



## Dunbritton Housing Association Limited

<b>Name of Policy</b>	<b>Assignment Policy</b>
<b>Responsible Officer</b>	<b>Housing Services Manager</b>
<b>Date approved by Board</b>	<b>20 April 2022</b>
<b>Date of next Review</b>	<b>April 2025</b>
<b>Section</b>	<b>Housing Services</b>
<b>Reference</b>	<b>HS17</b>

**We can produce information, on request, in large print, Braille, tape and on disc. It is also available in other languages. If you need information in any of these formats, please contact us on 01389 761486**

## Contents.

Section		Page
1.	Introduction	3
2.	Aims and Objectives	3
3.	Risk Management	4
4.	Eligibility	4
5.	Application & Agreement	5
6.	Grounds for Refusal	5
7.	False Information	6
8.	Customer Services	6
9.	Appeals	6
10.	Equality & Diversity	7
11.	Links to other Policies	7

## **1. INTRODUCTION**

- 1.1 Dunbritton Housing Association is a registered social landlord established in 1992 to provide housing for social rent and services to owners through factoring.
- 1.2 We are governed by our Board, which is supported by a number of Committees. Our governance arrangements set out clearly the roles and responsibilities of our Board and Committee members and our members of staff.
- 1.3 Operational services are delivered through our office based at 1 Hatters Lane, Dumbarton G82 1AW.
- 1.4 As a landlord, Dunbritton Housing Association aims to promote the health and wellbeing of our customers by providing quality homes, located in estates that are safe, environmentally clean and well managed.

## **2. AIMS & OBJECTIVES**

- 2.1 The primary aim of this Policy is to put a structure in place that ensures that the tenancy of properties are not passed to another person in an illegal or uncontrolled way. The policy is also intended to provide guidance to staff on implementing the correct procedures and to tenants on the requirements placed on them.
- 2.2 This policy outlines the rights of assignation granted to Scottish Secure Tenants under the provision of the Housing (Scotland) Act 2001 (as amended by the Housing (Scotland) Act 2014) and the Scottish Secure Tenancy Agreement which make provision for tenants to assign the tenancy to another person with the Association's permission. The main aim of this Policy is to clarify to tenants and applicants how this legislation is carried out in practice.
- 2.3 The Assignation of a tenancy is when a tenant elects to transfer the rights of their tenancy to a third party. This does not create a new tenancy, rather it continues the tenancy with a new tenant. The "New Tenant" takes on all the responsibilities of the tenancy including any debts etc. Section 4 highlights the eligibility criteria for assignation as not all rights transfer and not all applicants will be eligible.
- 2.4 The Association will require an assignee to sign a Scottish Secure Tenancy agreement together with an Assignation Minute, as this avoids any ambiguity over the status of the new tenancy.
- 2.5 The Assignation Procedure, which is a separate document, details how an Application for Assignation will be dealt with internally by officers of the Association.
- 2.5 An Assignation Application will be responded to within 28 days of the Association receiving the completed application.

### **3. RISK MANAGEMENT**

- 3.1 By having a written detailed Assignment Policy & Procedure the Association is able to ensure that a uniform and professional approach is adopted throughout the organisation and the service delivered is compliant with law, best practice and internal policy.
- 3.2 The risk of not having this Policy in place is an absence of the above, poor record keeping regarding tenancy information, and reputational risk.
- 3.3 Having a Policy and Procedure in place shall also ensure that all requests for succession are addressed in the same manner and all applicants are treated the same. This will ensure that we meet our duties under equalities and human rights legislation.

### **4. ELIGIBILITY**

- 4.1 Before a tenant can assign their home, they must apply in writing to their landlord for permission to do so and get their landlord's written consent.
- 4.2 Section 12(2) of the 2014 Act makes the following requirements:
- the house must have been the tenant's only or principal home during the 12 months immediately before the tenant applies for written permission to assign their tenancy to someone else
    - the person the tenant wishes to assign their tenancy to must have lived at the property as their only or principal home for the 12 months before they apply)
    - the tenant, joint tenant or person they wish to assign their tenancy to must have notified the landlord that the person they wish to assign the tenancy to is living in the house. The 12-month period does not start until the landlord has been notified that the person is living in the property as their only or principal home and this needs to be submitted in writing.
- 4.3 In effect, any Scottish Secure Tenant has a right to assign their tenancy to an individual who has been resident in their home. The qualifying time that the assignee must be residing in the property is for a minimum of 12 months. The responsibility of ensuring the 12-month qualifying period is the tenants. The tenant must have notified the Association that the applicant has been residing in the property and using it as their only principal home. The date of this notification is essential as this will determine whether the 12-month residency criteria has been met. On notification, the tenant must have the consent from the Association that occupancy by other persons other than the tenant does not lead to any tenancy issues.

- 4.4 The Matrimonial Homes (Family Protection) Act 1981, Section 18 provides that a spouse has the right to remain in the property where the tenant wishes to end the tenancy. Co-habitees of the tenant are required to apply to the court to grant them occupancy rights under the Act.
- 4.5 The Association may also apply to the courts to have the tenancy transferred to a spouse or co-habitee by means of serving a notice of recovery on Ground 15 and ensuring that suitable alternative accommodation is made available for the tenant. Where the Court agrees to the assignation of the tenancy, the Association must comply with the Court Order.

## **5. APPLICATION & AGREEMENT**

- 5.1 The tenant must apply on the appropriate application form and provide full details of the person(s) they intend to assign their tenancy.
- 5.2 If the application is accepted both assignor and assignee will be written to confirming the assignation has been agreed. The assignee will sign a new Tenancy Agreement, this agreement will retain the same start date as the original tenancy, they shall also sign an Assignment Minute which shall detail the actual date of the transfer.
- 5.3 Section 32 and Part 2 of Schedule 5 of the Housing (Scotland) Act 2001 entitles a tenant to assign their tenancy to another person with the consent of the landlord. When assigning a tenancy, the tenant conveys all their rights and obligations under the tenancy agreement to another person, including the responsibility for any default period referable to the period of the tenancy, including rent arrears and rechargeable repairs.
- 5.4 Although with an assignation no new tenancy is created, the Association will normally insist that a new tenancy agreement is signed in addition to assignation documentation being signed by all the parties involved.

## **6. GROUNDS FOR REFUSAL**

- 6.1 The Association is required to provide written consent or refusal on an Assignment Application. Permission will only be withheld where there are reasonable grounds for doing so, such as: -
- The application fails on grounds of residency qualification as outlined at section 4.2 of this Policy;
  - A Notice of Proceedings for Repossession has been served on the tenant specifying any of the “conduct” grounds set out in paragraphs 1 to 7 of Schedule 2 of the Act;
  - An order for Recovery of Possession of the house has been made against the tenant under Section 16 (2) of the Act;

- The tenant does not have a clear rent account (or has other debts with the Association) with no clear arrangement in place which has been adhered to for a minimum of 3 months;
- If the Pre-End of Tenancy Inspection is unsatisfactory and there would not be enough time for the tenant to carry out the necessary repairs a refusal should be issued to the tenant detailing the outstanding repairs.
- The proposed assignee owes Dunbritton HA a debt and has not adhered to a reasonable arrangement for 3 months;
- The proposed assignee was previously evicted for anti-social behaviour within the last 5 years (this includes eviction by other social landlords);
- The proposed assignee abandoned a local authority or housing association tenancy within the last 3 years;
- The proposed assignation will lead to substantial overcrowding or underoccupation;
- If it transpires that the tenant is receiving any payment for the assignation.

## **7. FALSE INFORMATION**

- 7.1 Anyone applying for assignation will have to sign the application form thereby certifying that the information is correct and no false or misleading information has been given in order to get the tenancy, or relevant information withheld. Should the Association discover that an application has been falsified then the Association may commence legal action with a view to repossessing the tenancy.

## **8. CUSTOMER SERVICES**

- 8.1 All Assignation applications will be carried out in line with our Customer Service Standards.
- 8.2 Complaints in relation to service failures in our obligations for Assignation will be dealt with in line with our Complaint Handling Policy/procedure.

## **9. APPEALS**

- 9.1 Any tenant who feels aggrieved by their treatment under this Policy can ask for a copy of the Association's Complaints Policy which is available at the Associations office. Tenants also have a right to complain to the Public Services Ombudsman. The Complaints Policy details the way in which Tenants can complain and the timescales for responding.

## **10. EQUALITY & DIVERSITY**

10.1 As a service provider and employer, we recognise the requirements of the Equality Act 2010, oppose any form of discrimination and will treat all customers, internal and external, with dignity and respect. We recognise diversity and will ensure that all our actions ensure accessibility and reduce barriers to employment and the services we provide.

## **11. LINKS TO OTHER POLICIES**

11.1 The following Policies relate to and should be referred to in respect of the Assignment Policy;

- Allocations Policy