secure rent will be ended from the date of death.

11.3.2 Second Priority

If nobody qualifies on the first level of priority, or if a qualified person in this group declines the tenancy, then the second level of priority would go to a member of the tenant's family who is at least 16 years old. 'Family' is defined in the Housing (Scotland) Act 2001.

There is a 12-month residency requirement and length of residency will only be counted from the point at which the tenant notified the landlord that the person in question had moved in.

For succession claims prior to 1 November 2019 there was no length of residency requirement for a member of the tenant's family. They only had to show that the property was their only or principal home at the time the tenant died.

11.3.3 Third Priority

If nobody in the first two priority groups qualifies or if a qualified person in either group declines the tenancy, then the third level of priority would go to a carer who is aged at least 16 and who had given up her/his only or principal home to care for the tenant or a member of the tenant's household. The legislation does not provide a definition of 'carer'. The key factor is whether someone has given up her/his only or principal home to provide care.

There is a 12-month residency requirement and length of residency will only be counted from the point at which the tenant notified the landlord that the person in question had moved in.

11.4 Secure Rents

A secure rent will continue from the date of succession where the successor is a level one successor, a spouse, partner, civil partner or joint tenant.

If the successor is not a level one successor the secure rent will be ended from the date of death.

11.5 Tenancy Debt

When succession takes place, the successor takes on the terms and conditions of the original tenancy. It is not a new tenancy.

The successor is not held liable for outstanding tenancy debt or liabilities prior to the date of succession.

Where feasible we will recover any outstanding tenancy debts from the deceased's estate.

11.6 Number of Successions at a Property

Following the first tenant's death, a qualifying person may succeed to the tenancy of a standard property on two further occasions. After the third death the tenancy will normally cease.

The only exception to this rule is where there is a surviving joint tenant, whose tenancy will continue if they wish it to.

If there is someone still living in the property who would otherwise have qualified to succeed, that person may continue to occupy the property for **up to 3 months** from the date of the last death.

The qualifying person will be responsible for paying a tenancy charge equivalent to the current monthly rent and any other charges due for the period they remain in the property.

Within 2 working days of being notified of the date of the last death the HO will confirm in writing to the qualifying person the latest date they must vacate the property and their responsibilities while they remain.

The HO will initiate arrangements to ensure that those remaining in the property are provided with housing options information to assist them securing alternative accommodation, which may involve liaising with other landlords in the area.

However, in exceptional circumstances where the tenancy has already been succeeded three times—a further succession may still be considered. If deemed appropriate, the property may be reallocated through a management transfer in line with the allocations policy, subject to approval by the housing manager.

11.7 Specially Adapted Property

Where the property was designed or substantially adapted for a person with special needs the succession arrangements will differ from those for a standard property.

At the first death a qualifying person at level 1 may succeed to the tenancy, whether or not that person has any additional needs.

However, the person succeeding the tenancy will be made aware at signing the tenancy that should there be an individual that requires the adapted property for their additional need they will have to end the tenancy at that property. EHA will ensure that the individual is rehoused in alternative accommodation.

At the second and third death a qualifying person will only succeed the tenancy if they have additional needs requiring that type of accommodation.

11.8 Alternative Accommodation

Where the person does not require this accommodation but would otherwise have qualified to succeed. The Association must make other suitable accommodation available to the person. Suitable accommodation is defined by the Act (Housing (Scotland) Act 2001, Schedule 1, part 2).

Where the Association has recovered possession of the property as a result of court action and tenants have been required to move to other suitable accommodation, Housing (Scotland) Act 2001, Schedule 2, Part 1, grounds 8-14, both tenancies are to be treated as being the same tenancy for the purposes of succession. This prevents succession rights beginning afresh for the new tenancy.

11.9 More Than One Qualifying Person at Levels

At each level, if more than one person qualifies for, and wishes to succeed to, the tenancy they must decide amongst themselves who should succeed, **either** within 2 weeks of the current tenant's death **or** within 2 weeks of being notified of their eligibility to succeed.

Alternatively, two or more persons may agree to succeed as joint tenants.

If the qualified persons cannot agree within the 2 weeks timescale, the HO will submit a recommendation to the Housing Manager which will be discussed with the Director of Housing Services. This decision will be final.

11.10 Offer of Tenancy Declined – Other Qualifying Person Available

Where a qualifying person at level 1 declines the tenancy the HO will, within 2 working days of being notified, check if anyone qualifies under level 2, failing which level 3, and if anyone does qualify will write to advise the person(s) of their right of succession and ask that they confirm within 2 weeks of the date of the letter whether or not they wish to succeed.

The HO will follow the same process if anyone qualifying at level 2 declines and there is someone at level 3 who qualifies.

The HO will make diary entries to ensure that replies are received within the required timescales.

11.11 No Qualifying Person after First Tenant's Death

If necessary, there are individuals living in the property, but they do not meet the criteria to succeed the tenancy the HO will write to all those living in the property to advise that they do not qualify and that they will have to vacate within 3 months at the latest.

If the decision is that the property should be vacated, the HSO will provide the occupants with housing options information.

Where difficulties are experienced in gaining repossession of the property the HO will agree with the Housing Manager what action should be taken, including legal action if necessary.

11.12 Tenancy Declined – No Other Qualifying Person

A qualifying person may choose not to succeed to a tenancy. To do so they must confirm their decision in writing within 4 weeks of the death of the tenant or within 4 weeks of the date of our letter notifying them of their right to succeed.

Irrespective of when written notification is received, a decision in writing to decline the tenancy will have the same effect as if it had been given at the date of the former tenant's death.

11.13 No Record of Potential Successor

Where we have no record that the person wishing to succeed is a member of that household the HO will contact them to advise that they will not be able to succeed the tenancy as they have not made EHA aware that they have been living in the property for at least 12 months.

If the person does not qualify the HO will confirm this in writing

Further action will depend on whether there is another household member who qualifies and wishes to succeed, or whether the tenancy has terminated because there is no-one else who qualifies, or any other qualifying person does not wish to succeed.

12. Appeals

If an application for a joint tenancy, sole tenancy, succession, or assignation is not approved, the applicant will be informed of the decision in a refusal letter. Where applicable, the letter will outline the applicant's right to appeal.

12.1 Joint Tenancy Requests

The Housing (Scotland) Act 2001 does not give you the right to appeal against EHAs decision to refuse your request.

12.2 Succession

The Housing (Scotland) Act 2001 does not give you the right to appeal against EHAs decision to refuse your request.

12.3 Assignation

The Housing (Scotland) Act 2001, Schedule 5, Part 2 gives Tenants a statutory right to appeal against a refusal for assignation of 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.

In cases where no formal right of appeal exists but the applicant is dissatisfied with the decision, a meeting with the housing manager can be arranged to explain the reasons for the refusal. If the applicant remains unhappy following this discussion, they will be advised to follow the Association's complaints procedure.

13. Complaints

Where the decision is to uphold the original refusal the Housing Manager will advise the applicant in their reply that if they are not satisfied with the way their appeal has been handled, they may submit a complaint under our Complaints procedures and will be provided with appropriate information.

We aim to provide a high-quality housing advice and information service to tenants and prospective tenants. However, we accept that from time to time we will not always get it right and welcome feedback from our customers. The Association has a complaints procedure, and this is available on-line or in leaflet format. Staff can assist applicants to make formal complaints if required. An applicant can use the Complaints Procedure to address the following:

- Delays in responding to enquiries and requests
- Failure to provide a service
- Our standard of service
- The Change of Tenancy Policy
- Attitude or behaviour of a member of staff

14. Implementation and Review

14.1 Implementation

The Housing Manager is responsible for ensuring that this procedure is implemented.

14.2 Review

The Housing Manager will ensure that this procedure is reviewed at least every 5 years.

Appendix 1

The Change of Tenancy Policy has been developed to be legislatively compliant, with the following legislation of particular relevance:

- Housing (Scotland) Act 2014
- Welfare Reform Act 2012
- Housing (Scotland) Act 2010
- Equality Act 2010
- Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012
- Housing (Scotland) Act 2006
- Homelessness etc (Scotland) Act 2003
- Housing (Scotland) Act 2001
- Human Rights Act 1998
- Data Protection Act 2018
- General Data Protection Regulation (EU) 2016/679 ("GDPR")
- Children (Scotland) Act 1995 as amended by Children and Young People (Scotland) Act 2014
- Housing (Scotland) Act 1987 (as amended)

Appendix 2

GDPR Impact Assessment

Name of Policy to be assessed	Change of Tenancy Policy	New policy or revision of existing?	New Policy
Person(s) responsible for assessment		Rachel Cooper	
Briefly describe the aims, objectives and purpose of the policy.	The Change of Tenancy Policy aims to ensure that that all tenancy change requests are handled in compliance with legal requirements and the contractual terms outlined in the tenancy agreement.		
Which type of data will be used by implementation of this policy? (e.g. personal, sensitive or special category)	Personal and potentially sensitive information will be used by implementation of this policy.		
What outcomes are wanted from this policy? (e.g. necessary to meet legal obligations)	<p>The aims of this policy are to:</p> <ul style="list-style-type: none">• To give clear guidance on the process for dealing with any change of tenancy requests this includes sole to joint tenancy, joint to sole tenancy, succession and assignation requests.• To ensure that all change of tenancy requests are dealt with in accordance with legislation and the contractual terms of the tenancy agreement• To ensure that any change of tenancy requests are dealt with in accordance with our equality and diversity policy• To ensure that any change of tenancy requests are dealt with in accordance with our allocations policy• To make the most effective use of available stock, and manage the turnover of lettable properties in an efficient manner.		

	<ul style="list-style-type: none"> To help make EHA neighbourhoods vibrant and sustainable places for our tenants to live.
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Which groups could be affected by the policy? (note all that apply)

Tenants	X	Committee	X
Employees	X	Contractors	X

If the policy is not relevant to any of the data groups listed above, state why and end the process here.

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Have those affected by the policy / decision been involved?

There is no requirement to consult tenants on this policy.
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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. Information will be shared with work colleagues on a strictly 'need to know' basis.	

Signed:	<i>Rachel Cooper</i>
Dated:	07.08.2025

Appendix 3

Equality Impact Assessment

Name of Policy to be assessed	Change of Tenancy Policy	New policy or revision of existing?	Policy Review
Person(s) responsible for assessment		Housing Manager	
1. Briefly describe the aims, objectives and purpose of the policy.	The Change of Tenancy Policy aims to ensure that that all tenancy change requests are handled in compliance with legal requirements and the contractual terms outlined in the tenancy agreement.		
2. Who is intended to benefit from the policy? (e.g applicants, tenants, staff, contractors)	It applies to all tenants and staff that are responsible for implementing policy and procedures when tenants report any requests to make a change to their tenancy.		
3. What outcomes are wanted from this policy? (e.g the measurable changes or benefits to members/ tenants / staff)	<p>The aims of this policy are to:</p> <ul style="list-style-type: none">• To give clear guidance on the process for dealing with any change of tenancy requests this includes sole to joint tenancy, joint to sole tenancy, succession and assignation requests.• To ensure that all change of tenancy requests are dealt with in accordance with legislation and the contractual terms of the tenancy agreement• To ensure that any change of tenancy requests are dealt with in accordance with our equality and diversity policy• To ensure that any change of tenancy requests are dealt with in accordance with our allocations policy• To make the most effective use of available stock, and manage the turnover of lettable properties in an efficient manner.• To help make EHA neighbourhoods vibrant and sustainable places for our tenants to live.		
4. Which groups could be affected by the policy? (note all that apply)			
Age	x	Disability	x
Gender reassignment	x	Marriage and Civil Partnership	x
Pregnancy and Maternity	x	Race	x

Religion or Belief	x	Sex	x
Sexual Orientation	x		
5. If the policy is not relevant to any of the equality groups listed above, state why and end the process here.			
6. Have those affected by the policy / decision been involved?			
A full tenant consultation has taken place for this policy review using CX Feedback.			
7. 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
8. 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:		Rachel Cooper	
Dated:		07.08.2025	