



Policy Reference and title	HM/POL 10: Assignment of tenancy
Policy Date	June 2010
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CLYDEBANK HOUSING ASSOCIATION

POLICY ON ASSIGNATIONS

1. Introduction

Tenants may apply to the Association to assign their tenancy for a variety of reasons e.g. parents want to move away and leave adult children behind.

2. Equal Opportunities

The Association aims to be non discriminatory in its policies and practices. We aim to promote equal opportunity by the prevention, elimination or regulation of discrimination between persons on grounds of sex or marital status, on racial grounds, or on grounds of disability, age, sexual orientation, language or social origin or of other personal attributes, including beliefs or opinions, such as religious beliefs or political opinions unless discrimination is permitted by law.

3. Reasons for Application Refusal

A refusal will only apply where it is considered reasonable to refuse.

Reasons for refusal are as follows:

- If the tenant has rent arrears
- If the tenant has a legal notice served on them under grounds 1 – 7 of Schedule 2 to the Housing (Scotland) Act 2001 or the Act
- If an Antisocial behaviour Order has been granted against the tenant (ASBO)
- If an order for recovery of possession has been granted against the tenant or
- If overcrowding would result and the occupier would be guilty of an offence under section 139 of the 1987 Act or
- If the property has not been the assignee's only or principal home throughout the 6 month period prior to the application to assign or
- If the landlord plans to carry out works to the house or building which are likely to affect the part of the house the assignee would reside in or

- if the prospective assignee has former tenant arrears which have accrued in the previous 5 year period and equal at least one months rent and no payment arrangement has been made or an arrangement has not been adhered to for at least a continuous 3 month period or
- If the application cannot be processed until further information is received and this will not be available within a one month timescale or
- If the prospective assignee has a history of anti-social behaviour, including an antisocial behaviour order held against them (ASBO), they must provide supporting documentary evidence from a professional source stating that they are unlikely to commit further anti-social acts and support is or has been provided or
- If the prospective assignee refuses permission for former tenant tenancy references to be sought or
- If the prospective assignee has been evicted for anti-social behaviour in the previous 3 year period or
- If the prospective assignee holds another tenancy or
- If the prospective assignee is under 16 years of age or
- If underoccupation by more than one bedroom would occur (in this case an offer of reasonable alternative accommodation would be made and this could be an offer which allows underoccupation by one bedroom) or
- If the property has been designed or substantially adapted for the use of a person with special needs and there would be no such person resident. In this case an offer of reasonable alternative accommodation would be made and this could be an offer which allows underoccupation by one bedroom.

4. Conditions

- All applications must be made in writing and signed by the tenant Applications should be made on the standard form and if agreed consent must be given in writing.
- Both parties will be required to make an appointment with the Association so that they are aware of their rights and responsibilities. In particular the tenant should understand that it is beneficial to all concerned that) a new tenancy agreement be signed and the original tenant will no longer have rights in regard to the tenancy.

5. Short Scottish Secure Tenants

The same criteria as above should be adhered to. The only exception is with regard to the length of the assignation. The remaining tenancy period will be taken into consideration when considering an application. Additionally a new tenancy agreement will not be signed for a Short SST.

6. Exceptional Circumstances

Each case will be determined on its own merits therefore in exceptional circumstances we have the right to grant an application for assignation notwithstanding that in the ordinary course of events the Association would reasonably refuse such an application.

7. Right of Appeal

Any applicant aggrieved by a refusal can appeal to the Housing Management Sub-Committee.

A tenant who is aggrieved by a refusal may raise a court action. In these cases the court will order the landlord to consent to the application if it considers the refusal unreasonable.

References

Housing (Scotland) Act 2001 Part 2 Section 32

Housing (Scotland) Act 2001 Part 2 Section 9 (1)

Housing (Scotland) Act 2001 Part 2 Section 10 (4)(a)

Housing (Scotland) Act 2001 Part 2 Section 10 (4)(b)

Housing (Scotland) Act 2001 Schedule 5 Part 2

SFHA Housing Act Implementation Bulletin 13

CIH Housing (Scotland) Act 2001 a Guide for Housing Professionals

CIH Briefing Equal Opportunities & The Housing (Scotland) Act 2001

SEDD Circular 6/2002 Housing (Scotland) Act 2001 Scottish Secure & Short Secure Tenancy

TC Young correspondence and guidance