

HORIZON HOUSING ASSOCIATION LIMITED	HOUSING SERVICES POLICY
TITLE	ASSIGNATION OF A TENANCY
DATE APPROVED	FEBRUARY 2010
REVIEW DUE	FEBRUARY 2013

1. INTRODUCTION

- 1.1 Assignment is the transfer of the legal interest in a property, including the rights and obligations of the tenancy agreement to another person. This is covered in Part 2, section 32 of the Housing (Scotland) Act 2001.
- 1.2 This aim of this policy is to define the different types of assignment, the circumstances in which we give consent to assignment, the rights of the assignee and how we will meet the legal requirement of the housing act. This policy will be supported by working procedures.

2. TYPE OF ASSIGNATION

2.1 Voluntary Transfer

A tenant can request to assign (pass on the rights and responsibilities of their tenancy to another person) their tenancy by means of a deed of assignation. This request must be in writing.

2.2 Court Ordered Assignment

In certain circumstances the Court, under the Matrimonial Homes (Family Protection) Scotland Act 1981 has the power to order the assignation of tenancies (e.g. divorce proceedings) between spouses, former spouses, and couples who are living together or have lived together as husband and wife. In this case Horizon's permission is not required.

3. GIVING PERMISSION TO ASSIGN A TENANCY

3.1 The Association shall approve assignation in line with the following conditions:

- the request is made in writing;
- the proposed assignee is at least 16 years old;
- the proposed assignee can confirm that they have lived in the property as their only or principal home for at least six months prior to the request;
- there are no reasonable grounds for refusal.

3.2 Under the Act the Association can refuse permission only if it has reasonable grounds to do so. In particular, reasonable grounds include:

- A notice of proceedings has been served on the tenants for breach of

tenancy, e.g. rent arrears, anti social behaviour, damage to property etc.

- We have obtained an order for your eviction
- The house was designed or adapted for persons with special needs and if the assignation were allowed, there would be no person living in the house who required those designs or adaptation
- We propose to carry out work in the property and this work would affect the accommodation
- The proposed change would lead to overcrowding
- It appears to the Association that the tenant is to receive an unreasonable payment as a deposit or security or for any other purpose in relation to granting the assignation

3.3 These conditions above may be waived if, in the opinion of the Director of Housing Services, there are pressing social or health reasons for the assignation to take place

3.4 Written permission must be given by Horizon, prior to any assignation. It should be noted, however, that should we fail to respond to a request for assignation within 28 days of receiving the request, permission is granted by default.

3.5 Tenants who assign tenancies without the Association's consent, remain fully responsible for the conditions of tenancy and their assignation is of no effect.

3.6 Tenants who abandon the property and allow another tenant to stay in the property without the Association's consent shall be subject to action to recover the property.

4. IMPLICATIONS OF ASSIGNATION

The rights of the incoming tenant differ to those in the case of a transfer of tenancy:

- The existing tenant ceases to have any rights in relation to the tenancy
- A new tenancy agreement is not given as the assignee takes on the terms and conditions of the original tenancy as set out in the agreement signed by the original tenant
- The assignee cannot be held responsible for liabilities under the tenancy prior to the date of assignation, e.g. rent arrears. The original tenant must be pursued

Assignations are not common and Housing Officers should discuss any case with the Housing Manager or Director of Housing Services.

5. APPEALS

- 5.1 Where an individual has been refused assignation to a tenancy, they may appeal that decision by following the Association's complaints procedure.

6. REVIEW OF THE POLICY

This policy shall be reviewed every three years.