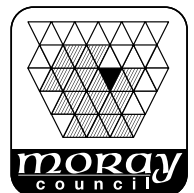


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# Passing on (assigning) a tenancy

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If you need information from Moray Council in a different language or format, such as Braille, audio tape or large print, please contact:

إذا كنتم في حاجة إلى معلومات من قبل مجلس موراي وتكون بلغة مختلفة أو على شكل مختلف مثل البراي، أسطوانة أوديو أو أن تكون مطبوعة باستعمال حروف غليظة فالرجاء الإتصال ب

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Se necessitar de receber informações por parte do Concelho de Moray num formato diferente, como Braille, cassette áudio ou letras grandes, contacte:

Ja Jums vajadzīga informācija no Marejas domes (*Moray Council*) citā valodā vai formātā, piemēram, Braila rakstā, audio lentā vai lielā drukā, sazinieties ar:

اگر آپ کو مورے کونسل سے کسی دیگر زبان یا صورت میں معلومات درکار ہوں مثلاً "بریلے، آڈیو ٹیپ یا بڑے حروف، تو مہربانی فرما کر رابطہ فرمائیں:

Housing and Property  
PO Box 6760  
Elgin  
IV30 1BX

**0300 123 4566**  
**housing@moray.gov.uk**

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We review our leaflets regularly to make sure you have the most up-to-date information. However, the content of this leaflet is only correct at the time it is published.

## **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. From this date they take over your tenancy rights and responsibilities, including the responsibility to pay rent and any outstanding housing debt.

## **Why would I 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.

## **Who can pass on their tenancy?**

You must have been our tenant for at least 12 months before the date you apply to pass on your 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.
- The house must have been their only or main home for at least 12 months before the date you apply to pass on your tenancy. The 12 month period will only start when we have been told that the person is living in the property as their main home.
- They must have filled in and returned a housing application form to us, which once assessed confirms that they have a significant housing need.

## **What is a main home?**

Your main home is somewhere you have a major connection with. 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.

If you are a student living away, your parent's home may still be seen as your main home, as long as you plan to return.

## **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 by:

- visiting our website:  
**[www.moray.gov.uk/housing](http://www.moray.gov.uk/housing)**
- phoning us:  
**0300 1234 566**
- visiting your local access point:  
please find our contact details at 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.

If we refuse 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 and assess if they have a housing need.
- If there are no other reasons to refuse permission.

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

From the date your tenancy is passed on 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.

## **Will the new tenant sign a tenancy agreement in order to take over the tenancy?**

A new tenancy is not created. The original tenancy will continue with the new tenant being given a copy of the tenancy agreement.

Before the assignment can take place, an Assignment Agreement will need to be signed by you and the assignee. This must be witnessed and will confirm that all parties are in agreement to the assignment.

## **When will you refuse permission?**

We will only refuse permission to pass on your tenancy if we have good reasons, these may include:

- 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 property would be under occupied.
- The person who wants to take over the property has been convicted of antisocial behaviour in the last 12 months or has a current antisocial behaviour order.
- The person who wants to take over the property would not be given reasonable preference under our Allocations Policy.
- If the property has been designed or specially adapted which the assignee (or a member of their household) has no need for.
- If another person's occupancy rights are likely to be affected if we gave you permission to pass on the tenancy.



We may also refuse permission if you do not give us all the information we need to make our decision within one month. Once you have all the information that we need, you can apply again.

### **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. They will review the original decision and will notify you of the outcome within four weeks of receiving your request.

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 on the back cover.

For additional advice about the legal effects of passing on a tenancy, you may want to get independent legal advice.



# Contacts

Housing and Property  
PO Box 6760  
Elgin  
IV30 1BX

**0300 123 4566**  
**housing@moray.gov.uk**

# Access Points

## **Buckie Access Point**

13 Cluny Square  
Buckie  
AB56 1AJ

## **Forres Access Point**

Auchernack  
High Street  
Forres  
IV36 1DX

## **Elgin Access Point**

Council Office  
10 High Street  
Elgin  
IV30 1BY

## **Keith Access Point**

The Resource Centre  
26 Mid Street  
Keith  
AB55 5AH

