Subletting Policy (Tenants)

Document Control

Responsible Postholder	Operations Director			
Review Frequency	5 Yearly			
Reviewed by	Board			
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Next Review Due	October 2028			
Consultation Required	Yes	✓	No	
Equalities Impact Assessment	Yes	✓	No	
Added to Company Website	Yes	✓	No	
Associated Documents Considered	Yes	✓	No	

1. Scope of the Policy

1.1. The Policy outlines the rights to sublet granted to Scottish Secure Tenants under the provisions of the Housing (Scotland) Act 2014. These amended rights come into effect from 1 November 2019.

2. Objectives of the Policy

2.1. The main objective of this Policy is to clarify to tenants how applications to sublet tenancies will be processed and managed in accordance with the provisions of the Housing (Scotland) Act 2001 as amended by the Housing (Scotland) Act 2014.

3. Implementation of the Policy

3.1. Tenants wishing to sublet their tenancy must submit a written application to Waverley Housing. The tenant should provide a copy of the proposed sublet agreement between the tenant and the sub-tenant. A copy of the proposed sublet agreement should be provided to Waverley Housing. Where there is joint tenants all tenants must agree to the proposed sublet.

3.2. Permission to sublet will be granted by Waverley Housing for not more than 6 months. Any costs incurred by the tenant in preparing a subletting agreement will be their responsibility. The tenant shall not be permitted to charge the sub-tenant a greater rent and service charge than currently is applied by Waverley Housing to the property.

3.3. The assessment of applications to sublet will take account of the tenants and sub-tenants' circumstances and in particular must satisfy the criteria set out in Section 32 of the Housing (Scotland) Act 2001.

3.4. These criteria include reasons as to why an application to sublet can be refused and some of these are listed below:

- the sublet would result in overcrowding
- an order for recovery of possession of the property has been made against the tenant
- a notice has been served on the tenant on grounds set out in paragraphs1-7 of Schedule 2 of the Housing (Scotland) Act 2001.

3.5. In addition, the Housing (Scotland) Act 2014 has introduced the following condition which must also be met. The tenant must have been the tenant of the house throughout the 12 months immediately before they apply for written permission to sublet their home or if they were not the tenant throughout that period, the house must have been their only or principal home during those 12 months; and the person who was the tenant at that time must have notified the landlord that the person who is now the tenant was living there.

3.6. The 12-month qualifying period does not commence until Waverley Housing has been notified and has given its consent for the person to reside at the property. Notification needs to be in writing or by email as verbal notification is not

acceptable. In the case of children reaching the age of 16, who were part of the household when the property was allocated and it is their only or principal home, no further notification is required.

3.7. Applications to sublet will be responded to in writing within 28 days of receiving the application. Where consent has been refused, we will advise the applicant of the reason for refusing consent. If the Company has not made a decision to refuse or consent within 28 days of receiving the written application Waverley Housing will be deemed to have consented to the application.

4. Conditions

4.1. The tenant shall retain responsibility for ensuring that any rent and service charges due in respect of the property are paid timeously. In addition, the tenant shall remain responsible for any damage or unauthorised alterations carried out by their sub-tenant. In such situations the tenant will be requested to take the appropriate action to remedy the damage or deal with the unauthorised alteration. Failure to do so will result in the Company dealing with these matters and recharging the tenant.

4.2. When the tenant or the proposed sub-tenant is within the definition of a relevant person as contained in the Entitlements, Payments and Benefits Policy the decision to grant or refuse permission will be made by the Board following receipt of a report on such an application.

5. Responsibilities

5.1. Operational responsibility for this Policy lies with the Head of Housing.

6. Reporting and Monitoring

6.1. It is recognised that the Company receives very few applications to sublet and as such there is no requirement to submit regular reports on this issue to the Management Team or Board.

6.2. Operational experience will inform future reviews of this Policy.

7. Review Process

7.1. This Policy will be reviewed every five years, or earlier, where a change in relevant legislation arises. Where any conflict arises at any point in time between Policy, any appropriate legislation, statute or Government guidance, the Policy shall be subordinate.

8. Equalities

8.1. Waverley Housing is committed to tackling discrimination on the grounds of sex or marital status, racial grounds or grounds of disability, age, sexual orientation, language, social origin or other personal attributes, including beliefs or opinions such as religious beliefs or political opinions.