

| <b>KNOWES HOUSING ASSOCIATION LTD</b>         |  |
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| <b>Policy Name</b>                            | Sub-Letting Policy                             |
| <b>Policy Category</b>                        | Housing Management                             |
| <b>Policy Number</b>                          | HM12   |
| <b>Date to Housing Services Sub-Committee</b> | October 2022<br>(signed)                       |
| <b>Previous Review</b>                        | October 2019                                   |
| <b>Next Review Date</b>                       | October 2025                                   |
| <b>Links to other Policies</b>                | HM03 Arrears Policy<br>HM04 Allocations Policy |
| <b>Consultation</b>                           | Internal                                       |

## **1. AIMS & OBJECTIVES**

- 1.1 Sub-Letting is where a tenant of the Association wishes to allow the property they rent from the Association to be used by a third party for a specified period, not usually longer than 6 months. During this time the legal contract still exists between the 'Tenant' and Knowes Housing Association.
- 1.2 The Housing (Scotland) Act 2001 re-affirms the implied term of the Housing (Scotland) Act 1988, that the tenant with the written consent of the landlord, may sub-let the whole or part of the property.
- 1.3 The Sub-Let procedure, which is a separate document, details how an Application for Sub-Let will be dealt with internally by officers of the Association. Every application will be logged and its progress recorded on the Associations computer system, QL.
- 1.4 The appropriateness of the Association's decision on a Sub-Let application is found in statute, and the Association will not withhold permission without good reason. A written decision will be issued to the tenant within 28 days of receipt of the application.
- 1.5 This policy outlines the right to Sub-Let in accordance with the provisions of the Housing (Scotland) Act 2001 and as detailed in Knowes' Tenancy Agreement and the amendments outlined in the Housing (Scotland) Act 2014.

1.6 Before a tenant can sub-let all or part of their home they must apply in writing to the Association for written permission. 4.2 Section 12(2) of the 2014 Act makes the following changes:

- the tenant must have been the tenant of the house throughout the 12 months immediately before they apply for written permission to sub-let their home (previously there was no qualifying period); 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 Association that the person who is now the tenant was living there. The 12-month period does not start until the Association has been notified. (An example of this could be where the tenant was not the tenant throughout the previous 12 months but has during this period succeeded to the tenancy and immediately wants to sub-let it).

1.7 There are no residency conditions for the person that wants to live in the property as a sub-tenant.

1.8 The Association sets out clearly in our tenancy information, such as tenants' handbooks, which methods of notification we will accept and who the notification should be made to. For example, this could include notification by email or letter or by the tenant updating their household information on web-based tenancy management sites. Where a child in the household reaches the age of 16, we will take a practical approach to the notification of this information. For example, if they were part of the household when the house was allocated and/or it is their long-term and principal home, we will already know who is living in the property and that should be considered as notification.

1.9 When the Association is notified that someone has moved into the property, in line with current practice, we will consider whether it is appropriate for that person to live in the house. For example, if this results in overcrowding we may refuse permission to remain in the property. The notification will also give us an opportunity to identify any other issues arising from the person's residency in the house, such as support needs.

## **2. RISK MANAGEMENT**

2.1 By having a written detailed Policy on Sub-Letting, 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.

- 2.2 Without a Sub-Letting Policy, the Association is at risk of poor tenancy information, providing wrong advice and acting unprofessionally.

### **3. WHO HAS THE RIGHT TO SUB- LET?**

- 3.1 Any Scottish Secure Tenant who can demonstrate good cause for having to be away from their home, such as work or family commitments, has the right to sub-let their tenancy in accordance with the legislation and this Policy. The tenant must provide satisfactory evidence that they intend to return and that the property will remain their principal home.
- 3.2 A sub-let, as referred to by Knowes Housing Association, occurs when our tenant leaves the property for a period and “lets” the property to another person(s).
- 3.3 The tenant must meet the conditions outlined in the Housing (Scotland) Act 2014 whereby they have been residing in the property for a minimum of 12 months, (see section 1.6).

### **4. APPLICATION & AGREEMENT**

- 4.1 The tenant must apply on the appropriate application form and provide full details of the person(s) they intend to sub-let to, as well as any charge they intend to levy.
- 4.2 The tenant must provide (at their own expense) a ‘Sub-Letting Agreement’, which must be approved by the Association and a copy retained. Details of any charge, deposit or service offered should be contained within the agreement. (If the Association feels that an unreasonable charge in any form is being levied we may refuse the sub-let). Once the rent has been set it cannot be increased during the time of the sub-let.
- 4.3 The Agreement must also detail the date the tenant intends to return although the agreement will be for a maximum of only 6 months. If the tenant subsequently decides they will not return to the property, they must, no less than 8 weeks from the end of the 6-month period, inform both the Association and the sub-tenant of their intention to end the tenancy. The tenant will be responsible for ensuring vacant possession on termination and this should be an integral part of their ‘sub-let agreement’.

- 4.4 The tenant and the Association must remember that the original Scottish Secure Tenancy Agreement in place between Knowes HA and the tenant is still valid, and they are still responsible for the obligations as defined in the Tenancy Agreement, such as monthly rent due or re-chargeable repairs and the Association will enforce these conditions where necessary against the original tenant.

## **5. GROUNDS FOR REFUSAL**

- 5.1 The Association is required to provide written consent or refusal on a sub-let application. Permission will only be withheld where there are reasonable grounds for doing so, such as:-

- ◆ The tenant has not resided in the property for 12 months.
- ◆ A Notice of Proceedings 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;
- ◆ It appears to the Association that the tenant is to receive a payment for the sub-let or any other transaction which is other than a reasonable rent or reasonable and returnable deposit;
- ◆ The proposed sub-tenant owes the Association a debt and has not adhered to a reasonable arrangement for a minimum of 3 months;
- ◆ The proposed sub-tenant was previously involved in or evicted for serious anti-social behaviour within the last 5 years (this includes other social landlords);
- ◆ The transaction would lead to overcrowding; and
- ◆ The Association proposes to carry out work to the house or building which would affect the accommodation likely to be used by the subtenant or other person who would reside in the house as a result of the transaction.

## **6. FALSE INFORMATION**

- 6.1 Anyone applying to Sub-Let their tenancy 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 influence the decision to Sub-Let the tenancy, or relevant information withheld which may affect the decision. Should the Association discover that an application has been falsified then the Association may either cancel the application or commence legal action with a view to recovering the tenancy.

## **7. APPEALS**

- 7.1 Any applicant who feels their application for sub-let has been unfairly dealt with has a right of Appeal. This is detailed in the Complaints Policy, which is available at the Associations office. The Complaints Policy details the way in which you can complain and the timescales for responding.

## **8. POLICY REPORTING**

- 8.1 A detailed report on the number of applications to Sub-Let received by the Association as well as the numbers granted and those refused will be submitted on an annual basis to Housing Services Sub-Committee at the beginning of each financial year.

## **9. EQUALITIES COMMITMENT**

- 9.1 Knowes Housing Association Ltd 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 of other personal attributes, including beliefs or opinions, such as religious beliefs or political opinions.
- 9.2 Knowes' seek to embrace diversity, promote equal opportunities for all and eliminate any unlawful discrimination in all areas of our work.