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ASSIGNATION PROCEDURE

PLACES FOR PEOPLE SCOTLAND

INTRODUCTION

Assignation is where an existing Places for People Scotland tenant (Assignor) transfers their tenancy to another person (Assignee) who then becomes the tenant. Assignation is not a new tenancy; it is a transfer of the rights and responsibilities of an existing tenancy. The Assignee takes overs any issues with the tenancy such as rent arrears.

This procedure provides staff guidance for dealing with Assignations. There are three ways in which a tenancy is assigned:

1. A tenant (sole or joint) intends to move out of a property (in most cases) and asks for their tenancy to be transferred/assigned to a current household member (usually sole tenancy to sole tenancy). [ATLEGAL1](#ATLEGAL1)
2. When a sole tenant wants to add another household member onto the tenancy creating a joint tenancy. [ATLEGAL2](#ATLEGAL2)
3. Joint tenants requests to change the joint tenancy to a sole tenancy (usually one person moves out). [ATLEGAL3](#ATLEGAL3)

Legal Framework: Section 32 of the Housing (Scotland) Act 2001

Section 12 of Housing (Scotland) Act 2014

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. The Civil Partnership Act 2004 ensures that civil partners are given the same rights as married couples. Co-Habitees of the tenant are required to apply to the court to grant them occupancy rights.

ELIGIBILITY

Any tenant of Places for People Scotland who has a Scottish Secure Tenancy Agreement has the right to apply to assign their tenancy to another household member who has occupied the property as their principle home. Our responsibility is to assess the application and either approve or refuse.

Current staff, former staff, Board Members and their relatives who are tenants may apply for an assignation. An assignation will only be approved if it complies with the requirements of the Allocations Policy, Assignation Procedure and it has been approved by the Board of Management.

We must give our consent or refusal, in writing, within 28 days of receiving the written request, providing that all relevant information has been received from the applicants within the 28 day period.

If we fail to respond within this time period then we are considered to have consented to the proposed arrangement.

The proposed assignee:

* Must be over 16 years old;
* A member of the household (that we have been advised of in writing at least 12 months prior to the assignation request) and
* Able to evidence that they occupy this property as their main place of residence (there are exceptions to this for example they have been in temporary accommodation)
* And must qualify as a reasonable preference group under the terms of our allocations policy

Refusal of Permission

An assignation request will not be approved if:

* We do not have the written consent of all tenants involved in the assignation (including any joint tenants). Written consent will also be required from any person who has occupancy rights under the Matrimonial Homes (Family Protection) (Scotland) Act 1981.
* The assignor has rent and/or service charge arrears. The assignor must have an arrangement to clear the outstanding amount which has been kept to for a minimum of 3 months and under a month’s rent before we will allow the assignation to go ahead. This may be relaxed at the discretion of Housing Management Team Leader if there are urgent medical/social grounds for the assignation to proceed or there is a reasonable repayment agreement in place.
* There are other outstanding housing related payments including legal fees and rechargeable repairs, these must be paid in full before an assignation will be approved.
* We have obtained an order for eviction.
* The assignor is on a final tenancy warning and we are preparing legal action to end the tenancy.
* The assignee is responsible for anti-social behaviour within the stair/development.
* The assignation will result in the overcrowding or under-occupation of a property. Please refer to the Allocations Policy.
* The assignee does not require the facilities or amenities provided in a specially adapted property (such as amenity or wheelchair houses) and/or the services associated with a property (such as the manager service in sheltered housing).
* Where the applicant is a registered Sex Offender and we have been advised by the Responsible Authorities and/or SOLO that the property is not suitable.
* The assignee is not a known registered member of the household (not registered on Northgate).
* The assignor has not resided in the property as their or principal home during the 12 months immediately before the tenant applies for written permission to pass their tenancy to someone else.

APPLICATION STAGE

1. Application Form

All assignation requests from tenants should be sent an [Information sheet](#Assignation_Info) and an [Application form](#Application). Received assignation application forms, must be passed to the Housing Officer. Housing Officer must ensure that the application form is fully completed. If the application form is not fully completed they need to be sent back to the applicant to complete. The 28 day timescale for approval does not start until the form received is fully completed.

Internal Reporting Requirements (IRR) - Log customer request on the Customer Contacts on Northgate as a ‘General Tenancy Enquiry’ and answer enquiry and complete stating that the forms have been issued.

1. Acknowledgement

Housing Officer must [acknowledge](#Assig_Ack) receipt of application form in writing within three working days.

Housing Officer should make an initial assessment of the application forms to identify any immediate reason that the application process should not proceed further. If the assignation cannot go ahead the Housing Officer needs to write to our customer acknowledging the application form and refusing the assignation application within the same letter. Examples would be customers who have a current Notice of Proceedings served against their tenancy, property sizes are not compatible or over one month’s rent arrears.

IRR - Save letter in tenancy file.

ASSESSMENT PHASE

Housing Officer needs to check the applicants’ tenancy file, rent account and any anti-social behaviour files to ensure they meet the criteria.

Housing Officers should consider the following issues before approving:

* Any anti-social behaviour issues
* Tenancy warnings
* Notice of proceedings served
* Tenancy arrears – rent; rechargeable repairs or legal fees
* Applicants tenancy reference from other landlord (if applicable)

APPROVAL PHASE

1. Communicating to Decision

Our decision must be issued in writing.

[Approval](#Decision_Letter) – Approval letter needs to be issued to the applicant. Approval letter should contain a date for a home visit or office visit where applicable to complete the assignation legal paperwork.

[Refusal](#Decision_Letter) – Refusal letter needs to be issued to the applicant, stating the assignation cannot go ahead and the reason why.

IRR:Save letter in tenancy file.

1. Completion

Housing Officer to arrange a home visit or office visit depending on circumstances for example relationship breakdown. The Housing Officer must:

* Give the assignee a copy of the existing tenancy agreement. Housing Officer must go through and discuss summary SST with newly appointed tenant.
* Complete the relevant legal forms (ATLegal1, 2 or 3). 2 copies must be signed: one for the tenancy file and a copy for the customer to keep.
* Confirmation of Assignation – details any ongoing issues for example rent arrears must be noted so that the assignee is fully aware of their obligations. 2 copies must be signed.
* Complete a household composition form
* Set up rent payment (complete a direct debit form or housing benefit application forms)

IRR - On completion of the visit the housing Officer needs to update:

* Northgate – update the tenancy name, tenants contact details, add a rent account note and assign a risk category.
* Create a customer contact to log the home or office visit. Add a brief note that an assignation has taken place.
* Sharepoint – A request should be made to ITS to update the tenancy name of the file (it is not automatic) and scan in signed paperwork (ATLegal 1/2 or 3; confirmation of assignation and household composition)
* Email the Income Collection Officer of assignation changes

1. After Care

Housing Officers may decide to complete a Settling in Visit to the new tenant. This should be completed if there has been a sole to sole tenancy change. For any other assignation the Housing Officer can decide to visit on a case by case situation depending on the risk category of the tenancy.

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**ASSIGNATION INFORMATION SHEET**

You have asked us for permission to assign your tenancy to someone who is not our tenant. You have the right to assign your tenancy, but only if certain qualifying rules are met (see below). Also, we must agree in writing before any assignation can take place

This Information Sheet gives you some information about assignation and will let you know whether you qualify to assign your tenancy.

**What is an Assignation?**

Assignation is a legal term used to describe when a tenant (known as assignor) transfers the rights and responsibilities of their tenancy to another person (known as the assignee). It also covers the situation where someone who is a sole tenant wants to become a joint tenant with another person.

**What are the qualifying rules?**

The qualifying rules can be divided into three parts:

**1. Your tenancy**

We will not give you permission to assign the tenancy if:

* Your joint tenant (if you have one) does not agree to the assignation taking place. Their agreement to this has to be in writing.
* Your spouse (wife, husband or civil partner) who lives with you (if you have one) does not agree to the assignation taking place. Again, their agreement has to be in writing.
* You have any rent arrears or other debts owing to Places for People Scotland (there are some exceptions to this).
* We have started legal action against you for a breach of your tenancy agreement (this includes action for rent arrears).
* You have not lived in your home as your only or principal home during the 12 months immediately before you apply for written permission to your assign your tenancy.

**2. Your home**

We will not give you permission to assign the tenancy if:

* It would make your home overcrowded or more overcrowded than it is already (which means there will be too few bedrooms for the number of people who will be living in the property).
* It would make your home under-occupied or more under-occupied than it is already (which means there will be too many bedrooms for the number of people who will be living in the property).
* Your home has been specially adapted (such as amenity or wheelchair properties) or has additional services (such as sheltered housing) no-one in the household will need this type of housing.
* You didn’t advise us in writing that the assignee was a member of your household at least 12 months prior to the assignation request.

**3. The assignee (new tenant)**

We will not give you permission to assign your tenancy if the assignee:

* Is less than 16 years of age.
* Has not lived there for a minimum of 12 months.
* Cannot prove that they normally live with you.
* Has somewhere else to live (such as a tenancy or they own a property).
* If the assignee has had a tenancy before, then we will need a satisfactory report from their former landlord before agreeing to the assignation.
* The assignee must have reasonable preference under our allocations policy.

Finally, the assignee must be willing take on any tenancy problems, such as rent arrears, and to agree to this in writing.

**What happens next?**

You should complete the Assignation application form both the assignor and assignee need to sign the application form. Your Housing Officer has 28 days to approve or refuse your assignation application on receipt of your application.

Your Housing Officer will acknowledge receipt of your application form and assess your application. If approved, your Housing Officer will arrange a visit to complete the legal assignation documents. The assignor and assignee both need to sign an Assignation of Tenancy Form to make the assignation legal.

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Description automatically generated**APPLICATION TO ASSIGN TENANCY**

|  |  |
| --- | --- |
| **Your Details** | |
| Name |  |
| Current Address |  |
| Contact Details  Phone:  Email: |  |
| Are you happy to be contacted by email? YES/NO | |
| Joint Tenant Details – Joint Tenant must sign application form | |
| Name |  |
| Contact Details  Phone:  Email: |  |

|  |
| --- |
| Do you have a husband/wife/civil partner? YES/NO |
| If yes, has your husband/wife/civil partner given their permission to assign your tenancy? YES/NO |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Current Household – Individuals who live with you** | | | | | |
| Name | | Date of Birth | | Relationship to You | |
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| **Children seen on access - Evidence is required** | | | | | |
| Name | Date of Birth | | Relationship to Applicant | | Frequency of Access |
|  |  | |  | |  |
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| --- | --- |
| **Property Details** | |
| Have any adaptations been made? YES/NO | |
| If yes, please state what adaptations have been made (including hand rails and ramps) |  |
| Have you made any improvements? YES/NO | |
| If yes, please what improvements have been made? |  |

|  |
| --- |
| Why do you want to assign your tenancy?  When do you want to assign your tenancy (please supply a date)? |

|  |  |
| --- | --- |
| **Forwarding Address** | |
| Please state your forwarding address (only complete if not remaining in the property) |  |

|  |  |  |
| --- | --- | --- |
| **Details of Proposed Assignee(s)** | | |
| Name: |  | |
| Date of Birth: |  | |
| Address: |  | |
| Phone:  Email: |  | |
| Relationship to you: |  | |
| How long has this person lived with you? |  | |
| Financial Information – How do they intend to pay rent? |  | |
| I can confirm that all my answers on this form are true and I want to assign my tenancy at the address stated to the proposed assignee. I give you permission to check the information I have given in this form or obtain further relevant details in relations to my housing circumstances.  I understand that that information provided in this form will be covered by the General Data Protection Regulation.  Tenant’s Signature:  Joint Tenant’s Signature:  Date: | |

|  |
| --- |
| If Tenant is Moving Out:  I can confirm that the information provided is true. I understand that if the assignation is granted to the proposed assignee, that I will have no rights or obligations to the tenancy.  Signature of spouse/civil partner (if applicable):  Date: |

|  |
| --- |
| I can confirm that all my answers on this form are true and that I want to become the sole or joint tenant of the property. I confirm that this address has been my main home throughout the 12 months prior to the date of this request.  I give you permission to check the information I have given in this form or obtain further relevant information in relation to my housing circumstances.  I understand that that information provided in this form will be covered by the General Data Protection Regulation.  Proposed Assignee Signature:  Date: |

|  |  |  |
| --- | --- | --- |
| Please Return To: | | |
|  |  |  |
| Head Office |  |  |
| 1 Hay Avenue |  |  |
| Edinburgh |  |  |
| EH16 4RW |  |  |
| 0131 657 0600 |  |  |
| [CREHousingManagementInbox@placesforpeople.co.uk](mailto:CREHousingManagementInbox@castlerockedinvar.co.uk) | | |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Our Ref: | |  |  |  | |
|  | |  |  |  | |
| Date: | | 30 November 2021 |  |  | |
|  | |  |  |  | |
|  | |  |  |  | |
|  | | (Address 1)  (Address 2)  (Address 3)  (Address 4)  (Postcode) | **Housing Management** | | |
|  | | 1 Hay Avenue | | |
|  | | Edinburgh | | |
|  | | EH16 4RW | | |
|  | |  |  | |
|  | | Telephone: | 0131 657 0600 | |
|  | | Fax: | 0131 657 0700 | |
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|  | |  |  |  | |
| Dear | | | |
|  | | | |
| **Assignation Acknowledgement** | | | |
|  | | | |

I have received your assignation application form at our office on DATE. Thank you for completing the application form.

To proceed with your application, I need to ensure that you and your proposed assignee meet our assignation criteria.

I will confirm my decision to you in writing by INSERT DATE (28 days on receipt of application form)

Please contact me on 0131 657 if you have any questions.

Yours sincerely

**Name**

**Housing Officer**

Direct Dial: 0131 657

Email: @placesforpeople.co.uk

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Our Ref: | |  |  |  | |
|  | |  |  |  | |
| Date: | | [Publish Date] |  |  | |
|  | |  |  |  | |
|  | |  |  |  | |
|  | | (Address 1)  (Address 2)  (Address 3)  (Address 4)  (Postcode) | **Housing Management** | | |
|  | | 1 Hay Avenue | | |
|  | | Edinburgh | | |
|  | | EH16 4RW | | |
|  | |  |  | |
|  | | Telephone: | 0131 657 0600 | |
|  | | Fax: | 0131 657 0700 | |
|  | |  |  |  | |
|  | |  |  |  | |
| Dear | | | |
|  | | | |
| **Assignation Request** | | | |
|  | | | |

(Approval)

I am pleased to inform you that I have approved your assignation application.

I would like to visit you at your home/or insert office address on DAY/DATE/TIME to complete the assignation documents. Please ensure that you and your assignee are both able to attend this appointment.

(Refusal)

You applied to assign your tenancy on DATE. After completing an assessment of your application, I am refusing your application.

Your assignation has not been approved because STATE REASONS and STATE WHAT THEY CAN DO TO CHANGE THIS

Please contact me on 0131 657 if you have any further questions.

Yours sincerely

**Name**

**Housing Officer**

Direct Dial: 0131 657

Email: @placesforpeople.co.uk

**ASSIGNATION**

**of**

**TENANCY AGREEMENT**

**by**

**(existing tenant)**

**in favour of**

**(assignee)**

**with the consent of**

**CASTLE ROCK EDINVAR HOUSING ASSOCIATION LIMITED**

**Subjects:**

**(insert address)**

**Date: (insert date)**

**I, (existing tenant),** residing at **(insert address)** as sole tenant of the property at **(insert address)** do hereby assign to **(assignee)** currently residing at **(insert address)** my whole right and interest as sole tenant under the Tenancy Agreement between me and Castle Rock Edinvar Housing Association Limited having their Registered Office at 1 Hay Avenue, Edinburgh dated **(insert date)** And we, the said Castle Rock Edinvar Housing Association and **(new tenant)** hereby consent to this Assignation; And this Assignation shall be effective as at **(insert date)**. ;

**Propose existing signatures are replaced in line with SST as below:**

**Signatures**

|  |  |
| --- | --- |
| **Signed for landlord** |  |
| **Name** |  |
| **Witness name** |  |
| **Witness signature** |  |
| **Witness address** |  |
| **Date** |  |

|  |  |
| --- | --- |
| **Signed by Departing Tenant** |  |
| **Witness name** |  |
| **Witness signature** |  |
| **Witness address** |  |
| **Date** |  |

|  |  |
| --- | --- |
| **Signed by New Tenant** |  |
| **Witness name** |  |
| **Witness signature** |  |
| **Witness address** |  |
| **Date** |  |

**MINUTE OF VARIATION**

between

**CASTLE ROCK EDINVAR HOUSING ASSOCIATION**

and

**(Existing Tenant)**

and

**(New Tenant)**

Subjects: **(Address)**

Date:

|  |  |
| --- | --- |
| **MINUTE OF VARIATION**  between  Castle Rock Edinvar Housing Association Limited incorporated under the Industrial & Provident Societies Acts and having their Registered Office at 1 Hay Avenue, Edinburgh, EH16 4RW (“the Association”:)  and  **(Existing tenant)**  and  **(New tenant)** | |
|  |  |

With reference to the Tenancy Agreement between the Association and the Tenant dated **(Date of original SST)** (“the Tenancy Agreement”) in respect of the property at **(Address)** (“the Property”), it is hereby agreed that the said Tenancy Agreement will be varied with effect from the **(Date of assignation)** (“the effective date”) notwithstanding the date or dates hereof, as follows:-

|  |  |
| --- | --- |
| (1) | The Additional Tenant shall become a joint tenant along with the Tenant of the Property; the Additional Tenant and the Tenant shall be jointly and severally liable for all the obligations, including payment of rent, imposed by the Tenancy Agreement; the Additional Tenant shall become liable, jointly and severally, along with the Tenant for any rent arrears relating to the Property as at the effective date of this agreement; the terms and conditions of the Tenancy Agreement will apply to the Tenant and the Additional Tenant jointly and severally. |
| (2) | The Association consents to the Additional Tenant becoming a joint tenant of the Property. |

**Signatures**

|  |  |
| --- | --- |
| **Signed for landlord** |  |
| **Name** |  |
| **Witness name** |  |
| **Witness signature** |  |
| **Witness address** |  |
| **Date** |  |

|  |  |
| --- | --- |
| **Signed by Existing Tenant** |  |
| **Witness name** |  |
| **Witness signature** |  |
| **Witness address** |  |
| **Date** |  |

|  |  |
| --- | --- |
| **Signed by New Joint Tenant** |  |
| **Witness name** |  |
| **Witness signature** |  |
| **Witness address** |  |
| **Date** |  |

**ASSIGNATION**

**of**

**TENANCY AGREEMENT**

**by**

[Insert full name of Departing Tenant]

**in favour of**

[Insert full name of Remaining Tenant]

**with the consent of**

**CASTLE ROCK EDINVAR HOUSING ASSOCIATION LIMITED**

**Subjects: (address)**

**Date:**

I **[insert name of departing tenant]** residing at **[insert address in full]** as joint tenant of the property at **[insert address in full]** with **[insert full name of remaining tenant]** of **[insert address in full]** do hereby assign to and in favour of the said **[insert name of remaining tenant]** my whole right and interest as joint tenant under the Tenancy Agreement between me, the said **[insert name of remaining tenant]** and Castle Rock Edinvar Housing Association Limited having their Registered Office at 1 Hay Avenue, Edinburgh dated **[insert date of original Tenancy Agreement]**: And we, the said Castle Rock Edinvar Housing Association and **[insert name of the remaining tenant]** hereby consent to this Assignation; And this Assignation shall be effective as at **[insert effective date]**;

**Signatures**

|  |  |
| --- | --- |
| **Signed for landlord** |  |
| **Name** |  |
| **Witness name** |  |
| **Witness signature** |  |
| **Witness address** |  |
| **Date** |  |

|  |  |
| --- | --- |
| **Signed by Departing Tenant** |  |
| **Witness name** |  |
| **Witness signature** |  |
| **Witness address** |  |
| **Date** |  |

|  |  |
| --- | --- |
| **Signed by Remaining Tenant** |  |
| **Witness name** |  |
| **Witness signature** |  |
| **Witness address** |  |
| **Date** |  |

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CONFIRMATION OF ASSIGNATION

|  |  |
| --- | --- |
| Name of Assignee: |  |
| Address: |  |
| Date of Assignation: |  |

The assignee agrees and/or accepts that:

* They have received a copy of the Tenancy Agreement and agrees to meet their responsibilities of the Tenancy Agreement
* confirms that they have not knowingly or carelessly made any false or misleading statement (written or oral) which would affect the Association’s decision to assign the tenancy
* they are fully/joint responsible the following of the assignation of the tenancy:
  + INSERT AMOUNT OF ANY ARREARS/CREDIT
  + ANY ADDITIONAL ITEMS

Assignee Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Association Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Witness Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Witness Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address: 1 Hay Avenue, Edinburgh, EH16 4RW

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|  |  |  |  |
| --- | --- | --- | --- |
| Tenant Name |  | | |
| Date of Birth |  | N.I Number |  |
| Contact Details  Phone:  Email:  Allows texts?: | Y / N | | |
| Joint Tenant’s Name |  | | |
| Date of Birth |  | N.I Number |  |
| Contact Details  Phone:  Email:  Allows texts?: | Y / N | | |
| Address: |  | | |

|  |  |  |  |
| --- | --- | --- | --- |
| **HOUSEHOLD DETAILS** | | | |
| **Name** | **Date of Birth** | **Sex (M/F)** | **Relationship** |
|  |  |  |  |
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| --- | --- |
| **EMERGENCY CONTACT** | |
| Name of next of kin/emergency contact |  |
| Address: |  |
| Contact Details  Phone: |  |

|  |  |
| --- | --- |
| **DISABILITY (Indicate below)** | |
| Vision |  |
| Physical |  |
| Hearing |  |
| Learning |  |
| Mental Health |  |
| Other, Please State: |  |
| Comments: | |

I/we agree to inform Places for People Scotland immediately if the composition of my/our household changes.

Tenant Signature:

Joint Tenant Signature:

Date: