

SUB-LETTING & LODGER POLICY & PROCEDURES

March 2022

POLICY IMPLEMENTATION CHECKLIST	
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Date of Next Review:	MARCH 2025
Diversity compliant:	YES
Equality Impact Assessment:	LOW
Data Protection compliant:	YES
Health & Safety compliant:	YES
Procedure implemented:	YES
SDM system changes made:	N/A
Training Completed:	
Posted on Sharepoint:	
Posted on website:	

COVID-19 Generic Policy Statement:

Although we will always endeavour to abide by our policies and procedures we may be unable to do so due to the COVID-19 global pandemic. The organisation will follow all Government guidance implemented to mitigate transmission of the COVID-19 virus. This could effect over service delivery and protocols contained within this policy.

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SUB-LETTING & LODGERS POLICY & PROCEDURES

1.0 INTRODUCTION

This policy outlines the Co-operative's requirement to accept and consider an application to take in a Lodger or Sub-Let as set out in the Housing (Scotland) Act 2001 as amended by the Housing (Scotland) Act 2014 and as contained within the Scottish Secure Tenancy Agreement.

The Co-operative is responsible for ensuring the policy and procedures are applied and comply with regulatory and legislative requirements.

2.0 POLICY AIMS AND OBJECTIVES

This policy aims to meet all legislative and regulatory requirements that complies with its landlord obligations in respect of managing such requests.

The policy is also intended to provide guidance to staff on implementing the correct procedures and to tenants on the requirements placed on them.

The key objectives are:-

- Ensuring the Co-operative complies with the law and operates in accordance with good practice and the contractual terms contained within the Scottish Secure Tenancy Agreement;
- Recognising and protecting the legal rights of the tenant and other members of the household;
- Ensuring that all applications to Sub-Let or take in a Lodger are treated in a fair and equitable manner;
- Allowing the Co-operative to keep accurate records of who is residing in its properties;

3.0 DEFINITION

A Lodger is defined as a person, who is not related to the tenant and who has a formal financial agreement with the tenant(s) to rent the use of one or more rooms or part of a room and may receive services in relation to the accommodation such as meals and / or laundry.

Sub-Letting describes the process which takes place when a tenant (the principal tenant) rents all or part of their home to another person (the sub-tenant) on a temporary basis.

The tenant(s) must apply for permission from the Co-operative before Sub-Letting or taking in a Lodger. This cannot proceed until permission has been granted in writing from the Co-operative which will not be unreasonably withheld.

4.0 GENERAL PRINCIPLES

Under the terms of the Scottish Secure Tenancy Agreement a tenant can Sub-Let or take in a Lodger subject to the following conditions:-

- Tenants have the right to Sub-Let their home or take in a Lodger provided the eligibility criteria outlined in this policy are met and they have the written permission of the Co-operative;
- In the case of joint tenancies, all tenants must agree to the application being made;
- Consent to Sub-Let or take in a Lodger will only be given by the Co-operative after consideration of the circumstances of the tenant and the proposed Sub-Tenant / Lodger;
- If a tenant wants to Sub-Let all or part of their tenancy, the house must have been the tenant's only or principal home during the 12 months immediately before the tenant applies for written permission to Sub-Let;
- There is no legal relationship between the Sub-Tenant or the Lodger and the Co-operative. The tenant will continue to be responsible for all the conditions of the tenancy and for payment of rent directly to the Co-operative;
- It is the responsibility of the tenant to advise the statutory authorities, including Council Tax, Housing Benefit, Department of Works and Pensions (Universal Credit), gas, electricity and telephone suppliers, of the Sub-Tenancy Agreement / Lodger Arrangement;
- The amount of rent charged to the Sub-Tenant or Lodger cannot be higher than the monthly rent charged by the Co-operative to the tenant. Any refundable deposit cannot exceed the equivalent of one month's rent;
- The period of the Sub-Let or Lodger will be for a maximum of 6 months, however the Sub-Let or Lodger request may be extended at the request of the tenant and at the discretion of the Co-operative.

5.0 APPLYING FOR PERMISSION TO SUB-LET / TAKE IN A LODGER

Tenants wishing to submit a Sub-Let / Lodger application must do so in writing and provide the following information as part of the application:-

- Details of the proposed Sub-Tenant / Lodger including their name, date of birth, current and recent addresses and details of any tenancies they have held;
- Identification and proof of address for the proposed Sub-Tenant / Lodger;
- Details of all payments the tenant proposes to charge to the Sub-Tenant / Lodger e.g. rent charges and deposits;
- Details of any services provided as part of the proposed Sub-Let / Lodging Agreement;
- The proposed start and end date of the Sub-Let / Lodger Agreement; and
- A copy of the proposed Sub-Let / Lodging agreement.

Where a Sub-Let / Lodger application is approved it will be the tenant's responsibility to ensure that the Sub-Tenant / Lodger vacates on the termination of the agreement and the arrangements for termination of the agreement must be contained within the Sub-Let / Lodger Agreement.

Where a joint tenancy exists, all tenants must agree to the Sub-Let / Lodger application.

Where a Sub-Let / Lodger application is approved the original tenancy agreement between the tenant(s) and the Co-operative remains valid and the tenant(s) remain responsible for maintaining the terms of their tenancy agreement.

6.0 PROCEDURES FOR SUB-LETTING / LODGER

Where a Sub-Let / Lodger application is received by the Co-operative, the Housing Officer should issue an acknowledgement letter (Appendix 2) to the tenant within two working days confirming the application will be processed and a response issued within 28 days. The acknowledgement letter will advise of an appointment to visit the tenant and proposed Sub-Tenant / Lodger to inspect the property and discuss the application procedure and highlight to all parties their obligations and responsibilities in the event the application being approved.

During the visit, the Housing Officer will review and validate the information provided on the Sub-Let / Lodger application and ensure that all supporting documentation has been provided. Where the application is complete and all supporting documentation has been provided the Housing Officer must then decide whether or not the application should be approved and notify the tenant of the decision in writing in accordance with the policy and procedures.

Where the Sub-Let / Lodger application is incomplete, the Housing Officer should ask the tenant to provide the missing information during the interview. Where there is missing supporting documentation such as proof of residency or a copy of the Sub-Let / Lodger Agreement the Housing Officer should request this information be provided within seven days of the interview (seven days is recommended as this will allow the Housing Officer to carry out necessary tenancy checks and issue a decision letter within 28 days of the application form being received). Where the tenant fails to provide the requested information the application should be refused in writing (Appendix 5) and in accordance with Section 8 of this procedure.

When considering whether or not approval for a Sub-Let / Lodger application should be granted, the Housing Officer should consider the following:

- Whether the proposed charge and, where applicable, deposit is reasonable;
- Whether the terms and conditions of the proposed Sub-Let / Lodger Agreement are acceptable;
- Whether the proposed Sub-Tenant / Lodger has a history of anti-social behaviour; and
- Whether the house will become overcrowded if approval is granted.

When considering the reasonableness of the proposed charge to the Sub-Tenant / Lodger, the Housing Officer should consider the following;

- The amenities that will be shared with other members of the household;
- Arrangements for the payment of household bills (e.g. utilities, telephone);
- The services being provided as part of the Sub-Let / Lodger Agreement (e.g. laundry, meals); and
- The rent being charged for the property by the Co-operative.

The Co-operative will respond to a Sub-Let / Lodger application within 28 days of the application being received. Where approval of a Sub-Let / Lodger application is granted, approval will be subject to conditions set by the Co-operative. The tenant will be notified in writing that approval has been granted and of the conditions of approval (Appendix 3 & 4).

Should the Co-operative fail to provide a response to a Sub-Let / Lodger application within 28 days of the application being received, it will be taken that approval of the application has been granted.

7.0 CONDITIONS FOR APPROVING A SUB-LET / LODGER APPLICATION

Where a Sub-Let / Lodger application is approved, the Housing Officer must notify the tenant of this decision in writing within 28 days of the date the application was received. The Housing Officer must issue an approval letter (Appendix 4) confirming the application has been successful. The letter must contain the date on which the Sub-Tenant / Lodging Agreement will commence and must detail the 'conditions of approval' the tenant must comply with.

Where the Co-operative approves a Sub-Let / Lodger application, this will be subject to the following conditions of approval:-

- The Sub-Tenant / Lodger is declared on any benefit applications, including housing benefit and Universal Credit;

- The Sub-Tenant / Lodger is registered as part of the household for the purpose of council tax;
- Permission is given for a maximum of six months. An application to renew the consent may be made by the tenant no more than one month before the end of the six month period;
- The tenant must seek permission from the Co-operative if they wish to make any amendments to the charges or terms and conditions of the Sub-Let / Lodging Agreement;
- The Sub-Let / Lodger has no statutory rights to occupy the house and is present only with the consent of the tenant and the Co-operative. If the tenancy is terminated at any time, either by the tenant or by court order, the Sub-Tenant / Lodger will not be allowed to remain in occupation;
- The Sub-Tenant / Lodger has no right of succession upon the death of the tenant;
- Permission is only given for the proposed Sub-Tenant (s) / Lodger(s) named on the Sub-Let / Lodger application; and
- The tenant is responsible for the conduct of the Sub-Tenant / Lodger and any action arising from unacceptable behaviour of the Sub-Tenant / Lodger will be taken against the tenant.

8.0 GROUNDS FOR REFUSING A SUB-LET / LODGER APPLICATION

Sub-Let / Lodger applications will only be refused where the Co-operative has reasonable grounds for doing so.

The legislation does not clearly define what is regarded as “reasonable grounds” for refusal, however, the following grounds are considered reasonable for refusing a Sub-Let / Lodger application:

- Notice of Proceedings for Possession has been served on the tenant specifying any of the ‘conduct’ grounds set out in paragraphs 1 to 7 of the Schedule 2 of the Housing (Scotland) Act 2001;
- A Decree for recovery of possession has been granted by the court;
- The tenant or the proposed Sub-Tenant / Lodger has outstanding debts with the Co-operative or other social landlord(s) amounting to more than one month’s rent and has not adhered to a reasonable repayment arrangement for a minimum of three consecutive months;
- The proposed Sub-Tenant / Lodger has been evicted for anti-social behaviour within the last five years (this includes eviction by other social landlords);

- An Anti-social Behaviour Order (ASBO) has been granted against the tenant or a member of the tenant's household;
- An Anti-social Behaviour Order (ASBO) has been granted against the proposed Sub-Tenant /Lodger;
- The approval of the Sub-Let / Lodger application would lead to overcrowding;
- The Co-operative has been provided with an incomplete application or false and misleading information about the application;
- In the case of a joint tenancy, one or more tenant(s) has not given consent for the Sub-Tenant / Lodger Application;
- The Co-operative proposes to carry out work to the property which would affect the accommodation likely to be used by the proposed Sub-Tenant / Lodger;
- Where there is substantial damage or disrepair to the property caused by the tenant, a member of the household or a visitor to the property;
- Where a scheme has been specifically designated for a particular client type and the prospective Sub Tenant /Lodger does not meet the criteria;
- Where the terms of the conditions of the Sub-Letting / Lodgers arrangement are deemed to be unreasonable;
- Where it appears that it is proposed to receive a payment or an unreasonable rent or deposit; and
- The house was not the tenant's only or principal home during the 12 months prior to receiving the application to Sub-Let.

The grounds for withholding permission are not exhaustive and the Co-operative may refuse to grant permission where it believes there are other reasonable grounds for doing so.

9.0 PROCEDURES FOR REFUSING A SUB-LET / LODGER APPLICATION

Where a Sub-Let / Lodger application is not approved, the Housing Officer must notify the tenant of this decision in writing within 28 days of the date the application was received. The Housing Officer must issue a refusal letter (Appendix 5) confirming the application has been unsuccessful advising of the reason(s) for refusal and detailing how the tenant can appeal the Co-operative's decision.

10.0 APPEALS AND COMPLAINTS

In the event of a Sub Tenant / Lodger request being refused and the applicant is unhappy about the decision they will be required to appeal in writing to the Co-operative within 28 days of receiving the decision.

The Co-operative will review the appeal and provide the applicant with the result of their decision in writing.

If the applicant is still dissatisfied, recourse can be sought through the Co-operative's Complaints Policy.

11.0 DATA PROTECTION

The Co-operative will process information and data contained within the application in accordance with its policies and procedures relating to the General Data Protection Regulations.

Information regarding how data will be used and the basis for processing data is provided in the Co-operative's Fair Processing Notice.

12.0 EQUALITIES & DIVERSITY

The Co-operative is committed to Equal Opportunities and will endeavour to ensure that all services are carried out in an undiscriminating manner in line with the Co-operative's Equality and Diversity Policy.

In particular, the Co-operative will not discriminate on the grounds of age, disability, marriage and civil partnership, pregnancy and maternity, race, religion or belief, gender, gender reassignment or sexual orientation.

We seek to embrace diversity, promote equal opportunities for all and eliminate any unlawful discrimination in all areas of our work.

13.0 POLICY REVIEW

This Policy will be reviewed on a 3 yearly basis or earlier if the legislation changes to ensure that its aims are being met.

(Appendix 1)

Our Ref:

Your ref: (Insert Tenant Number)

Date: XXXXXX

(Insert Name & Address)

Dear xxxxxx

SUB-LET / LODGER REQUEST

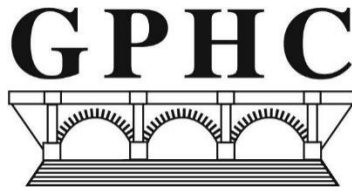
Further to your request for permission to Sub-Let / Take in a Lodger, please find enclosed an application form which you should complete and return to this office at your earliest convenience.

Should you require any further assistance please contact me.

Yours sincerely

XXXXXX
Housing Officer

Enc



APPLICATION FORM - SUB-LET & LODGERS

WRITTEN CONSENT MUST BE OBTAINED FROM GARRION PEOPLE'S HOUSING CO-OPERATIVE BEFORE YOU CAN SUB-LET OR TAKE IN A LODGER

SECTION 1

Tenant's Details			
Tenant(s) Name		Tel. No.	
Address		Post Code	
Property Type		No of Bedrooms	
Start Date Of Tenancy			

Please list all of your family members that live with you:			
Full Name	Date of Birth	Sex	Relationship to Tenant

SECTION 2

Why do you want to Sub-Let / Take in a Lodger?	
Full name of proposed Sub-Tenant /Lodger:	
Date of Birth:	
Relationship to Tenant:	

Please list all family members that will be moving into the property:			
Full Name	Date of Birth	Sex	Relationship to Proposed Sub-Tenant / Lodger

PLEASE ENCLOSE PROOF OF IDENTITY & TWO FORMS OF RESIDENCY FOR EACH PERSON LISTED AT SECTION 2

SECTION 2a

Detail the number of rooms for sole use for proposed Sub-Tenant / Lodger (eg. Bedroom)

No. of rooms for <u>sole use</u> of Sub-Tenant / Lodger		Description:	

Detail the number of rooms to be shared with the proposed Sub-Tenant / Lodger (eg. Kitchen, Bathroom)

No. of rooms <u>to be shared</u> with Sub-Tenant / Lodger		Description:	

SECTION 2b

Provide details of rent and other charges to be paid by the proposed Sub-Tenant / Lodger:

Rent	£	Per Week	Amount of deposit (if any) to be paid by Sub Tenant / Lodger:
Electricity	£	Per Week	
Gas	£	Per Week	
Meals	£	Per Week	
Other Charges	£	Per Week	
Total	£	Per Week	£

Who will live at the tenancy address?			
Name	Date Of Birth (DD/MM/YY)		Relationship To Person(s)

Are you moving out of the property?	Yes(✓)	No(✓)
If Yes, when will you move out? (Date)		
Where are you moving to? (Address)		

Has your home been adapted in any way for use by a disabled person?	Yes(✓)	No(✓)
<u>If Yes, Please give details</u>		
Do any household members require G/Level accommodation or special adaptations? (✓)	Yes(✓)	7. No(✓)
<u>If Yes, Please Give Details</u>		

Declaration (to be completed by the existing Tenant/Joint Tenants)	
<p>The information I have given in this form is true and accurate. I agree that Garrion People's Housing Co-operative can make any enquiries they need to confirm the details I have given.</p> <p>I/we understand that I/we will receive a written reply to this application within 28 days of receipt of this application, and that the Sub-Let / Lodger request <u>cannot</u> go ahead until Garrion People's Housing Co-operative's written consent has been given.</p>	
Tenant's Signature	_____
Joint Tenant's Signature	_____
Date	_____

Declaration Under The Matrimonial Homes (Family Protection) (Scotland) Act 1981 (To be completed by the existing Tenant(s) Spouse or Partner if they are not Joint Tenant(s)).

I _____ am fully aware of all the details of the application to Sub-Let / take in a Lodger at _____ and give my consent to it. I confirm that the details given are true and accurate.

Signed _____ **Date** _____
Witnessed _____
Witnessed _____

**Sub-Tenant / Lodger(s) Declaration
(To be completed by the Person(s) named in (Section 2))**

The information I have given in this form is true and accurate. I agree that Garrion People's Housing Co-operative can make any enquiries they need to confirm the details I have given.

I/We understand that I/We will receive a written reply to this application within 28 days of receipt of this application, and that the Sub-Let / Lodger request **cannot** go ahead until Garrion People's Housing Co-operative's written consent has been given.

Sub-Tenant / Lodger Signature _____ **Date** _____
Joint Sub-Tenant / Joint Lodger Signature _____ **Date** _____

Sub-Tenant / Lodger(s) Declaration to obtain Tenancy References

As per Section 3 "Where the proposed Sub-Tenant / Lodger has held a tenancy within the last 5 years, the Co-operative will request tenancy references as appropriate, having first obtained the permission from the proposed Sub-Tenant / Lodger to do so".

This section therefore must be signed to confirm you allow the Co-operative to obtain a tenancy reference from your previous landlord/s prior to approving any lodger application. If this section has not been completed then this application will be refused.

Sub-Tenant / Lodger Signature _____ **Date** _____
Joint Sub-Tenant / Lodger Signature _____ **Date** _____

(Appendix 2)

Our Ref:

Your ref: (Insert Tenant Number)

Date: XXXXXX

(Insert Name & Address)

Dear xxxxxx

SUB-LET / LODGER REQUEST

I acknowledge receipt of your application to Sub-Let / Lodger request.

In order for the Co-operative to process this request I will carry out a visit to your home on xxxxxxxx at xxx.

This is necessary to enable an inspection to be carried out of your property and to discuss the implications of the Sub-Let / Lodger application with both you and the proposed Sub Tenant(s) / Lodger(s).

Upon completion of this and the appropriate information/checks we will confirm our decision within 28 days.

Yours sincerely

xxxxxxxxxxx
Housing Officer

Our Ref:

Your ref: (Insert Tenant Number)

Date: XXXXXX

(Insert Name & Address)

Dear xxxxxxxx

SUB-LET / LODGER REQUEST

Thank you for submitting the application to Sub-let / Take in a Lodger.

I would confirm that your request has been approved and I have made an appointment for you to attend along with the proposed Sub Tenant(s) / Lodger(s) to discuss this matter.

It will therefore be necessary for you and the Sub-Tenant(s) / Lodger(s) to call at this office on xxxxxxxxxxxx at xxxxxxxx.

Should this appointment not be convenient please contact me to make suitable alternative arrangements.

Yours sincerely

xxxxxxx
Housing Officer

Your Ref : xxxxxx

Our Ref : xxxxxx

Date:

(insert name & address)

Dear xxxxxxxx

APPLICATION TO SUB-LET / TAKE IN A LODGER

I refer to your application form to sub-let to your proposed Sub-Tenant namely xxxxxxxx currently residing at XXXXXXXX has been accepted by the Co-operative.

The Sub-Let / Lodger request is therefore approved by the Co-operative based on the following conditions:-

- the Sub-Let / Lodger request is granted for a period of six months, however the request for an extension must be submitted to the Co-operative one month prior to the expiry date;
- the house must only be occupied by the person(s) agreed by the Co-operative ie xxxxxx;
- you must advise the Co-operative of any changes to the charges made to the Sub-Tenant / Lodger or to the terms and conditions of the Sub-Letting Agreement / Lodger Agreement;
- that any breach of the tenancy agreement will be deemed as breaking a condition of consent and permission for the Sub-Let / Lodger will be withdrawn;
- as you are the tenant you will be held responsible for the conduct of the Sub-Tenant / Lodger and any legal action arising from the unacceptable behaviour of the Sub-Tenant / Lodger will be taken against yourself;
- the Sub-Tenant / Lodger has no right of succession;
- you return to live in the house at the end of the Sub-Let period;
- you are responsible along with the Sub-Tenant / Lodger to notify all the necessary agencies and statutory bodies eg Council Tax, Housing Benefit Department, Department of Works and Pensions (Universal Credit), gas, electricity and telephone suppliers;
- should you terminate your tenancy during the period of the Sub-Let / Lodger permission for the Sub-Let / Lodger request will automatically be withdraw.

I trust the aforementioned is acceptable to yourself.

Yours sincerely

xxxxxxxxxxxxxx
Housing Officer

Our Ref:

Your ref: (Insert Tenant Number)

Date: XXXXXX

(Insert Name & Address)

Dear xxxxxxxxxxx

SUB-LET / LODGER REQUEST

Further to your application to Sub-let / Take in a Lodger.

The Co-operative has considered your request but unfortunately it has been refused for the following reasons:

.....
.....
.....

Should you wish to appeal this decision you must submit this in writing to the Housing Manager within 28 days .Upon receipt of this we will review the appeal and provide you with the outcome of our decision in writing.

If you are still dissatisfied after this a copy of the Co-operative's Complaints Policy will be made available to you in order that you can raise this as a complaint.

Yours sincerely

xxxxxxxxxxx
Housing Officer