



## Sublet Procedure

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### Version Control

Date	Owner	Version	Reason for Change
March 2022	Fiona Ross	4.0	Cyclical Review

### Summary of Changes

Section	Change
1.0	Changed to response within 28 days to align other change of tenancy requests.
1.2	Change of requirement to sub-let criteria no longer requirement to do pre-approval visits
4.0	Removal requirement to inspect property following refusal of sublet application
5.0	Initial appeal letter should be written to SHSO and second appeal letter should be written to HoHS then escalated to complaints procedure.

# Sub-let Procedure

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## 1.0 Introduction

The purpose of this procedure is to guide staff through the processes that should be followed when an application to sub-let the property (Appendix 1) is received by the housing team.

The Housing (Scotland) Act 2001, the Housing (Scotland) Act 2014 and the terms of the Scottish Secure Tenancy Agreement and Short Scottish Secure Tenancy Agreement states that tenants have the right to submit a written application to the Association to sublet all or part of the property and that the Association will not withhold permission unreasonably.

Sub-letting is where a tenant of the Association wishes to allow the property they rent from the Association to be let to a third party for a specific period, not usually longer than six months. Where tenants are married or in a civil partnership or if they are a joint tenant, they will be required to get permission from their partner or other joint tenant to sub-let the property.

Tenants are required to demonstrate good cause for having to stay away from their home such as employment, study or family commitments. The tenant must complete the relevant processes and must provide the necessary documentation in accordance with this procedure before a decision can be taken. The tenant must also provide satisfactory evidence that they intend to return and that the property will remain their principal home (Appendix 2).

The housing team will advise the tenant of the decision to approve or refuse permission within 28 days from the date the sublet application is received. It is the housing assistant's responsibility to ensure that the application is logged on capita once received and ensure it is processed within the timescale.

### 1.1 Application to sub-let a tenancy

Where a tenant has contacted the Housing Officer (HO) to advise that they wish to sub-let the property then an acknowledgement letter (Appendix 3) should be issued within three working days of the request outlining the subletting guidance notes (Appendix 4), enclosing application forms for the tenant and the sub-tenant to complete and confirming the information required to consider the request. The tenant must be made aware that an agreement must not be signed or the sub-tenant moved into the property until the Housing Officer has confirmed in writing that approval has been granted.

### 1.2 Sub- Letting Qualifying Criteria

Section 12(2) of the Housing Act 2014 sets the following criteria for tenants wishing to sublet their property:

- The tenant must have been the tenant of the house throughout the twelve months immediately before they apply for written permission to sub-let their home; or

- If they were not the tenant throughout that period, the house must have been their only or principal home during those twelve months. The previous tenant must have notified the association that the person who is now the tenant was living there. The twelve month period does not start until the Association is notified that the person is living at the property.

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

### 1.3 Sub-Let Application

An application to sub-let the property must be completed by the tenant and the sub-tenant and returned to the Association with the relevant supporting documentation. The application to sub-let must confirm details of the proposed sub-let including:

- Reasons for the request and written evidence that the tenant intends to return;
- Tenant and proposed sub-tenant details, including name, current housing status, contact details and proposed forwarding address;
- Duration of the sub-let agreement;
- Declaration of conditions attached to the approval of the sub-let including; information provided, mandate to verify information, tenancy obligations, withdrawal of permissions and termination of tenancy.

### 1.4 Sub-Tenant Agreement

It is the tenant's responsibility to submit, at their own expense, a sub-letting agreement for approval.

The sub-letting agreement must contain terms for ending the agreement, dealing with tenancy obligations, repairs / maintenance obligations, respect for other residents and breach of agreement.

## 2.0 Operation and Administration of the Sub-Letting Process

Once the completed applications and supporting documentation has been received from both applicants then details should be entered in the contact management system.

It is the responsibility of the tenant and proposed sub-tenant to provide all the information necessary to consider their request and to inform the Housing officer of any changes in circumstances that may have a bearing on the decision to sub-let. All information provided by the tenant or proposed subtenant, or asked for by the Association, will be treated in the strictest confidence.

Once all information has been collated then the Housing officer should arrange a joint meeting between parties to discuss the application and ensure that all parties are fully aware of their responsibilities.

Following the meeting, the Housing Officer is required to provide a written decision to grant or refuse permission to sub-let the property. This decision should be made within 28 days from the date the application is received.

### 3.0 Approval Granted

Where approval has been granted the Housing officer (appendix 5) will write to the tenant confirming the decision to sub-let the property. The contact management system and tenancy diary should be updated to note the decision and summary / contact details entered on the rent account for information. An entry should be made in the diary one month prior to the end of the agreement for the Housing officer to contact the tenant.

It is essential that the tenant submits a copy of the signed agreement to the Association within fourteen days of the approval being granted. Failure to do so will result in the approval being withdrawn.

The tenant should be issued with a detailed letter (appendix 5) confirming the following terms of the sub-let:

- Requirement to register a copy of the lease within fourteen days
- Period of let and to whom;
- Reminder of the tenant and sub-tenant responsibilities
- Requirement of the tenant to contact Housing Management at least one month prior to the end of lease to discuss their intention concerning their tenancy;
- Confirmation that should the tenant fail to return to the property that it would be their responsibility to ensure that the tenancy end process was managed and that the Association will have no responsibility to rehouse the sub-tenant.

The arrangement for the exchange of keys should be done between the tenant and the sub-tenant.

### 4.0 Approval Refused

The Housing officer will not unreasonably refuse permission to sub-let the property. Where approval has not been granted, the Housing officer will write to the tenant providing grounds for refusal (appendix 6). The contact management system should be updated to note the decision.

#### 4.1 Reasonable grounds for refusing permission

The tenant was neither the tenant of the house or occupied the house as their only or principal home for the twelve month period immediately before the written application to sub-let was received;

- A 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 Schedule 2 of the Housing (Scotland) Act 2001;

- The Association has commenced legal action against the original tenant to recover the property. This includes abandonment proceedings;
- Decree for recovery of possession has been granted by the court;
- The proposed rent level or any other tenancy payment (e.g. deposit) set by the tenant, is considered to be too high;
- The application form is incomplete or contains false or misleading information;
- Unsatisfactory sub-tenant tenancy report (including rent arrears and anti-social behaviour);
- The proposed lease is considered to be insufficient;
- Approval of the sub-let would result in the property becoming overcrowded;
- The Association believes that the tenant is to receive a payment, in return for making the application;
- The Association proposes to carry out work to the house or the building and the proposed work would affect the accommodation that would be occupied by the sub-tenant.

## 5.0 Appeals Process

Tenants wishing a review of the decision to their request should submit a formal complaint in accordance with Ark's complaint handling procedure G12a.

## 6.0 Management of the Sub-let

A legal contract will continue to exist between the tenant and the Association and the tenant will be responsible for the terms of tenancy for the duration of the agreement. The tenant will also be responsible for ensuring that the tenancy obligations including repairs and conduct of the tenancy are maintained. Where there is a breach in tenancy then the Association will enforce these conditions against the tenant.

The housing officer should ensure contact is made with the tenant at least one month prior to the end of the agreement. If the tenant has indicated that they wish to apply for an extension to the sub-let then this should be made in writing to the Association. Once the request is received the housing officer should check the conduct of the sub-let prior to a decision being made. The tenant should be advised of the decision within twenty-eight days of the request.

Where the tenant has indicated that they do not wish to return to the property then termination of tenancy procedures should be initiated to bring the tenancy to an end. The tenant should be made aware that it is their responsibility to ensure vacant possession and ensure that the keys are returned on or before the date of termination. At the termination of the sub-let agreement, the Association will have no legal obligation to rehouse the sub-tenant.

## 7.0 Termination of Sub-tenancy

### 7.1 Misleading or False information

Tenants applying to sub-let the property will be required to sign a declaration on the application form confirming that the information provided is accurate and that relevant information had not been withheld which may affect the decision to grant permission to sub-let. Where it is discovered that an application has been falsified then the Association will withdraw permission to sub-let and the tenant will be required to terminate their sub-tenancy.

### 7.2 Sub-Tenant Moving Into Property without Approval

Tenants applying to sub-let the property are made aware that approval must be granted in writing before a sub-let agreement is signed or the sub-tenant is moved into the property. Where the tenant has moved the sub-tenant into the property prior to approval being granted the tenant will be required remove the sub-tenant and advised to follow the correct application procedures.

### 7.3 Failure to Contact Tenant / Failure to Return to the Property

Where the tenant fails to respond to communications before the end of the agreement, then the Housing officer will contact the Association's solicitors for best advice and practice. A notice of the action should be issued to the tenant at their last known address. (Appendix 7) The housing officer will also issue a letter to the sub-tenant advising of the date that the sub-let was due to expire and confirming that the agreement will not be extended. (Appendix 8)

## 8.0 Implementation and Review

### 8.1 Implementation

The Head of Housing Services is responsible for ensuring that this procedure is implemented.

### 8.2 Review

The Head of Housing Services will ensure that this procedure is reviewed at least every 3 years.

## Appendix 1 – Application to Sub-let

### Ark HOUSING ASSOCIATION APPLICATION TO SUBLET

Please read the Guidance Leaflet before you start to fill out this form.

Please complete all the sections that apply to you and the person who wants to sub-let part or all of your home. Please print clearly, except where you are asked to sign the form.

**If the form has not been completed properly it will be sent back to you. This means it will take longer to give you a decision on your application.**

If you have any questions about this form or the information we are asking for, please contact us on the telephone number in the Guidance Leaflet.

**PLEASE NOTE - YOU CANNOT SUB-LET YOUR HOME UNTIL  
WE HAVE GIVEN YOU PERMISSION IN WRITING**

#### 1. YOUR DETAILS

<b>TENANT</b>	Forename:	Surname:
	Date of Birth:	
<b>JOINT TENANT</b> [If you have a joint tenancy]	Forename:	Surname:
	Date of Birth:	
<b>ADDRESS</b>		
<b>PHONE:</b>	<b>MOBILE:</b>	<b>EMAIL:</b>
<b>HOUSEHOLD COMPOSITION</b> (Please give details of everyone living with you, starting with yourself)		
Forename & Surname	Date of birth	Relationship to you
		TENANT

#### 2. SUB-LET DETAILS

<b>PROPOSED START DATE:</b>	<b>PROPOSED END DATE:</b>
<b>ACCOMMODATION TO BE LET [Please tick one]:</b> Whole property <input type="checkbox"/> Part of property <input type="checkbox"/> If you only wish to let part of the property, please list all the rooms you will let:	
1)	2)
3)	4)
<b>PROPOSED MONTHLY CHARGE [Rent plus any other charges]:</b> £	
<b>Will you be asking for a deposit, for example in case of damage to furniture (circle one)?</b> YES / NO	
If YES, how much will the deposit be?    £	



Have you attached a copy of the draft sub-tenancy agreement (circle one)?

YES / NO

PLEASE GIVE YOUR REASONS FOR WISHING TO SUBLET

IF YOU WILL BE LIVING AWAY FROM THE PROPERTY:

1) Please give the full address where you will be living, including any phone number and email address:

2) How will your rent be paid while you are away?

3. DETAILS OF PERSON TO WHOM YOU WISH TO SUB-LET

<b>NAME</b>	Forename:	Surname:
	Date of Birth:	
<b>CURRENT ADDRESS</b>		
<b>PHONE [Home]:</b>	<b>MOBILE:</b>	<b>EMAIL:</b>
<b>PHONE [Work]:</b>		
<b>PREVIOUS LANDLORDS</b>		
<b>Name</b>		
<b>Address &amp; phone number</b>		
<b>DETAILS OF ANY OTHER PERSON(S) WHO WILL BE LIVING WITH THE SUB-TENANT</b>		
<b>Forename and Surname</b>	<b>Date of birth</b>	<b>Relationship to sub-tenant</b>
<b>ANTI-SOCIAL BEHAVIOUR</b>		
<b>Has any action been taken against the proposed sub-tenant or anyone who will live with them for anti-social behaviour (circle one)?</b>		<b>YES / NO</b>
<b>If YES, please give the full name of the person(s):</b>		
<b>What action was taken?</b>	Court Action	<input type="checkbox"/>
[Tick all appropriate box(es)]	Anti – social behaviour order	<input type="checkbox"/>
	Less formal action such a written warning	<input type="checkbox"/>

**SEXUAL OFFENCES ACT 2003**

Is the proposed sub-tenant or anyone who will be living with them required to register with the police under the Sexual Offences Act 2003 (circle one)? **YES / NO**

If YES, please give the full name of the person(s):

**4. DECLARATION - TENANT/JOINT TENANT**

Please read through the following statements and sign at the bottom to show you understand and agree with them. If you have a joint tenancy both tenants must sign this Declaration.

I / We\* agree to:

- ensure that the property does not become overcrowded during the sub-tenancy;
- ensure that the rent continues to be paid when it is due;
- be responsible for the actions and behaviour of the sub-tenant(s);
- inform Ark Housing Association of any change in my / our\* circumstances;
- ask Ark in writing for permission to increase the rent, or change the number of those living with the sub-tenant, or take in a new sub-tenant;
- return to my / our\* tenancy at the end of the sublet period as stated in the sub-let agreement, if the whole property is sub-let;
- provide 28 days' notice to Ark Housing Association if I / we\* do not wish to return to my / our\* tenancy.

I / we\* agree I / we\* will have no right to transfer my / our\* tenancy to the person(s) subletting the tenancy.

All information given by me / us\* to Ark is true. If I / we\* supply any false information or keep back any information I / we\* we should have provided, my / our\* application may be cancelled.

If I / we\* are given permission to sub-let because I / we\* have supplied false information or I / we\* have kept back information we should have provided, permission may be cancelled.

*[\* Delete whichever does not apply]*

Signed: \_\_\_\_\_ (Tenant)                      Date: \_\_\_\_\_

Signed: \_\_\_\_\_ (Joint Tenant)                      Date: \_\_\_\_\_

**5. DECLARATION - QUALIFYING OCCUPIER (who is not a joint tenant)**

If your spouse, civil partner or co-habitee (who is not a joint tenant) is living with you, they must also sign this form to confirm that they agree to you applying to Ark Housing Association to sub-let some or all of your home.

Forename & surname (print):

\_\_\_\_\_

<p>I am the tenant's (circle one):    Husband    Wife    Civil partner    Co-habitee</p> <p>I agree that the tenant named above may apply to Ark Housing Association to sub-let the property listed in Section 1 of this form.</p> <p>Signed: _____ Date: _____</p>
---

**6. DECLARATION - PROPOSED SUB-TENANT**

<p>Please read through the following statements and sign at the bottom to show you understand and agree with them.</p> <p><b>I agree that:</b></p> <p>I will inform Ark Housing Association of any change in my circumstances.</p> <p>If I currently am, or previously have been a tenant, my current or previous landlord can be contacted for a tenancy reference.</p> <p>Any thirds party agency can be contacted if more information is needed for my sub-let application.</p> <p>All information given by me to Ark is true. If I supply any false information or keep back any information I should have provided, I will not be allowed to become a sub-tenant.</p> <p>If I am given permission to take up the sub-tenancy, I agree to return the property (or the part of the property I have occupied) in good condition to the Ark tenant(s) mentioned above, at the end of the sublet period as stated in the sub-let agreement.</p> <p>I will have no succession rights to the sub-let property.</p> <p>Signed _____ Date: _____</p> <p style="text-align: center;"><i>Proposed sub-tenant</i></p>
--

**Please return this form to:**  
**Ark Housing Association, The Priory, Canaan Lane, Edinburgh EH10 4SG    Tel: 0131 447 9027**

**For office use only:**

Date form received:	Target date for reply:
Acknowledgement letter sent on (date):	
Form checked and correct on (date):	
Form incorrect/incomplete – returned on (date):	
Tenant contacted for more details on (date):	Notes:
Sub-tenant contacted to check details on (date):	Notes:

Landlord(s) contacted on (date(s):				Notes:	
Application approved?		Yes / No	HSO signature:		Date:
Final reply letter sent on (date):					
Written confirmation from tenant that they wish to proceed received on (date):					

## Appendix 2 – Intension to return to property following sublet



### Intention to return following Sub-Let Period

Tenants Name:
Address:
Postcode:
Contact Telephone:
Contact Email:

Sub Tenant Name:
Address:
Postcode:
Contact Telephone:
Contact Email:

I (tenants name) confirm that I fully intend to return to the above address following the agreed leave of absence from the property.

Tenant Signature: .....

Ark Staff Member Signature: .....

Date: .....|

## Appendix 3 – Acknowledgement Letter

Date

«title1» «forename1» «surname1»  
«address1»  
«address2» «address3»  
«address4»  
«address5»  
«postcode»

Dear «title1» «surname1»

### **Application to sub-let**

Thank you for contacting us to express your interest in subletting your property. If you would like to apply for a sublet, please fill out the enclosed application form and return it in the prepaid envelope. Please also see the guidance notes explaining the application procedure.

All applications should be fully completed before returned to allow us to fully assess and process the application.

We endeavour to let all applicants know the outcome of the application no later than 28 days from the date we receive the completed form.

Please do not hesitate to contact me on the details below should you wish to discuss further.

Yours sincerely,

Housing Services Assistant  
0131 478 8146  
housing@arkha.org.uk

## Appendix 4 - Guidance Notes



### **Sub-letting Guidance Notes**

If you are going to be away from your home for a long time, for example, to work abroad or serve a prison sentence, you can rent out (sublet) your home to another person. You need Ark's written permission before you can do this. Any other joint tenant, partner or person living with you must also give their written agreement. We will contact them to arrange this.

If you want to sublet the property, the property must have been your only or principle home for at least 12 months immediately before the date of your written request to sublet the house to someone else.

As the tenant you will still be responsible for keeping your home in good condition and for paying the rent. You will also be responsible for the conduct/behaviour of the person you are subletting to, their family and any visitors. You should think carefully about what this means and what you need to do to manage your tenancy while you are away from your home.

If we give permission to sub-let, it will be for a fixed period of time, normally for 6 months and a maximum of 12 months. It is important you have read the above information if you are thinking about what it means to be an Ark tenant and if you believe the sub-tenant will be able to ensure that the rights and responsibilities of your tenancy will be upheld in your absence.

### **Tenants' rights and responsibilities - managing your home**

As an Ark tenant, you will sign a Scottish Secure Tenancy Agreement or Occupancy Agreement with us as your landlord. This is a legal document and is legally binding, meaning you are agreeing to keep to the rules of your tenancy agreement and should:

- pay rent and charges on time
- be a good neighbour
- allow access for a gas safety check every year

#### Cleaning shared areas and closes

If you live in a block of flats with shared areas it is important that all residents take turns to clean all areas.

Shared areas along with stairs and passages should be kept clear of any potential risks to health and safety. Any issues should be highlighted to your housing officer.

#### Repairs

It is important that all repairs are reported when identified to ensure that the property remains in good condition.

## Gas safety checks

Every year we will send you a letter with a date for your annual gas safety inspection. We inspect any installations in the house provided by us. You will be given a copy of the inspection report. If repairs or replacement of any of the installations is required, we will do so within a reasonable time. You must allow this inspection to take place. If you require any further information, or to re-schedule the date of your inspection, please contact Ark or the contractor using the contact details shown in your letter.

## Decorating

Decorating your Ark property is your responsibility. You can do home improvements on an Ark property but you must get permission from your property officer before starting.

## Garden Maintenance

Tenants are responsible for maintaining their gardens to a satisfactory standard, if it is a self-contained garden. Your garden should be kept clean, tidy and not overgrown.

Rubbish which builds up in gardens may be a health and safety risk. It's important to let us know where there is a build-up of household rubbish or furniture which could attract vermin or if there are items such as syringes or needles.

## Household pets

You must apply for permission for any pets that you want within an Ark property, you cannot have any pets without permission. It depends on the type of property that you have and the type of tenancy that you have if Ark will permit pets.

For further information or advice in relation to your tenancy please contact your housing officer who will be able to help you.

Completing this application form does not mean we will give permission but we will only refuse if there is good reason to do so. We will let you know within 28 days.

**Both you and the person who wants to rent your home should complete the application form. We are unable to process your enquiry until both forms are received**



## Appendix 5 – Sub-let approval granted



Date

«title1» «forename1» «surname1»  
«address1»  
«address2»  
«address3»  
«address4»  
«address5»  
«postcode»

Dear «title1» «surname1»

### **Sublet Application Approval**

I am writing to confirm that Ark Housing Association have formally given consent for you to proceed with the sublet agreement with <<proposed subtenant >>.

The duration of the sublet is for <<proposed duration >> and is due to commence on <<proposed start date >> and end on <<proposed end date >>. It is your responsibility as the tenant to contact your housing officer at least one month prior to the end of the lease to discuss your intention concerning your tenancy.

As you will be aware you are required to provide Ark with a copy of the lease that you have with your sub-tenant, this is required no later than 14 days from date of receipt of this letter.

Should you fail to return to the property following the duration of the sublet agreement it is your responsibility to ensure that the tenancy is terminated in accordance with the terms and conditions of your tenancy agreement, and we can confirm that the Ark will have no responsibility to rehouse your sub-tenant.

I would like to take this opportunity to remind you that it is important that you consider both you and your sub-tenants responsibilities as detailed in the sub-let guidance notes and the arrangement for the exchange of keys should be done between the tenant and the sub-tenant.

If you have any queries relating to the arrangements for the sub-let arrangement please do not hesitate to contact me.

Yours sincerely,

## Appendix 6 – Sublet application Refused



Date

«title1» «forename1» «surname1»  
«address1»  
«address2»  
«address3»  
«address4»  
«address5»  
«postcode»

Dear «title1» «surname1»

### **Sublet Application – Address of Proposed Sublet Property**

Thank you for your application to subletting your property with <<name of person on sublet application>>.

I am afraid that on this occasion I cannot approve your mutual exchange <<state reasons why the application is not being approved>>

Tenants wishing a review of the decision to review the refusal of their application to sublet their property should write to the Senior Housing Officer within fourteen days of receipt of this letter, giving their reasons for appeal.

The application will then be reviewed and a written response will be provided within five working days outlining any new decision or confirming previous decision.

Yours sincerely,

## Appendix 7 – Notice to seek legal advice to tenant



Date

«title1» «forename1» «surname1»  
«address1»  
«address2»  
«address3»  
«address4»  
«address5»  
«postcode»

### **Failure to adhere to sublet agreement**

I am writing to advise that despite several attempts to contact you regarding the above sublet we have been left with no option but to make contact with our solicitors to seek legal advice on the situation.

If we take legal action against you, you will be liable for these costs which are usually in the region of £300.

I would urge that you contact me as a matter of urgency to resolve this issue and prevent any further action having to be taken.

Yours Sincerely

## Appendix 8 – End of sublet Agreement – to sub –tenant



Date

«title1» «forename1» «surname1»  
«address1»  
«address2»  
«address3»  
«address4»  
«address5»  
«postcode»

Dear Subtenant,

### **End of Sub-tenant Agreement**

I am writing to you to advise that the sub tenancy agreement that was approved has now expired. The agreement was in place from << INSERT START AND END DATES>>.

I can confirm that we are not extending the agreement and would ask that you vacate the property as soon as possible.

As agreed at the start of the sub-let agreement Ark has no legal obligation to provide any alternative accommodation to you as a sub-tenant.

We would recommend that should you require alternative accommodation that you make contact with your local authority housing options team who will be able to provide you with further advice.

Should you wish to discuss further please do not hesitate to contact me.

Yours Sincerely