



REPORT TO: COMMUNITIES COMMITTEE ON 28 MAY 2019

SUBJECT: ASSIGNATIONS POLICY REVIEW

**BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT,
PLANNING AND INFRASTRUCTURE)**

1. REASON FOR REPORT

- 1.1 This report provides the Communities Committee with an update on the requirement to review the Assignations Policy in preparation for the commencement of the outstanding provisions of Part 2 of the Housing (Scotland) Act 2014. It presents a revised Assignations Policy for approval prior to public consultation.
- 1.2 This report is submitted to Committee in terms of Section III (G) (4) of the Council's Scheme of Administration relating to the allocation and letting of houses and homelessness.

2. RECOMMENDATION

2.1 It is recommended that the Communities Committee:

- (i) notes the requirement to change the Assignment Policy as set out in Section 4;**
- (ii) approves the revised Assignment Policy prior to a consultation to seek the views of tenants and stakeholders as set out in Section 5; and**
- (iii) agrees that this Committee will consider the consultation responses at its meeting in August 2019.**

3. BACKGROUND

- 3.1 The Housing (Scotland) Act 2001 (Section 32) provides tenants with the right to assign their tenancy provided that they obtain their landlord(s) written consent. Assignment is where a tenant passes on (assigns) their tenancy and tenancy rights to another person (known as the assignee). The proposed assignee must occupy the house as their only principal home for six months immediately preceding the tenant's formal application to assign.

- 3.2 The Assignations Policy was approved by the Housing Sub Committee on 27 March 2009 (paragraph 5 of the Minute refers). The Policy sets out the framework for considering requests to assign a tenancy, including the assessment process, grounds for when consent would be granted and grounds considered reasonable for refusing consent. It assists the Council to address housing need and make best use of its stock.
- 3.3 On 5 February 2019, Communities Committee was advised that changes would require to be made to the Assignations Policy in advance of the commencement of Section 12 the Housing (Scotland) Act 2014 on 1 November 2019 (paragraph 11 of the Minute refers).

4. LEGISLATIVE CHANGES

- 4.1 The primary legislation governing assignations is contained within Section 32 and Schedule 5, Part 2 of the Housing (Scotland) Act 2001. Section 12 of the Housing (Scotland) Act 2014 amends Section 32 of the Housing (Scotland) Act 2001 by making the following changes:
- 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 pass their tenancy to someone else (previously there was no qualifying period);
 - the person the tenant wishes to pass their tenancy to must have lived at the property as their only or principal home for the 12 months before they apply (previously the qualifying period was six months); and
 - the tenant, joint tenant or person they wish to assign their tenancy to must have notified the landlord that the person they wish to assign the tenancy to is living in the house. The 12 month period does not start unless the landlord has been notified that the person is living in the property as their only or principal home.
- 4.2 The amended legislation provides two additional grounds for reasonable refusal of consent:
- where the landlord would not give the person the tenant wishes to pass the tenancy to reasonable preference under their allocations policy; and
 - where, in the landlord's opinion, the assignation would result in the home being under occupied.
- 4.3 In accordance with the Housing (Scotland) Act 2014 (Commencement No. 8, Savings, Transitional and Supplemental Provisions) Order 2018 and subject to parliamentary scrutiny, the coming into force date for section 12 of the 2014 Act (relating to assignations) is 1 November 2019.
- 4.4 The Scottish Government has developed guidance and training packs to assist landlords to implement the legislative changes.
- 4.5 In preparation for the legislative changes, the Council wrote to every tenant in October 2018, to advise them of the forthcoming legislative changes and to reinforce the importance of keeping the Council updated on their household details. Any person who has since become a Council tenant has been informed of these requirements as part of the tenancy sign up process.

4.6 A revised Assignations Policy is attached as **APPENDIX I**.

5. CONSULTATION

5.1 Although most of the changes being made are due to legislative requirements, in accordance with good practice, it is proposed that a consultation exercise is undertaken, providing tenants and other relevant stakeholders with the opportunity to provide feedback.

5.2 The consultation process will involve:

- publication of the Assignation Policy, along with an easy to read policy, on the Council website;
- developing an online survey available on the Council's website and publicising it across the Council's social media platforms;
- contacting relevant stakeholders and requesting feedback, including:
 - Moray Council tenants;
 - a random sample of housing list applicants;
 - Register of Interested Tenants;
 - Moray Tenant's Forum;
 - Moray Equalities Forum;
 - Community Councils and other relevant stakeholders.

5.3 The consultation feedback will inform the policy development process. Following analysis and consideration of comments received a revised Assignations Policy will be brought back to this Committee in August 2019 for consideration.

6. FUTURE ACTION

6.1 In order to ensure compliance with the requirements of the Housing (Scotland) Act 2014, housing operational procedures will be reviewed, to take into account the changes. There may also be some amendments required to housing management ICT systems.

6.2 A review of all information resources will be required to ensure all information is updated to reflect the agreed changes. This will include updating:

- application forms and documents used to support and implement the assignation process; and
- all website and explanatory information, such as leaflets and guidance, used to explain the process to tenants and service users.

6.3 The Council will ensure that staff training is provided on the legislative and policy changes in advance of the commencement date.

6.4 The Council will continue to advise current and future tenants of the changes being made via the Council website, social media and the Tenants' Voice.

7. SUMMARY OF IMPLICATIONS

- (a) **Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

Moray 2027 and the Service Plan identify the need to address the shortage of affordable housing and tackle homelessness. The Assignations Policy seeks to make the best use of the Council's housing stock and promote healthier citizens and adults living healthier, sustainable independent lives safeguarded from harm.

(b) Policy and Legal

The Housing (Scotland) Act 2014 received Royal Assent on 1 April 2014. It amends some aspects of the law on social housing allocations and management. The Council is required to review its Assignations Policy in order to comply with the legislative changes.

(c) Financial implications

There are no financial implications arising from this report.

(d) Risk Implications

There are no risk implications arising from this report.

(e) Staffing Implications

There are no staffing implications arising from this report.

(f) Property

There are no property implications arising from this report.

(g) Equalities/Socio Economic Impact

There are no equalities/socio economic impacts arising from this report.

(h) Consultations

Consultation on this report has taken place with the Acting Head of Housing and Property, Housing Needs Manager, Housing Services Manager and Officers within the Housing Service, Fiona Geddes (Acting Housing Strategy and Development Manager), Deborah O'Shea (Principal Accountant), Kathryn MacPherson (Senior Solicitor), Don Toonen (Equal Opportunities Officer) and Caroline Howie (Committee Services Officer) and any comments received have been incorporated into the report.

8. CONCLUSION

8.1 This report provides the Communities Committee with an overview of the legislative changes which require the Council's Assignations Policy to be reviewed and updated. A progress report, including the outcome of the consultation process and final Assignment Policy, will be presented to this Committee in August 2019.

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Background Papers: Assignment Policy (27 March 2009 – Housing Sub Committee)
Housing (Scotland) Act 2014 Progress Report (5 February 2019)

Ref: ASSGNPOL2019