

CLYDESDALE HOUSING ASSOCIATION LIMITED

Policy:	Short Scottish Secure Tenancy
Date:	24 April 2019
Lead Officer:	Depute Chief Executive
Review Date:	April 2022
Regulatory Standards:	Standard 1

The governing body leads and directs the RSL to achieve good outcomes for its tenants and other service users.

Guidance

The governing body sets the RSL's strategic direction. It agrees and oversees the organisation's business plan to achieve its purpose and intended outcomes for its tenants and other service users.

- 1.1 The RSL's governance policies and arrangements set out the respective roles, responsibilities and accountabilities of governing body members and senior officers, and the governing body exercises overall responsibility and control of the strategic leadership of the RSL.
- 1.2 The governing body ensures the RSL complies with its constitution and its legal obligations. Its constitution adheres to these Standards and the constitutional requirements set out below.
- 1.3 All governing body members accept collective responsibility for their decisions.
- 1.4 All governing body members and senior officers understand their respective roles, and working relationships are constructive, professional and effective.
- 1.5 Each governing body member always acts in the best interests of the RSL and its tenants and service users and does not place any personal or other interest ahead of their primary duty to the RSL.
- 1.6 The RSL maintains its independence by conducting its affairs without control, undue reference to or influence by any other body (unless it is constituted as the subsidiary of another body).

The Scottish Social Housing Charter

6: Estate Management, anti-social behaviour, neighbour nuisance and tenancy disputes

Social landlords, working in partnership with other agencies, help to ensure as far as reasonable possible that:

- Tenants and other customers live in well-maintained neighbourhoods where they feel safe

11: Tenancy sustainment

Social landlords ensure that:

- Tenants get the information they need on how to obtain support to remain in their home; and ensure suitable support is available, including services provided directly by the landlord and by other organisations.

Clydesdale Housing Association will provide this policy on request at no cost, in large print, in Braille, in audio or other non-written format, and in a variety of languages.

Introduction

The Housing (Scotland) Act 2001 (the 2001 Act) introduced the short Scottish Secure Tenancy (sSST). This allowed landlords under certain circumstances to grant an sSST. The Housing Scotland Act 2014 (the 2014 Act) provides a number of new measures to compliment those in existence through the 2001 Act.

1. The Housing Scotland Act 2014

The 2014 Act introduced a number of new measures which are detailed below.

- Allowing a landlord, without going to court, to give a short SST to a new tenant where that person, or other specified person, has demonstrated the specified antisocial behaviour within the previous 3 years;
- Allowing a landlord, without going to court, to convert a Scottish Secure Tenancy (SST) to an sSST, where an existing tenant or other specified person has demonstrated the specified antisocial behaviour within the previous 3 years;
- Setting a new term of 12 months for an sSST given on any of the antisocial behaviour grounds, 18 months in cases where an extension applies – as set out below;
- Giving landlords the flexibility to extend a 12-month sSST given on any of the antisocial behaviour grounds for a further 6 months where housing support services are in place and where, for example, sufficient improvement in behaviour has not yet been demonstrated;
- Automatic conversion to an SST at the end of the 12-month term for a short SST given on any of the antisocial behaviour grounds, unless the landlord has taken action to extend the tenancy for a further 6 months, or has taken action to repossess the tenancy;
- New provisions for cases where a landlord is seeking recovery of possession of a house let under a short SST on any grounds. These include the flexibility for landlords to use the procedures at section 14 of the 2001 Act to take possession action at any stage during the term of the tenancy, providing the tenant with reasons for the landlord taking action under section 36 of that Act (including in antisocial behaviour cases, the obligations of the tenancy which have been broken), and a new right of review for tenants.

(Source: Short Scottish Secure Tenancies for Antisocial behaviour and other miscellaneous changes to short Scottish Secure Tenancies: Statutory Guidance for Social Landlords, Housing (Scotland) Act 2001 and 2014: Scottish Government – October 2017)

2. New Short Scottish Secure Tenancy for Anti-Social Behaviour

In most cases housing applicants and existing tenants are provided with a Scottish Secure Tenancy (SST). In some instances, it is appropriate to provide housing applicants with a short Scottish Secure Tenancy (sSST) in certain circumstances detailed below.

The purpose of the sSST is to provide the housing applicant or existing tenant with support and guidance on how to modify their behaviour and stop repeated acts of antisocial behaviour during the period of the sSST. The granting of an sSST takes away some of their tenancy rights.

Before granting an sSST the landlord has a duty to inform the prospective tenant that a short secure tenancy will be granted. The tenant has a right of appeal to the Court. The sheriff may allow the appeal if there are good grounds for doing so. It is important that clear guidance and criteria for granting an sSST is contained in associated procedures.

Existing Anti-Social Behaviour Grounds for an sSST

The following grounds were contained in the 2001 Act:

- Where a prospective or existing tenant or anyone who would be part of the household is subject to an Antisocial Behaviour Order (ASBO)
- Where a prospective tenant has had an eviction, order granted against them in the previous three years based on antisocial behaviour.

New ground for granting an sSST

The 2014 Act introduced the following new ground:

- That there has been antisocial behaviour within the previous three years.
- The initial term will be for 12 months.
- The antisocial behaviour does not need to have been the subject of any criminal conviction or other court proceedings.

The new ground applies to existing tenants and also in relation to new tenancies as follows:

- The prospective tenant
- Any prospective joint tenant
- Any visitor to a house currently occupied by the prospective tenant or by anyone who will be living with them
- Anyone who might be living with the prospective tenant

Anti-Social Behaviour Definition

For the purposes of this policy the Association will adopt the definition contained within the Antisocial Behaviour etc. (Scotland) Act 2004 e.g. a person engages in antisocial behaviour:

“If they act in a manner that causes or is likely to cause alarm or distress; or if they pursue a course of conduct that causes or is likely to cause alarm or distress to at least one person not of the same household as them”

Guidance issued by the Scottish Government indicates that in the above definition ‘conduct’ would include speech; and ‘a course of conduct’ must involve conduct on at least two occasions.

On the basis of this definition it is evident antisocial behaviour is not restricted or exclusive to any particular type or level of activity. Indeed, antisocial behaviour can be divided into 4 categories:

- disregard for community / personal well being
- acts directed at people
- environmental damage
- misuse of public spaces

Antisocial behaviour can arise from within a wide spectrum of activities - from the everyday frictions and disputes that routinely occur from living in close proximity to neighbours, which on their own and as one off incidents are relatively minor, but when persisted with over a period of time cause distress - to the more serious involving harassment, intimidation, verbal or physical abuse or criminal activity; from behaviour directed at the individual to behaviour directed at property or possessions.

Antisocial behaviour can be caused by a tenant, a member of a tenant's household, a visitor or visitors to a tenant's home, neighbouring private owners or their visitors, or others who simply frequent the area; by adults or young people.

Policy Objectives

Our principle objective is to create balanced and stable communities through the provision of good quality houses at affordable rents to those in housing need.

Consistent with the stated objective of creating stable and balanced communities, the objectives of this policy are to

- State our commitment to granting SST's as the preferred tenure option.
- Restrict the use of sSST's to exceptional cases where individual circumstances justify this course of action.
- Ensure that tenants under an sSST are:
 - Informed and fully aware of the implications of an sSST,
 - advised of the prospects of conversion to a full SST
 - provided with the support necessary to sustain their tenancy and ultimately convert to a full SST

4. Delivering the Policy

It is the responsibility of the Depute Chief Executive to determine on a day to day basis the merits of granting an sSST as an alternative to an SST in individual cases.

Our preferred form of tenure is an SST and as a generality will grant a SST agreement to all prospective tenants. We will only revert to the use of a short Scottish secure tenancy where there are exceptional and mitigating circumstances for doing so as determined by the 2001 and 2014 Acts.

A blanket policy approach to the use of sSST's will not be adopted. In all cases where the grounds for granting a sSST or for converting an existing SST apply, the circumstances of every prospective tenant, or as the case may be current tenant, will be considered on their merits. However, in cases of antisocial behaviour we will take account of all the relevant facts and assess the extent of risk to our existing tenants.

In considering whether or not to grant a sSST as an alternative to a SST, we will at all times act reasonably and in accordance with our legal duties.

We will consider the following:

- Who has behaved antisocially and their connection to the property;
- How long the antisocial behaviour has been going on and the persistence of the behaviour;
- The person affected by the antisocial behaviour and their connection to housing;
- Whether and to what extent the behaviour has affected household members, neighbours or others in the community;
- The impact on neighbours and communities over time and the impact on the stability of the community;
- What action, if any, the person behaving antisocially is taking to make positive change;
- Any issues around the vulnerability of the tenant, members of their household or those directly affected by the antisocial behaviour;
- Other steps which have been taken/which could be taken by the landlord or partner agencies to address the antisocial behaviour.

(Source: Short Scottish Secure Tenancies for Antisocial behaviour and other miscellaneous changes to short Scottish Secure Tenancies: Statutory Guidance for Social Landlords, Housing (Scotland) Act 2001 and 2014: Scottish Government – October 2017)

5. Policy Outcomes

The measures used to assess the effectiveness of this policy will be:

- The number of sSST's granted as a percentage of total lets (SST's) in the period
- The number of sSST's granted as a percentage of total stock
- The number of sSST's converted to full SST's as a percentage of total sSST's granted.

6. General Data Protection Regulations

Any information that we hold regarding an individual must be treated lawfully and correctly in line with the safeguards outlined in the General Data Protection Regulation 2016 (GDPR) which requires data to be:

- lawfully, fairly and transparently processed
- processed for limited purposes
- adequate, relevant and limited to what is necessary in relation to the purposes for which it is processed
- accurate and kept up to date
- kept no longer than the period necessary and
- kept securely against unauthorised or unlawful processing and protected against accidental loss, destruction or damage.

The processing will be carried out in a way that ensures compliance with the rights of data subjects, including:

- the right to be informed
- the right of access
- the right to rectification
- the right to erasure (so far as applicable)
- the right to restrict processing
- the right to data portability (so far as applicable)
- the right to object to processing (including profiling); and
- the right not be subject to fully automated decision-making including profiling.

Further information is available by viewing the Association's Privacy Policy.

7. Equal Opportunities

Clydesdale Housing Association operates under the overarching duty of a Registered Social Landlord to provide housing accommodation and related services in a manner which encourages equality of opportunity. In particular the observance of equal opportunity requirements as specified in the Housing (Scotland) Act 2001 and the Equality Act 2010.

We do not discriminate against applicants in any way either directly, indirectly or by association because of their age, disability, gender identify (reassignment), marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

To support our commitment to equality of opportunity an equality and human rights impact assessment has been carried out on this policy.

8. Monitoring and Reporting

A register of sSST's granted will be maintained detailing the name of the tenant involved, the ground and reasons for granting the tenancy, tenancy start and end dates and if probationary on the support required and by whom it is to be provided.

As and when appropriate a report will be presented to Management Committee on the number of short Scottish secure tenancies granted.

9. Policy Review

This policy will be reviewed every three years or at earlier intervals if there are any changes in relevant legislation or statutory instruments.

Approved by the Committee of Management on:	
Signed: Secretary/Chairperson	Signed: Chief Executive /Senior Staff Member