

Agreements, Leases and SSSTs Policy Manual

Policy Number: HM06

Prepared By	Linda Sneddon, Housing Manager
Procedure Created	August 2016
Effective Date	
Review Date	August 2021
Reviewed By	Lee Valantine and Caroline Hotchkiss
Posted on Website	March 2021

CORPORATE FIT	
Corporate Strategy	✓
Risk Register	✓
Business Plan	✓
Regulatory Standards	✓
Equalities Strategy	✓
Legislation	✓

If you need this publication in larger print, audio form, Braille, or in another language, please contact our office and we will try to help you.

1. Introduction

- 1.1 This document outlines the Association's approach to the use of Management Agreements, Leases and Short Scottish Secure Tenancies. The majority of the Association's stock is general needs accommodation and as such tenants have full Scottish Secure Tenancy Agreements. However, there are occasions where a different type of agreement may be applicable and this policy outlines circumstances when this applies.

2. Legislative and regulatory framework

- 2.1 We will comply with all relevant legislation, standards and targets set down by the Scottish Housing Regulator in terms of the use of Management Agreements, Leases and Short Scottish Secure Tenancies.
- 2.2 We will comply at all times with all relevant legislation and regulations when dealing with Management Agreements, Leases and Short Scottish Secure Tenancies.

3. Aims and objectives

- 3.1 The aims of our policy on the use Management Agreements, Leases and Short Scottish Secure Tenancies are to manage such arrangements consistently and in accordance with legal requirements.
- 3.2 Our objectives are to use of Management Agreements, Leases and Short Scottish Secure Tenancies in a manner that:
- fulfils our legal obligations.
 - is firm, fair, sensitive and efficient.
 - is personal; and
 - is confidential.
- 3.3 Our policy is divided into two main parts: (i) the use of Management Agreements and Leases; and (ii) the use of Short Scottish Secure Tenancy Agreements (SSSTs).

4. Corporate fit

- 4.1 Legislation and best practice

When using Management Agreements, Leases and Short Scottish Secure Tenancies, we will comply with the law and the principles contained within performance standards and guidance notes issued by the Scottish Housing Regulator.

Our use of Management Agreements, Leases and Short Scottish Secure Tenancies will comply with legislation, guidance and good practice including The Housing (Scotland) Act 2001.

Our use of Management Agreements, Leases and Short Scottish Secure Tenancies also complies with the Association's Equality Policy. We therefore seek to ensure equality of treatment for all tenants without discrimination or prejudice.

4.2 Equalities

We will consider all tenants, regardless of sex, faith or religion, race, ethnic origin, sexual orientation, mental or physical health, disability or marital status.

We will operate at all times within our Equality Policy.

4.3 Confidentiality

We recognise that confidentiality is important to tenants and will treat information on use of Management Agreements, Leases and Short Scottish Secure Tenancies in the strictest confidence under the Data Protection Law and in line with our Openness and Confidentiality Statement.

4.4 Business Plan and risk management

Our Business Plan expects the effective management of our housing stock and as such ensuring that all parties comply with their relative responsibilities. Management Agreements, Leases and Short Scottish Secure Tenancies are only used in very specific circumstances and are therefore of limited significance and impact in term of delivering business outcomes and managing associated business risks.

4.5 The Board

The Board will monitor the implementation of this policy to ensure that it is properly operated, that there is appropriate officer involvement and that there is effective scrutiny of the Arrears Policy.

The Board will ensure that our policy on the use of Management Agreements, Leases and Short Scottish Secure Tenancies is meeting its intended objectives and that monitoring and reporting of activities takes place in accordance with the Performance Standards and monitoring as detailed below.

In implementing the Association's policy on the use of Management Agreements, Leases and Short Scottish Secure Tenancies certain functions are the responsibility of the Board, although staff have delegated authority to undertake many tasks. Examples of key functions / tasks are summarised below.

Function / task	Responsibility
Policy on the use of Management Agreements, Leases and Short Scottish Secure Tenancies – review, amendment and approval	Board responsible for reviewing, amending and approving policy on the use of Management Agreements, Leases and Short Scottish Secure Tenancies.
Procedures on the use of Management Agreements, Leases and Short Scottish Secure Tenancies – development, monitoring and review	Customer Services Director and Customer Services Manager to develop operational procedures that reflect the principles set out within the policy on the use of Management Agreements, Leases and Short Scottish Secure Tenancies.
Monitoring of Cases	Customer Services Director and Customer Services Manager to oversee the effective monitoring of individual cases, reporting trends to the Board.

5. The use of Management Agreements and Leases

- 5.1 Best practice suggests that tenancy rights should be maximised and in relation to Leases and Management Agreements, this has led to a preference for the latter.
- 5.2 The Association supports the principles that, whilst there may be situations where a lease is preferred, the option of a Management Agreement can afford the resident more rights and allows a more “normal” landlord / tenant relationship.
- 5.3 Unless there is a “good reason” to promote a lease agreement, the Association will provide a Scottish Secure Tenancy Agreement with an associated Management Agreement with a suitably qualified external body providing the necessary support to the tenant(s). It is not possible to be prescriptive about what might constitute “good reason” and our policy is therefore that each case will be examined individually, with the recommendations of medical and / or social work professionals being considered in determining the level / type of support to be provided. Unless there is a clear preference for a lease, the Management Agreement will be the preferred option.
- 5.4 In general, leasing to another body is likely to be most appropriate where the accommodation is:
- specialist support accommodation and needs to be managed by a support provider.
 - very short –term accommodation for specific groups for example, a women’s aid refuge.
 - property being leased to a local authority to provide a day care service.
 - for staff sleepover or office accommodation necessary to provide support to individuals in highly supported or multi property projects.
 - commercial property being leased on a commercial basis.
 - property being leased to an organisation for community benefit (where this fits with the RSL’s corporate social responsibility strategy and / or the property is difficult to let).
 - properties should only generally be leased to a profit-making organisation where they are a specialist organisation providing housing to meet Scottish Ministers’ priorities, for example housing for homeless households, victims of domestic abuse, asylum seekers and people with other particular needs.

6. Types of Agreement

- 6.1 The SFHA has produced Models of both a Management Agreement and Lease Agreement (with a supplementary Model Occupancy Agreement). The Association will favour the use of the appropriate Model Agreement, making only amendments that are thought to favour the person receiving support.

7. Section 66 Consent

- 7.1 Section 66 of the Housing (Scotland) Act 2001 requires registered social landlords to get written consent from Scottish Ministers for certain disposals of land or property. Disposals also include the granting of leases. General Consent has been extended now allowing leases to be granted without RSLs having to apply for specific consent, provided the conditions of the General Consent are met.

8. Approval of leases

- 8.1 Authority is delegated to the Customer Services Director to approve leases within the scope of this policy however in any cases not covered by section 4.4 of this policy a report should be made to the Board for consideration and approval.

9. Audit Trail

- 9.1 The Association will maintain a clear audit trail showing that we have:

- examined all other available options in deciding that leasing is the most appropriate arrangement.
- ensured that we have granted the most secure form of tenure compatible with the purpose of property.
- demonstrated good reasons where we have departed from the terms of any model agreements including where the:
 - lease is for longer than three years.
 - appropriate SFHA model lease is not used.
 - model is used but some clauses are omitted or amended.
 - appropriate model occupancy or tenancy agreement is not used; and
 - managed risks, covered costs and taken steps to ensure sustainability where it is a commercial lease.

10. Performance Review

We will review the management of leased properties regularly by holding liaison meetings with the lessee annually or as deemed appropriate.

We will report annually to Board setting out:

- the number of leases.
- the organisations we have leased property to.
- the expiry date for the lease.
- any management issues relating to the conduct of the lease; and
- whether we have renewed leases.

11. The use of Short Scottish Secure Tenancies

- 11.1 Section 34 of the Housing (Scotland) Act 2001 introduced Short Scottish Secure Tenancies (Short SSTs). The Short SST provides less security of tenure for the tenant in that it can be ended at the end of the let period (known as the 'ish') which is normally for a period of six months. There are also other disbenefits of a Short SST, such as non-entitlement to the (Modernised) Right to Buy.

- 11.2 Because the Short SST does not maximise tenants' rights, it can only be given in a very specific set of circumstances. Before the Association can give a Short SST, at least one of the following must apply:

- the tenant / joint tenant must have been evicted for anti-social behaviour in the past three years; or
- the tenant or member of the household is subject to an anti-social behaviour order; or
- the accommodation is being let on a temporary basis to someone in receipt of housing support services.

- 11.3 The Short SST will be let for a period of at least six months and is subject to 'tacit relocation' in the same way as a Short-Assured Tenancy was. In line with good practice, the Association aims to convert any Short SST to a full SST within 12 months.
- 11.4 As well as meeting at least one of the criteria outlined in section 11.2, above, the agreement will only be regarded as a Short SST if Form SSST1 has been served before the tenancy is created. The format and procedure for the SSST1 is described in Scottish Statutory Instrument 2002/315. The Short SST can be terminated by the landlord by serving a notice in the format prescribed by SSI 2002/319 at the end of an 'ish' period.