



Short Scottish Secure Tenancy (SSST) Policy

We know that sometimes a policy can be hard to read. We have made a question and answer version of our draft Short Scottish Secure Tenancy (SSST) Policy below. If you have any more questions or if there is something that you do not understand, please contact us and we will try to help.

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1. What is a short Scottish secure tenancy (SSST)?

A SSST is a short term, probationary or temporary tenancy. The rights under a SSST are the same as a full SST except:

- there is no right of succession to the tenancy; and
- the security of the tenancy limited; and
- where section 36 of the 2001 Act (recovery for possession is raised) household members have no right to have a notice of proceedings served and no right to be a part of the action.

Rights to assign (pass on) the tenancy, take in a lodger, sublet, etc. are available under a SSST but they are limited to the period of the SSST. Assigning a SSST to another person will only be considered in exceptional circumstances as long as they meet the requirements of the Assignations Policy.

2. What is the purpose of the Short Scottish Secure Tenancy (SSST) Policy?

The Short Scottish Secure Tenancy (SSST) Policy sets out the legal framework we must follow when offering, managing and ending a short Scottish secure tenancy (SSST).

3. How does the Short Scottish Secure Tenancy (SSST) Policy fit with other strategies?

The SSST Policy helps us meet the aims and objectives of the Local Outcome Improvement Plan - Moray 2027 and the priorities within our Local Housing Strategy.

4. What are the objectives and principles of the Short Scottish Secure Tenancy (SSST) Policy?

The objectives are:

- to help tenants sustain their tenancies with a view to converting the tenancy to a Scottish secure tenancy (SST) providing support if needed;
- to prevent homelessness occurring and help with our wider strategic role;

- to help us to create safe and sustainable communities by tackling antisocial behaviour.

The principles supporting these objectives are:

- that the policy reflects a clear legal framework for the use of SSSTs and details the circumstances we will consider using them;
- that consistency is applied where possible to make sure any action taken under the policy is proportionate;
- that each case is assessed on its individual circumstances; and
- that there is open and honest communication with tenants on the use of the policy.

5. What law relates to the use and management of SSST's?

The Housing (Scotland) Act 2001 introduced the SSST. This has been amended by the Housing (Scotland) Act 2014. It applies to any new or existing tenants or other specified person. Any other specified person includes any joint tenant, any person that will stay in the household, any person visiting, subletting or lodging at the tenancy.

It sets out the only circumstances where we can use a SSST, which are:

- where an eviction/repossession order has been made against the person, in the UK, for antisocial or similar behaviour in the previous three years;
- where an antisocial behaviour order (ASBO) under Part 2, of the Antisocial Behaviour etc. (Scotland) Act 2004 has been granted;
- where a course of antisocial behaviour has been carried out within the previous three years as set out in Section 7 of the Housing (Scotland) Act 2014;
- a temporary let is needed to take up an offer of employment in the area. This is in line with our Allocations Policy;
- if temporary accommodation is needed pending development work on a current property;
- if temporary accommodation is to be let to a homeless person for six months or more;

- if temporary accommodation is given to a person in receipt of housing support services;
- if we have leased the house from another body and the terms of the lease ban subletting under a Scottish secure tenancy; or
- if temporary accommodation is needed by a person pending the making of arrangements in relation to a property they own which will allow the person's housing needs to be met.

Other legislation includes the Homelessness etc. (Scotland) Act 2003 and the Antisocial Behaviour etc. (Scotland) Act 2004.

We are committed to promoting equality and will make sure that we do not discriminate between individuals on any protected characteristic under the Equality 2010 Act. We will also make sure that any information given to us will be used in line with the General Data Protection Regulations (GDPR) and the Data Protection Act 2018.

6. How long does a SSST last?

The length of a SSST will depend on:

- the reason it was granted; and
- the date it was granted or the date the tenant is served with a notice to convert the tenancy from a SST to a SSST.

Where a SSST was granted on:

- any antisocial behaviour ground, it will last for a minimum 12 month period. This can be extended by 6 months to 18 months where the tenant has housing support;
- any other ground it will last for a minimum 6 month period with no maximum period.

7. What do you have to do to create a SSST?

We have to serve the correct legal notice on the tenant before a SSST can be created.

The notice must state:

- that the tenancy is to be a SSST,
- the ground the SSST is based on; and
- the term of the tenancy.

We will make sure that when a SSST is granted it will meet the individual needs of the tenant and support will be offered where required. In certain cases, the support will be a condition of the SSST with a view to help convert it to a Scottish secure tenancy at the end of 12 month term (or 18 months where an extension has been granted).

8. Can you convert an existing Scottish secure tenancy to a SSST?

Yes. If an ASBO or eviction order has been granted by a court, there will be enough evidence for us to convert a SST. This is because the behaviour has already been proven and a court order is in place. By converting and monitoring the tenancy we would hope the behaviour would improve or stop.

We can also convert a SST into a SSST where there has been ongoing/repeated antisocial behaviour in the vicinity of the house, either by someone living in or visiting the home, within the past three years. We must have robust evidence of the behaviour and will always consider the factors detailed below. We will only consider this where there is no ASBO or eviction order already in place.

The SSST may convert back to a SST at a later stage if certain conditions are met.

9. What must you consider before converting an existing tenancy to a SSST?

We will always consider the following factors before converting an existing tenancy to a SSST:

- who has behaved antisocially and their connection to the house;
- the nature, frequency and the period of the antisocial behaviour;

- the effect and impact that the antisocial behaviour is having on any other person (including their connection to the property), neighbours and the community over the period of time;
- what action has been taken to date by the parties involved, ourselves or any partner agencies. This should include any processes to improve/stop the behaviour;
- if a court order has been breached and if there are any convictions;
- any individual or household vulnerabilities and the support needs of those people based upon any evidence we have; and
- any other relevant factors in the individual circumstances of each case.

10. What must you do to convert the tenancy to a SSST?

We must serve the correct legal notice on the tenant. This notice must state:

- that the tenancy offered will be a SSST;
- what the ground for granting the SSST is;
- the name of the tenant or person who is the subject of the ASBO;
- where there is no ASBO, the name of the tenant or person who has behaved antisocially, their behaviour and the reasons for the notice; and
- details of the tenant's right of appeal to the court if they are not satisfied with the conversion of the tenancy.

The tenancy will automatically convert from a SST to a SSST upon service of the notice.

11. What support is offered with a SSST?

The law defines housing support services as:

“... any service which provides support, assistance, advice or counselling to any individual with particular needs with a view to enabling the individual to occupy, or continue to occupy, as the person's sole or main residence, residential accommodation other than that excepted accommodation.”

There are many factors that can suggest a person needs housing support services. These may include no previous tenancies, failed tenancies, a history of homelessness, the person is currently intentionally homeless, rent arrears, antisocial behaviour and/or mental health and addiction issues. We will assess each case individually.

The law states that where a tenant has a SSST because of previous antisocial behaviour or an ASBO must provide appropriate housing support services to allow the tenancy to convert to a SST. The support should help the tenant sustain their tenancy or change their behaviour to an acceptable level to allow the tenancy to be converted back to a SST at the end of the agreed term.

We will make sure that all appropriate referrals are made and support assessments carried out. This will be explained fully to the tenant.

If housing support is refused we can decide whether to offer the SSST without support. We will consider if the reason for the SSST (for example, antisocial behaviour) will improve with support. We may make the acceptance of support a condition of the offer for the SSST.

Where a SSST is provided without support, we will record the tenant's unwillingness to accept support and will review the situation before the two months' notice period needed to end the SSST. We will at this point decide whether to:

- terminate the tenancy by giving two months' notice;
- convert the tenancy to a SST; or
- continue the tenancy for a further 6 months, but on the condition that support is accepted

12. Can a SSST continue?

A SSST will state that the tenancy is for a fixed period of time of at least six or twelve months. If by the end of this time neither we, nor the tenant has asked to end the tenancy, it will renew itself for the same amount of time again. This is called tacit

relocation which means silent renewal of the lease. Or we can agree with the tenant that the tenancy can be renewed for a different period of time. This can be less than six months. The renewed tenancy will still be a SSST.

This does not apply to SSSTs granted on any of the ASB grounds.

13. How can a SSST be ended?

A SSST can be terminated by any of the following methods:

- termination by the tenant;
- by written agreement;
- on the death of the tenant;
- by Court Order once the fixed period of the tenancy has ended (under Section 36 of the Housing (Scotland) Act 2001 as amended by Section 11 of the Housing (Scotland) Act 2014) or
- by Court Order in line with Section 14 or Schedule 2 of the Housing (Scotland) Act 2001.

Where necessary we will issue the tenant with a notice to recover possession by first class recorded delivery or personal delivery. The notice will tell you the first date that we can ask for a court date and this must be at least two months from the date of service of the notice. It will also state what part of the SSST we think has been breached. This notice period may be longer if the tenancy agreement expressly states so.

14. Can you recover possession of the property under a SSST?

Yes, we can seek recovery of possession of property that is subject to a SSST on the same grounds as we would for SSTs. The action we will take will depend on whether the repossession action is being taken either at the end of the tenancy or at any time during the tenancy. Different legal processes must be followed as outlined below.

Recovery at the end of the term of SSST

We would use Section 36 of the 2001 Act, as amended by Section 11 of the 2014 to recover the property. The court **must** grant an order for recovery of possession, provided:

- the tenancy has reached its term;
- tacit relocation is not operating (i.e. it will not automatically be renewed for a further period);
- no further contractual tenancy has been entered into.

Recovery of SSST on any of the antisocial behaviour grounds

We cannot raise proceedings for recovery/eviction unless:

- the correct statutory notice detailing the required information has been served;
- a tenancy obligation under the SSST has been broken;
- the proceedings are raised on or after the date specified in the notice; and
- the notice is in force at the time the proceedings are raised.

Recovery of SSST (on any grounds) during the term of the tenancy

We would use Section 14 of the 2001 Act to recover the property. The court will decide whether to grant an order for recovery of possession provided the correct legal notice is served giving four weeks' notice.

Any order granted must state a date for recovery which will terminate the tenancy and give us the right to repossess the house on that date.

15. When can a SSST automatically convert to a SST?

SSSTs can only automatically convert to SSTs after the 12 or 18 month period where it has been granted due to an ASBO, or previous antisocial behaviour. This may happen where:

- the SSST has been granted as a 'probationary' tenancy; or
- the SSST had been created by the service of a notice;

- and we have not served a notice of proceedings for recovery of possession (under sections 14 or 36 of the Housing (Scotland) Act 2001, as amended by the 2014 Act) ; or
- if we did serve a notice of proceedings for recovery of possession it has expired or been withdrawn.

The SSST will become a SST either:

- on the date that the notice stopped being in force;
- the date the notice was withdrawn; or
- at the end of the 12/18 month period, whichever is later.

Where court action for recovery of possession finds in favour of the tenant, the tenancy becomes a SST from the date of the court's decision or the end of the 12/18 month period. Where we have served a notice to quit on the tenancy, no conversion can take place. SSSTs granted on other grounds cannot automatically convert to full SST.

We will notify the tenant of the conversion and the date on which the tenancy will become a SST. We will also advise the tenant of their rights and responsibilities under a SST.

16. Is there a review and complaints process in place?

Review of a decision

You can ask for a review of the decision before the case goes to court if you are not satisfied with the decision to offer a SSST, convert to a SSST or take action to recover the property.

You can submit your request for a review of the decision in writing to the Housing Services Manager and include the reason for your request.

Where the review is in relation to the recovery of possession, you will have 14 days from the date you are served the notice of proceedings to request a review.

Reviews will be considered by a senior manager not previously involved with the original decision. They will review the decision and respond within 28 days unless it is a recovery of possession case. In this case you will receive a response within 14 days and no later than two days before the date of any intended eviction process. It will also state whether the recovery of the property will continue, the reasons why or if it will be withdrawn.

Where you remain dissatisfied you can ask the Housing Needs Review Group to consider the case. If the Review Group uphold the decision to offer or convert to a SSST instead of a SST and you are still not satisfied, you have a right of appeal by summary application to the Sheriff Court.

Appeal to the Sheriff Court

Your appeal to the Sheriff Court must be within 21 days after the date of the notice, or longer if certain legal circumstances apply. The Sheriff may grant the appeal if they are satisfied that there are 'good grounds' for doing so.

Complaints

We have a Complaints Policy which details our corporate complaints process. This is available to anyone who is not satisfied with the way their case has been dealt with. Our [Complaints Policy](#) is available from any Council Office, Access Point or on our website at www.moray.gov.uk.

17. Performance Monitoring

We have a legal duty to complete the Annual Return on the Charter (ARC) to the Scottish Housing Regulator (SHR) stating the types of tenancies we grant during the year. We internally monitor the number of SSST's in place, the number created in the period and the reason for the SSSTs.