

## 1. Introduction:

**Sub-tenant** is the term used to describe a person who rents or leases a property from a tenant.

**Lodger** is the term used to describe a person who rents or leases part of a property from a tenant.

This leaflet applies to both Scottish Secure Tenancy (SST) and Short SST Agreements under The Housing (Scotland) Act 2001 (the Act) and amended by the Housing (Scotland) Act 2014 (the 2014 Act).

## 2. Process for Subletting:

If a tenant wants to sublet all or part of their tenancy, this needs ACHA consent as the landlord. Therefore, before a tenant can sublet or take in a lodger to their home they must apply to ACHA for permission.

Section 12(2) of the 2014 Act makes the following changes to the Act, from 1 November 2019:

- 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 the whole of that period, the house must have been their only or principal home during those 12 months; and that 12 month period only begins when ACHA is told that they are living in the property as their only or principal home. ACHA must have been told this by the (then) tenant, a joint tenant, or the person involved. If ACHA has already been told then no further notification is needed.

## 3. Process for Lodgers:

ACHA will treat applications where the tenant is requesting permission to let part of the property as an application to take in a lodger.

The difference between lodging and sub-letting is that sub-lets involve the tenant moving away from the tenancy for a period of time; whereas a lodger will rent part of the tenancy and the tenant will remain resident in the tenancy with the lodger.

Tenants wishing to take in a lodger must make a written request, stating the duration, the charges and tenancy details of the proposed lodging arrangement.

ACHA will not normally give permission to allow the tenant to take in a lodger for more than 6 months. Permission for a longer period would require a further review. The permission to take in a lodger will not confer any rights to the tenancy.

The secure tenancy and the requirements and responsibilities of the tenancy agreement will remain with the tenant for the period of the lodging

## **4. Grounds for refusal:**

ACHA can refuse permission to sublet or take in a lodger only if it is reasonable to do so and each case should be considered on its merits. The Act (as amended) provides some examples of reasonable grounds to refuse:

- The 12 month residency period for a sublet application has not been met;
- The request would lead to overcrowding;
- A Notice of Proceedings has been served on the tenant in relation to one of the conduct grounds;
- An order for recovery of possession (a Decree) has been granted against the tenant;
- The tenant is charging the sub-tenant or lodger an unreasonable rent or deposit;
- Work scheduled to be carried out on the house which will affect the accommodation to be used by the sub-tenant or lodger;
- If the sub-tenant or lodger is already the tenant of one of ACHA's properties (and therefore not occupying it as their only or principal home).

## **5. Grounds for Appealing a decision:**

If a tenant wishes to appeal against the decision made by ACHA, they should intimate an appeal to ACHA's Regional Manager who will review the case accordingly.

Tenants, who are aggrieved by a decision to refuse consent for sub-letting or a lodger, may raise proceedings by summary application to the Sheriff Court (Schedule 5, Part 2, paragraph 14 of the Act).