



Cloch Housing Association

Lodgers Policy

Policy Name	Lodgers Policy
Policy Category	HM
Policy Number	032
Approved by	Housing and Property Services Sub Committee
Responsibility of	Housing Services
Date Adopted	01/03/1998
Last Review	27/11/2018
This Review	06/08/2024
Next Review	06/08/2027
Equalities Impact Assessment Required	Yes
Link to other policies	Allocation Policy
Consultation	Internal
Need for Procedure	Yes

1 Equalities Commitment

1.1 Cloch Housing Association Ltd is committed to tackling discrimination on the grounds of:

- Age
- Disability
- Gender reassignment
- Marriage or civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

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

2 Policy Availability

2.1 This document can also be provided in large print, braille, audio or other non-written format and in a variety of languages, on request.

3.0 Introduction

3.1 The Housing (Scotland) Act 2001 (as amended by the Housing (Scotland) Act 2014) and the Scottish Secure Tenancy Agreement makes provision for tenants to take in a lodger with the Association's permission. The Association recognises that there may be periods when tenants require to take another person into their home because of personal, financial or health reasons on the part of either the tenant or the proposed lodger. However, the Association is also required to retain some measure of control over how the houses are occupied ensuring, for example, that a property is not allowed to become overcrowded through taking in lodgers.

3.2 This Policy is intended to clarify what constitutes a lodging arrangement and the conditions that are required to be met by the tenant in applying to take in a lodger, the lodger in accepting the terms and conditions of the lodging agreement and the Association in permitting a tenant to take in a lodger.

4.0 Aims and Objectives

4.1 The primary aim of this Policy is to put a structure in place that ensures that people do not move in and out of the Association's properties in an illegal or uncontrolled way.

4.2 The key objectives include:

- Ensuring that the Association, always, complies with the law and operates in accordance with good practice.
- Ensuring that tenants meet all their statutory obligations relating to taking in lodgers.
- Recognising and protecting the rights of the tenant and lodgers.
- Ensuring that all applications to take in lodgers are treated in a fair and equitable manner.
- Ensuring that the procedures for taking in lodgers are not used as a means of circumventing the Association's allocations procedures.
- Protecting lodgers from being treated in an unfair manner in terms of the rent charged and conditions of their lodging agreement.
- Ensuring that the lodger is fully aware of the expectations of the Association in terms of their conduct and the tenant is aware of their responsibilities should the lodger fail to conduct themselves in an acceptable manner.
- Allowing the Association to keep accurate records of who is residing in its properties.
- Ensuring that a tenancy with the Association is not used as a commercial venture.

5.0 Definitions

- 5.1 A lodger will be deemed as being a person who rents the use of one or more rooms or part of a room with services such as meals and/or laundry and who has a formal financial arrangement with the tenant.
- 5.2 Family members are not normally considered to be lodgers, although permission from the Association must still be sought before an additional family member can join the household.

6.0 Tenants Right to Take in Lodgers

- 6.1 Under the terms of the Scottish Secure Tenancy Agreement a tenant can take in a lodger. The Association will only consider an application from a tenant to have a lodger move into a property in line with Part 2 of Schedule 5 of the Housing Scotland (2001) Act and where grounds set out in Subsection (3) of Part 2 of Schedule 5 do not apply.

A tenant who wishes a lodger to move into their property on a temporary basis, for a maximum of one year, must:

- (i) Ensure the permitted number of persons for the property is not being exceeded.
- (ii) Inform the Association, before taking in the lodger, of the person's name, age and sex and confirm the accommodation they will occupy.

- (iii) Obtain the Association's written consent.
- iv) Provide details of any payments being taken by the tenant from the lodger and supply this information to the Association. The Association advises the monthly rent charged to the lodger should not exceed the current monthly rent charge; a deposit can be taken for a maximum amount equivalent to two months rent; the use of furniture can be charged on a monthly basis at a maximum amount of 10% of monthly rent charge. Any additional payment details must be provided to the Association.
- v) Provide details of any terms and conditions of the lodging agreement to the Association.
- vi) Provide a copy of the proposed agreement.
- vii) Provide the date the lodger is intending to move into the property.
- viii) The applicant must have been the tenant of the house throughout the 12 months immediately before they apply for written permission to take in a lodger to their home (From 1 November 2019, previously there was no qualifying period).
- ix) If the applicant was not the tenant throughout the whole of that period, the house must have been their only or principal home during those 12 months; and the tenant must have advised the association that you were living there prior to the start of those 12 months (From 1 November 2019).

7.0 Applying for Consent to Take in a Lodger

- 7.1 The application must be made *in writing* by the tenant, and in the case of a joint tenancy, agreed by all tenants in the property. Where applicable, the spouse or co-habitee will be required to confirm in writing that they are agreeable to the lodger moving in.

Where the spouse is no longer residing in the property, the tenant will be required to take all reasonable steps to get a written declaration from their ex-partner stating that s/he does not want to invoke their occupancy rights to stay in the property.

- 7.2 Tenants enquiring about taking in lodgers will be asked to write to the Association with details of:

- the name, age and sex of the intended occupier;

- the accommodation they will be occupying;
- The terms and conditions of let.

8.3 The Association will assess the request, taking account of:

- (a) whether the accommodation will become overcrowded;
- (b) whether the terms and conditions of let are acceptable.

8.4 Where consent is not given a detailed statement of the reason(s) why will be provided within 1 month of receiving the application.

9.0 Conditions for Granting Permission to Take in A Lodger

9.1 Under the terms of the Housing (Scotland) Act 2001, permission to take in a lodger is at the discretion of the landlord. However, the Act also states that permission cannot be unreasonably withheld.

9.2 In considering an application, the association must be satisfied that:

- The lodger is declared on any benefit applications, including applications for Housing Benefit.
- That the lodger is registered as part of the household for the purposes of Council Tax.
- Permission is given for a *period* of six months. Application to renew the consent may be made by the tenant no later than 1 month before the end of the six-month period.
- The Association's approval is sought for any changes in the household's circumstances or to the charges made to the lodger or to the terms and conditions of the lodging agreement.
- The lodger has no statutory right to occupy the house and is present only with the consent of the tenant and the Association. If the tenancy is terminated at any time, either by the tenant or by court order, the lodger will not be allowed to remain in occupation.
- The lodger has no right of succession upon the tenant's death.
- The proposed lodger has no history of anti-social behaviour with the Association.
- The lodger has no outstanding debt with the Association; or has an agreed arrangement to repay in place.
- The house will not be overcrowded.
- All parties are fully aware of their obligations and responsibilities.
- The tenant will be held responsible for the conduct of any lodger and any legal action arising from the unacceptable behaviour of the lodger will be taken against the tenant.

10.0 Grounds for Refusing Consent

10.1 Qualifying Residency Period

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 take in a lodger to their home (previously there was no qualifying period).

If the applicant was not the tenant throughout the whole of that period, the house must have been their only or principal home during those 12 months; and the tenant must have told the association that you were living there prior to the start of those 12 months.

10.2 Household size

Consent for a tenant to take in a lodger will not be given where it would result in the property being overcrowded.

The size definition defined in the Association's Allocation Policy will apply when assessing the issue of overcrowding and under occupancy.

10.3 Property Condition

Permission to take in a lodger will not be granted where the property is found to be in an unacceptable condition due to tenant damage or neglect. The tenant will, however, be given the opportunity to make good any damage at their own expense and have their application reconsidered.

10.4 Legal Action

Where the Association has served a Notice of Recovery of Possession against the tenant permission to take in a lodger will not be given. Permission will not be given where a court order for the recovery of possession has been made against the tenant.

10.5 Proposed Works to the Property

Permission to take in a lodger may be withheld where the Association plans to carry out works to the property, other than of a minor nature.

10.6 General

The grounds for withholding permission given above are not exhaustive and may be changed to reflect guidance from the Scottish Government.

The Association may also refuse to give permission where it believes it has reasonable grounds to do so.

11.0 Notification of Decision

11.1 The association must notify the tenant of its decision regarding the taking of a

lodger within one month of the completed application form *and all relevant supporting documents* being received at the office. Where written notification has not been provided within one month it will be taken that consent to the application has been given; *subject to there being no outstanding information due in support of the application*.

- 11.2 Where permission for the taking of a lodger is not being given the Association must give the grounds for refusal in writing to the tenant within one month of the completed application form being submitted.

12.0 Conditions of Consent

- 12.1 Where the Association gives its permission to the tenant to take in a lodger to their home, consent is given on the following conditions:

- The Association's approval is sought for any changes to the charges made to the lodger or to the terms and conditions of the lodging agreement.
- Permission is only given for the lodger named on the application form.
- That all terms of the tenants' tenancy agreement are adhered to, including the payment of rent.
- That any breach of the tenancy agreement will be deemed as breaking a condition of consent and permission for the lodger may be withdrawn.
- Permission for the lodger is given for a maximum of 6 months. Application to renew the consent may be made by the tenant no later than 1 month before the end of the six-month period.
- The tenant will be held responsible for the conduct of the lodger and any legal action arising from the unacceptable behaviour of the lodger will be taken against the tenant.
- The lodger has no right of succession upon the tenant's death.
- That the tenant and the lodger are responsible for notifying all necessary agencies and statutory bodies e.g. Council Tax, Benefits Agency etc.
- That the tenant remains the tenant of the Association as a Scottish Secure Tenant. If the tenant terminates their tenancy, permission for the lodger will automatically be withdrawn.

13 Other Issues

- 13.1 A tenant's entitlement to housing benefit may be affected by the income received from lodgers. The Tenant should seek advice from an appropriate Agency on the matter.
- 13.2 Action on breaches of tenancy by the Tenant's lodger must be taken against the Association's tenant. Similarly, lodgers cannot hold the Association liable for disrepair; they must take action against their landlord (the association's tenant).

14 Appeals and Complaints

- 14.1 Appeals or complaints against our operation of this policy will be processed through the Association's complaints handling procedure.
- 14.2 Every service user has final recourse to the Scottish Public Services Ombudsman, please refer to the separate Complaints Handling Procedure.

15 Applications from Employees, Governing body members etc.

- 15.1 The Association may receive applications from tenants who are employees, board members, former employees, former board members or close relations of the above in line with the eligibility criteria within this policy. In the event of such an application being approved, the decision made regarding this must comply with the guidelines laid down in the Association's Entitlements, Payments and Benefits Policy.

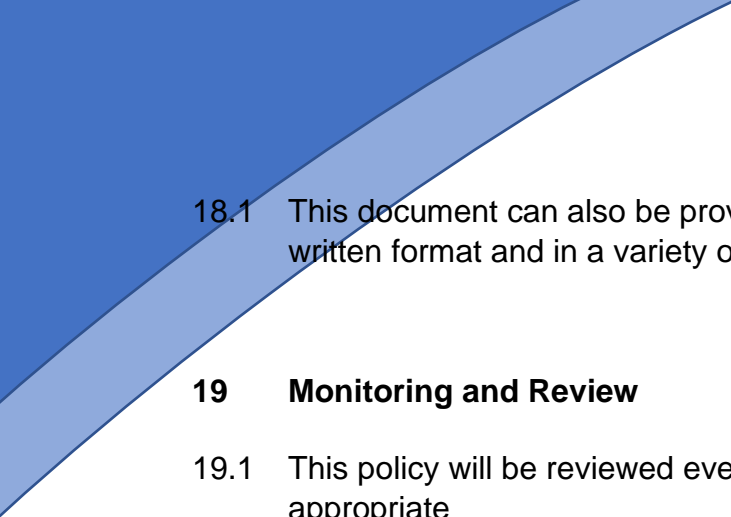
16 Data Protection & Confidentiality

- 16.1 All information supplied to the Association by applicants will be treated as strictly confidential and will be handled in line with current Data Protection Act legislation. Information will not be revealed to any other party without the prior consent of the applicant or in line with data protection principles. Applicants have the right to inspect any records held on their housing application. For more information please refer to the association's Privacy Policy.
- 16.2 The Association may have to make enquiries to confirm information provided in the application. Express consent is granted by the applicant by accepting the declaration on the application form for data to be revealed to allow exchange of information with other agencies where appropriate and for their application to form part of their tenancy record.

17 Equalities Commitment

- 17.1 Cloch Housing Association Ltd is committed to tackling discrimination on the grounds of sex or marital status, racial grounds, or grounds of disability, age, sexual orientation, language, social origin, or of other personal attributes, including beliefs or opinions, such as religious beliefs or political opinions.
- 17.2 Cloch seeks to embrace diversity, promote equal opportunities for all and eliminate any unlawful discrimination in all areas of our work.

18 Policy Availability

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- 18.1 This document can also be provided in large print, braille, audio or other non-written format and in a variety of languages, on request.

19 Monitoring and Review

- 19.1 This policy will be reviewed every three years or as legislative changes deem appropriate
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