

Passing on (assigning) your tenancy



the **MORAY** council

www.moray.gov.uk

This leaflet gives you information about:

- when you can assign (pass on) your tenancy; and
- how we do this.

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What is assignation?

Assignation is the legal term used to describe the voluntary transfer of all your rights and responsibilities under your tenancy to another person. This person is known as an assignee.

The assignee takes over the tenancy and becomes the tenant from an agreed date, and takes over your tenancy rights and responsibilities, including the responsibility to pay rent and any outstanding housing debt.

Why would I want to pass on my tenancy?

There are many reasons why you would want to pass on your tenancy. For example, you may leave to work abroad, or you may feel that you no longer want to be responsible for the tenancy. In some situations, you may be able to pass the tenancy on to someone who already lives in your home.

Who can pass on their tenancy?

If you have a Scottish secure tenancy or a short Scottish secure tenancy, you can pass on your tenancy if you have our permission in writing. You must fill in an application form asking for our permission to pass on your tenancy. By law, we must give you an answer within a month.

Who can I pass my tenancy to?

If you want to pass your tenancy to another person, the following must apply.

- The person you want to pass it on to must be 16 years old or over.
- They must have filled in and returned a housing application form to us.
- The house must have been their only or main home for at least six months before the date you apply to pass on your tenancy.

What is a main home?

Your main home is somewhere you have a major link to. It does not mean you must live there all of the time. If you spend periods of time away from the home, it may still be your only or main home. For example, if you are a student, your parents' home may still be seen as your main home even if you are temporarily living away from it, as long as you plan to return there.

How do I apply?

If you want to pass on your tenancy, you must fill in an application form. You can get an application form from

your local access point or from our website at www.moray.gov.uk. For information about your local access point, please go to the end of this leaflet.

How will you assess my application?

Before we can consider your application, you must give us all of the information that we ask for on the form. We may also need to interview you. We will assess your application and we will also consider the housing need in the area that you live in.

If you have a joint tenancy, you must get agreement from the other joint tenants to pass on the tenancy. If you have a husband, wife or civil partner, you must get their agreement to pass on your tenancy.

When we have all of the information we need, we will give you our decision in writing within one month of getting your application. We will not refuse permission without a good reason, and if we refuse to give permission we will tell you why and how you can appeal against our decision. If we don't respond to you within one month, this means we have given our permission for you to pass on your tenancy.

We may approve your application to pass on your tenancy in the following cases.

- If passing on your tenancy would help us to meet housing need in the area. We will check the housing application form of the person you want to pass your tenancy to. To meet housing need, they should be close to the top of the housing list.
- If there are no other reasons to refuse permission.

When will you refuse permission?

We will not give you permission to pass on your tenancy if we have good reasons for refusing, such as the following examples.

- We have served a notice on you to warn you that we may take action to evict you because of your behaviour.
- We have an order to evict you.
- The property would become overcrowded.
- The person who wants to take over the property has been convicted of anti social behaviour in the last 12 months or has a current anti social behaviour order.
- Passing on the tenancy would mean that we are not acting in line with our allocations policy.
- If another person's occupancy rights are likely to be affected if we gave you permission to pass on the tenancy.

Also, we may not give you our permission if you do not give us all of the information that we need to make our decision within one month. If we do not give our permission because of this, you can apply again when you have all of the information available.

If you give me permission to pass on my tenancy, what rights and responsibilities will the new tenant have?

If we give permission, we will agree a date after which you will no longer be the tenant. The new person will then become the tenant and will take over all the rights and responsibilities of the tenancy. This includes paying rent and any outstanding housing debt.

If the new tenant wants to exercise their right to buy at a later date, they do not keep the right-to-buy entitlement that you had. They have to earn their right to buy gradually, depending on the number of years they hold the tenancy. The right to buy is not transferred as part of the assigning process. So, when we check to see if the tenant can buy the property and what their right-to-buy discount is, we will only consider any relevant tenancies the new tenant has held in the past.

I live in an area that has been awarded 'Pressured Area Status'. I want to pass on the tenancy of the house I am living in. Can the person that I pass the tenancy on to buy the council house?

The Housing (Scotland) Act 2001 allows Scottish ministers to class any part of a local authority area as a pressured area for up to five years, if the demand for public-sector housing in the area is greater than the amount available. This means that for some tenants, the right-to-buy is suspended until the 'Pressured Area Status' ends.

If you live in a pressured area and pass on your tenancy, the person who becomes a new tenant will temporarily not be able to buy the house. The original right-to-buy entitlement changed in 2002 and cannot be transferred by passing on a tenancy. The new tenant will only have the modernised right to buy. This means that the new tenant will normally need to have lived in a tenancy of a social landlord for a period of five years for a five-year qualifying period and their discount will be worked out in line with new terms and conditions. They will temporarily not be

able to buy the council house, and this will last while the area remains a pressured area. For more information, please visit our website at www.moray.gov.uk, or see our leaflet 'Your right to buy your council home'.

What if I don't agree with your decision?

If you are not satisfied with the decision, you can appeal in writing to the housing services manager.

You can start court action at any time. The court must order us to agree to the application unless it thinks that our refusal to give permission is fair. If you want to challenge our decision by starting court action, we recommend that you get independent legal advice.

More information

For more information, please contact your local access point. Contact details are at the end of this leaflet. For further advice about the legal effects of passing on a tenancy, you may want to get independent legal advice.

Moray Council Access Points

<p>Buckie Access Point Environmental Services 13 Cluny Square Buckie</p> <p> housing@moray.gov.uk</p> <p> Phone: 0300 123 4566</p>	<p>Elgin Access Point Environmental Services Council Office High Street Elgin</p> <p> housing@moray.gov.uk</p> <p> Phone: 0300 123 4566</p>
<p>Forres Access Point Environmental Services Auchernack High Street Forres</p> <p> housing@moray.gov.uk</p> <p> Phone: 0300 123 4566</p>	<p>Keith Access Point Environmental Services The Institute Mid Street Keith</p> <p> housing@moray.gov.uk</p> <p> Phone: 0300 123 4566</p>

You can also find us at www.moray.gov.uk

Please tell us if you need us to translate this document into your language, or if you would like a copy in **large print**, Braille or on audio tape.

For alternative formats, languages or further information, please ask an English speaking friend or relative to:

Phone: 01343 563319
Email: equalopportunities@moray.gov.uk
Write to: Project Officer (Equal Opportunities)
Chief Executive's Office
High Street
Elgin
IV30 1BX

如要索取其他的版式、各種語文的翻譯本，或需要更詳細的資訊，請叫一位會說英語的朋友或親屬與我們聯繫：

電話： 01343 563319
電郵： equalopportunities@moray.gov.uk
信件郵寄地址： 計劃主任(平等機會)
Project Officer (Equal Opportunities)
Chief Executive's Office
High Street
Elgin
IV30 1BX

Jeżeli chcieliby Państwo otrzymać informacje w innym formacie, języku lub dodatkowe informacje, mówiący po angielsku znajomy lub członek rodziny może do nas:

Zadzwoń na numer: 01343 563319
Wysłać mail: equalopportunities@moray.gov.uk
Adres korespondencyjny: Project Officer (Equal Opportunities)
(Urzędnik ds. Jednakowego Traktowania
Mniejszości Narodowych)
Chief Executive's Office
High Street
Elgin
IV30 1BX

Para outros formatos, idiomas ou para obter mais informações, peça para um amigo ou parente que fale a língua inglesa entrar em contato conosco:

Telefone: 01343 563319
Email: equalopportunities@moray.gov.uk
Endereço: Project Officer (Equal Opportunities)
Chief Executive's Office
High Street
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IV30 1BX

Notes

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Mark

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Clarity approved by
Plain English Campaign

