

Loreburn Group

# Tenancy Changes Policy



**Creating Great Places to Live**

<b>Policy</b>	Tenancy Changes Policy									
<b>Version Reference</b>	2									
<b>Approved by</b>	MC			LET				MT		X
<b>Date of Approval</b>	February 2021									
<b>Review Period</b>	Every 3 Years <b>or</b> as legislation or substantive changes occur									
<b>Review Due</b>	February 2024									
<b>Policy Champion</b>	Regional Housing Manager (West)									
<b>Who this policy affects</b>	Staff	<input checked="" type="checkbox"/>	Customers	<input checked="" type="checkbox"/>	Contractors	<input type="checkbox"/>		Members of the Public	<input type="checkbox"/>	
<b>Where this policy affects</b>	General needs	<input checked="" type="checkbox"/>	Later Living	<input checked="" type="checkbox"/>	Supported	<input checked="" type="checkbox"/>		Office/staff base	<input type="checkbox"/>	

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## 1. Purpose of this Policy

- 1.1 This Policy aims to ensure good management of our stock and the stock of other housing associations; that tenancies are sustained appropriately, and that by making changes to tenancies, we meet the needs of our tenants following change in circumstances.
- 1.2 This Policy sets out the responsibilities of the landlord and the customer and ensure enforcement is legal and in line with the requirements of the tenancy agreement.
- 1.3 This policy will assist with ensuring all requests to make a change to a tenancy in a fair, reasonable and consistent manner and contribute to creating sustainable communities.

## 2. Aims & Outcomes of this Policy

- 2.1 The key aim of the policy is to ensure that our housing stock is well managed and used effectively to meet housing demand in the region. Loreburn will follow timely and consistent processes.

Every effort will be made to:

- Comply with current Housing legislation
- Maintain and sustain our properties and the developments to an appropriate standard in line with our legal obligations and the obligations contained within our tenancy agreement.
- Respond to any notification of tenancy changes within the required timescale
- Deal with all requests to make a change to a tenancy in a fair, reasonable and consistent manner
- Create and maintain stable, safe and socially inclusive communities where people want to live

- 2.2 Income maximisation continues to be of increasing importance for both the organisation and customers alike. Loreburn will provide support and assistance to customers to ensure their housing meets their needs. Assisting customers with financial difficulties at the first possible opportunity can help prevent the likelihood of abandoned properties.

## 3. How will we achieve our aims and objectives?

- 3.1 We will provide advice and assistance on tenancy matters to help residents maintain their tenancies to the best of their abilities and in accordance with their tenancy agreement using early intervention wherever possible.
- 3.2 Enforce tenancy conditions, using legal action as required and where appropriate
- 3.3 This policy is supported by detailed procedures outlining our day to day practice which will enable us to meet the aims and objectives of the policy.

- 3.4 We will aim to be consistent but we also aim to be flexible and proactive, meeting customer's individual needs when providing housing management services.

## 4. What are tenancy changes?

- 4.1 There are various types of tenancy changes including:

4.1.1 **Succession** – See Appendix One for Current Procedures

Succession of a tenancy will only apply on the death of a tenant, and there must be a "qualifying person" to succeed. For succession to occur, the home of the deceased tenant must have been the qualifying person's only or principal home at the time of the tenant's death for a period of at least 6 months. A "qualifying person" is defined in Schedule 3 of the Housing (Scotland) Act 2001, and is detailed in the Scottish Secure Tenancy Agreement and accompanying Tenancy Changes procedures.

### **Level 1**

the deceased's husband or wife or co-habitee, if the house was their only or principal home on your death; **OR** the joint tenant, if the house was his or her only or principal home on the death of the tenant.

### **Level 2**

If no-one qualifies at Level One, or a qualified person does not want the tenancy, it may be inherited by a member of the deceased tenant's family as long as:

- he or she is aged at least 16 at the date of the tenant's death;
- the house was his or her only or principal home at the date of death.

### **Level 3**

If no-one qualifies at Level One or Level Two, or a qualified person does not want the tenancy, it will be inherited by a carer as long as:

- he or she is aged at least 16 at the date of the tenant's death;
- the house was his or her only or principal home at the date of the tenant's death;
- he or she gave up another only or principal home before the death of the tenant;
- he or she is providing, or has provided, care for the tenant or a member of the tenant's family.

Loreburn will consider the following points when assessing a Succession application:-

Special Needs/Adapted Properties A qualifying person cannot succeed to specially adapted accommodation.

Joint Tenancies – Where a joint tenant dies, the tenancy will convert from joint to sole.

Qualifying Person does not wish to succeed to the tenancy - A qualifying person has the right to decline to succeed to the tenancy by giving the Association written notice. This notice must be within four weeks of the tenant's death. The

person must vacate the house within three months of their written notification informing the Association that they wish to decline succession. The person is liable for payment of rent during the period that they occupy the house after the tenant's death. The person is no longer a Scottish secure tenant during this period.

Second Round of Succession Passed There can only be two successions to a tenancy. After the second succession the tenancy will terminate.

Unauthorised Occupants Any unauthorised occupants will not be eligible for succession of a tenancy.

#### 4.1.2 **Assignment** – See Appendix Two for Current Procedures

Assignment occurs when a tenant requests that the tenancy, either wholly or partly, including the rights and responsibilities of the tenancy, is given to someone else. The property must have been the only or principal home of the proposed assignee continually for at least 6 months prior to application.

#### 4.1.3 **Abandonment** – See Appendix Three for Current Procedures

Abandonment of a tenancy occurs when a tenant fails to occupy the property as their only or principal home. A tenancy will only be terminated and the property repossessed by Loreburn after thorough investigations have been undertaken and we are satisfied that the property or tenancy has been abandoned, and the tenant does not intend to occupy it as his/her only or principal home.

Abandonment by a joint tenant occurs when one of the joint tenants vacates the property without formally notifying Loreburn. The remaining tenant may then become the sole tenant in the property after Loreburn has completed a formal process, outlined in the accompanying Tenancy Changes Procedures.

Abandonment of household goods occurs when a tenant vacates the property and leaves behind household goods. Dependent on the condition / value of the goods, arrangements may be made by Loreburn for their storage / disposal.

#### 4.1.4 **Subletting** – See Appendix Four for Current Procedures

Subletting is the process in which the legal tenant is absent from their home, and rather than leave the property empty, leases it to a third party for a period of no longer than 6 months.

#### 4.1.5 **Lodgers** – See Appendix Five for Current Procedures

Lodging is a form of subletting whereby the tenant leases part of their home, usually a bedroom, on a formal or commercial basis. A lodger is a third party who is not a direct relative of Loreburn's tenant, but who resides in the property along with the tenant.

Permission may be given to the tenant to have a lodger(s) stay in their home for a maximum period of 12 months.

#### 4.1.6 **Mutual Exchanges** – See Appendix Six for Current Procedures

A mutual exchange is where one Loreburn tenant wants to exchange their home for another, either with another Loreburn tenant or a tenant from any other housing association or council. This type of exchange is by mutual agreement of the two parties involved, as well as Loreburn and, if applicable, the other housing association.

#### 4.1.7 **Sole to Joint Tenancy / Joint to Sole Tenancy** – See Appendix Seven for Current Procedures

This is where one tenant asks for another tenant to be added to their Tenancy Agreement or either joint tenant asks to be removed from the tenancy, or due to abandonment by either joint tenant.

## 5. **Estate Inspections**

- 5.1 All Loreburn H A staff have a duty in the course of their day to day work to note any signs of potential abandoned properties. Where Loreburn staff suspect that a property has been abandoned or is not being occupied by the tenant action will be taken in accordance with LHA's Abandonment Policy and the Housing (Scotland) Act.
- 5.2 Monthly inspections are carried out by Housing and Community Engagement staff on each individual development.

## 6. **Tenancy Matters**

- 6.1 When a tenancy is allocated, Housing and Community Engagement staff will ensure that the incoming customer has an understanding of their rights and obligations in relation to their tenancy agreement. The Housing and Community Engagement/Income Officer will visit the new tenant within 2-3 weeks of the tenancy start date to provide any advice and assistance required in respect of tenancy matters. A follow up visit can be arranged if required.
- 6.2 Loreburn H A staff will develop professional relationships with support and care agencies including our own Supported Housing team with the aim of helping our tenants with vulnerability or specific needs to sustain their tenancy.

## 7. **Customer Involvement**

- 7.1 Excellent customer service is at the heart of what Loreburn H A does so we involve and foster good relationships with our customers and shape services which meet their needs. It is especially important in regard to tenancy management issues therefore Loreburn H A actively seeks to encourage customers to take an active interest in issues which affect their local area.

## **8. Staff Training and Development**

- 8.1 Training will be provided to relevant staff to ensure a consistent approach and ensure they carry out the roles and duties linked to the application of this policy.

## **9. Complaints**

- 9.1 Loreburn has a commitment to valuing complaints and ensures the organisation benefits from feedback to identify areas for change or improvement.
- 9.2 Loreburn has a Complaints Policy which ensures there are robust and effective procedures in place for complaints to be properly managed and acted upon.
- 9.3 Anyone dissatisfied with the outcome of their complaint having exhausted Loreburn's complaints procedure has the right to refer the matter to the Scottish Public Services Ombudsman.

## **10. Measuring Performance**

- 10.1 Performance monitored through Loreburn H A's Performance Management Framework using the Scottish Housing Regulator Annual Return Charter Indicators, HouseMark and Loreburn H A's Strategic Performance Indicators and operational performance indicators for Tenancy Changes
- 13.2 Loreburn H A will consult customers, stakeholders and other agencies in order to continually measure good practice.
- 13.3 This policy will adhere to Loreburn H A's commitment to Continuous Improvement and Value for Money.

## **11. Equality & Human Rights**

- 11.1 Loreburn aims to ensure that equality, fairness, dignity and respect are central to the way we work and how we treat our customers. We support diversity and uphold equal opportunities in all areas of our work as an employer and service provider.
- 11.2 Loreburn will not discriminate against tenants, staff, visitors, suppliers or others based on their age, sex, sexual orientation, race, disability, religion or belief, marital status, pregnancy and maternity or gender reassignment (collectively referred to as 'protected characteristics' in the Equality Act 2010).

## **12. Risk Management**

- 12.1 Loreburn has a Risk Management Strategy, Policy and Procedure. These documents set out how the organisation will manage risk as an integral part of its governance and management systems, ensuring risks are identified, evaluated and controlled effectively.
- 12.2 Identifiable risks arising from this policy will be monitored and managed by the internal processes set out herein and by regular review of this and



all other associated policies and procedures, ensuring risks are mitigated and Loreburn complies with all legislative requirements and regulatory and best practice guidance.

### 13. Responsibilities Chart

The below chart illustrates the responsibilities of all staff pertaining to this policy:

Responsibilities	Board/ CEO	EMT	RHMs	Team Leader	All Staff
To set the policy and direction with regards to Tenancy Changes	✓				
Ensure Loreburn H A staff have a robust understanding of Tenancy Changes and the associated risks		✓			
Manage service, reporting and update EMT quarterly			✓		
Take lead on applications, make day to day decisions					✓
Record Keeping for tenancy changes					✓
Authorise tenancy change applications (approval/refusal)			✓	✓	
Policy Champion			✓		
Ensure effective and clear communication with key stakeholders including customers					✓
Reporting any concerns to Line Manager				✓	✓
Participate in meetings and provide evidence for investigations as required			✓	✓	✓
Ensure feedback is used to improve service			✓	✓	✓
Working with Head of OD & HR ensure staff have appropriate training			✓	✓	
Ensure policy is reviewed as necessary			✓	✓	✓
Ensure E&D guidance is adhered to		✓	✓	✓	✓

### 14. Legislative Background

14.1 In preparing this policy Loreburn HA have taken account of:

- Housing (Scotland) Act 2010
- Housing (Scotland) Act 2001
- Housing Scotland Action 2014

- Scottish Social Housing Charter 2012. – This sets out the standards that Scottish landlords must achieve when conducting their housing activities.
- The Scottish Secure Tenancy Agreement – this is the formal document that outlines the customer’s responsibilities and obligations in relation to their tenancy, including updating the Association with any changes to household details.
- The Short Scottish Secure Tenancy Agreement - this is the formal document that outlines the customer’s responsibilities and obligations in relation to their tenancy, including updating the Association with any changes to household details.

14.2 The Scottish Social Housing Charter sets out the standards and outcomes that all Scottish landlords should achieve when conducting their housing activities. These are used to monitor performance and to ensure customers are receiving a high standard of service.

14.2.1 There are five relevant charter outcomes, these are described below:

#### Equalities

Social landlords should ensure every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services.

We can achieve this by prompt resolution of estate management complaints, and by offering solutions to meet the needs of our customers.

#### Communication

Social landlords manage their businesses so that tenants and other customers find it easy to communicate with their landlord and get information they need about their landlord, how and why it makes decisions and the services it provides.

Loreburn H A can achieve this outcome by using a variety of methods of communication from face to face conversations to social media. Customer’s should be able to have queries about the management of their neighbourhood answered promptly.

#### Participation

Social landlords manage their businesses so that tenants and other customers find it easy to participate in and influence their landlord’s decisions at a level they feel comfortable with.

Loreburn H A will use the communication methods outlined above and also look to our Customer Engagement Strategy to engender a culture where customers can influence the management of their own neighbourhood.

#### Neighbourhood and Communities

Social landlords, working in partnership with other agencies, help to ensure that tenants and other customers live in well maintained neighbourhoods where they feel safe.

Where appropriate Loreburn will work with other agencies such as Police Scotland, and social work to tackle issues which are of concern to our residents.

## Tenancy Sustainment and Support

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.

We will offer advice and assistance to residents to help them maintain their tenancy by referring them to appropriate agencies or by organising support by us or other support services.

14.3 All Loreburn H A's policies adhere to VFM principles.

## 15. Associated Policies

15.1 Associated Policies include:

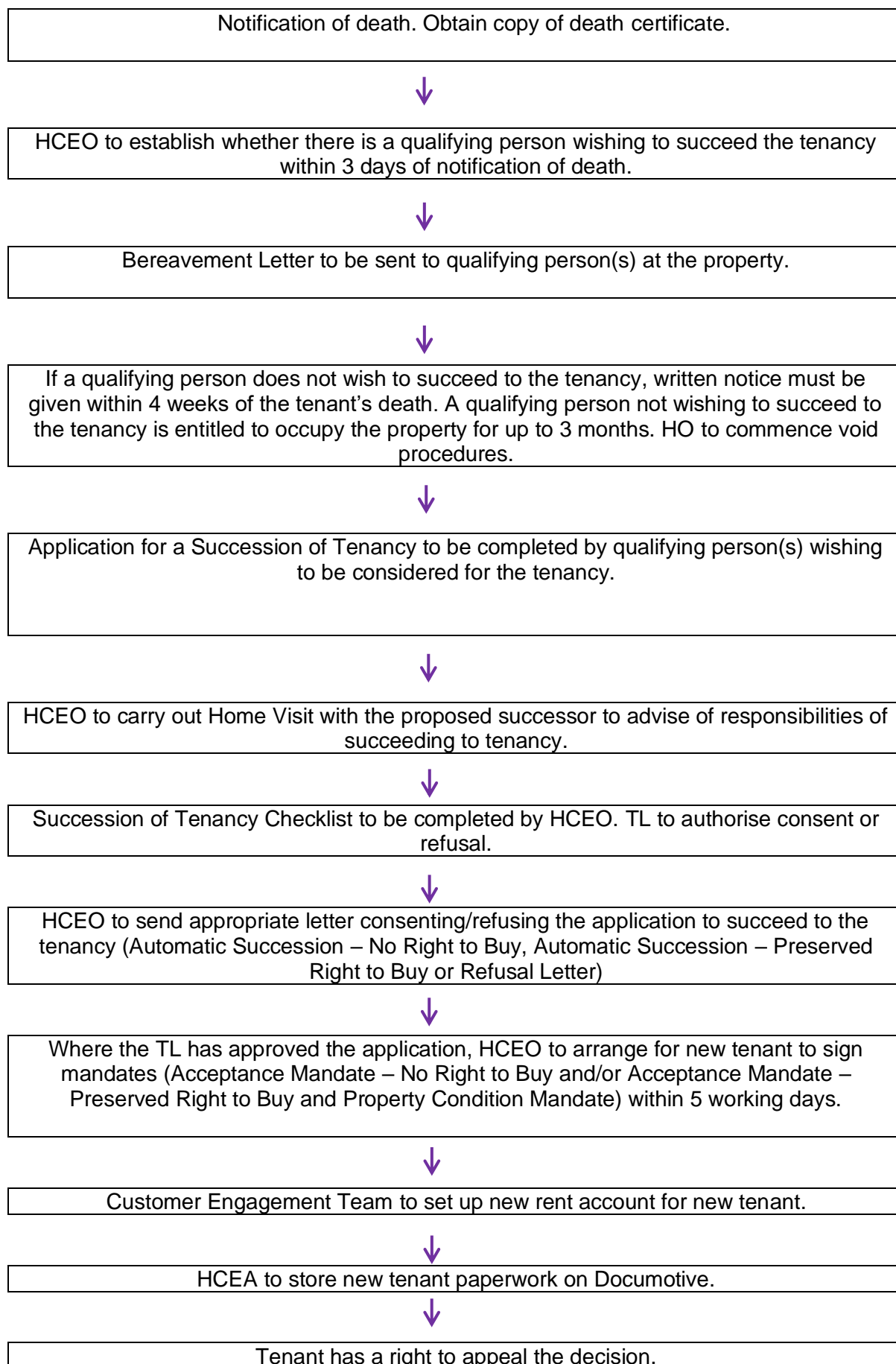
- Income Maximisation Policy
- Anti-Social Behaviour Policy
- Complaints Policy
- Estate Management Policy

## 16. Policy Review

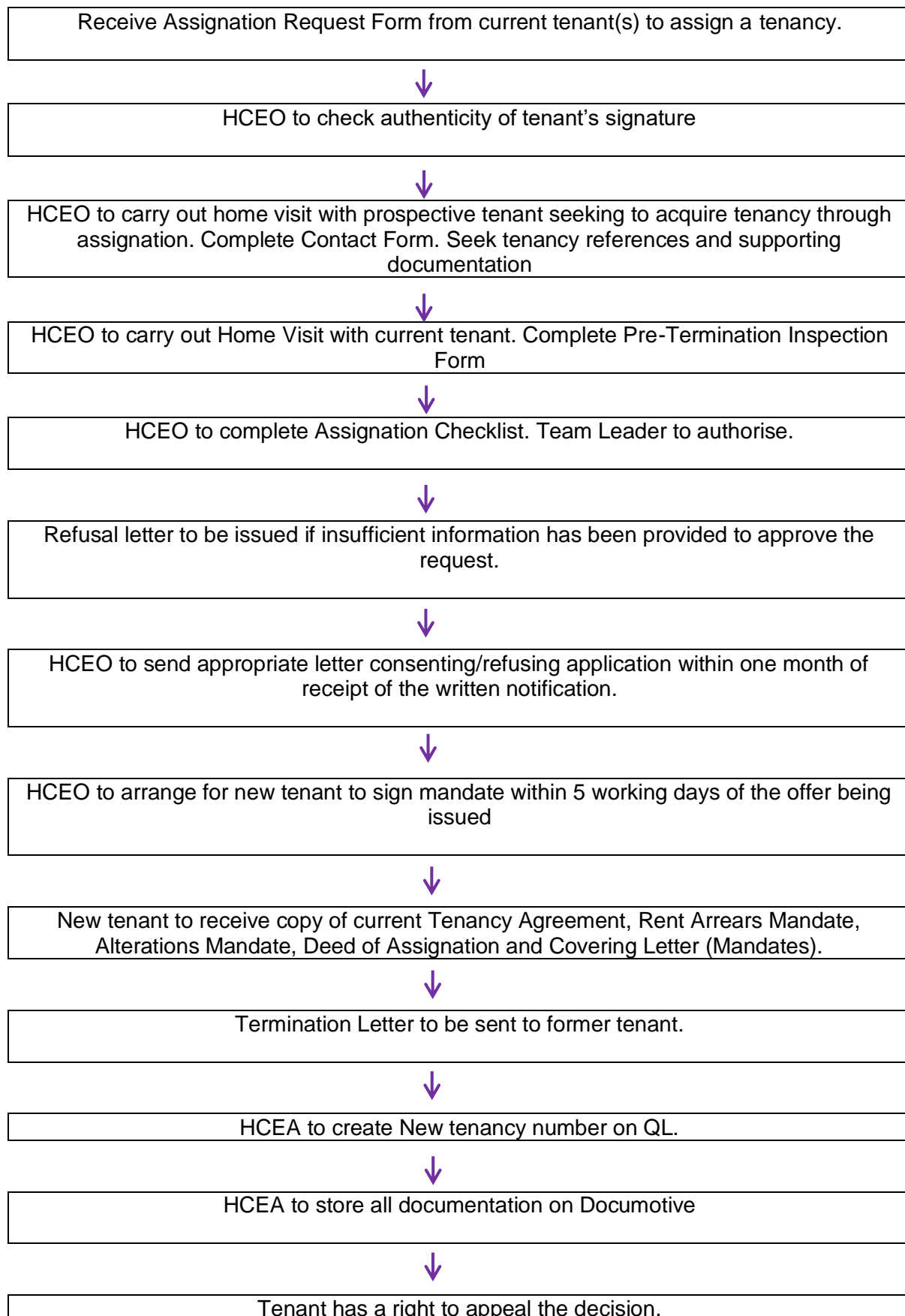
16.1 The policy champion is the Regional Housing Manager (West). The policy implementation checklist is set out below as **Appendix two**.

16.2 This policy will be reviewed **every three years** or as required due to legislative or regulatory change. The review will be completed by the Policy Champion and circulated to the Executive Management Team for approval.

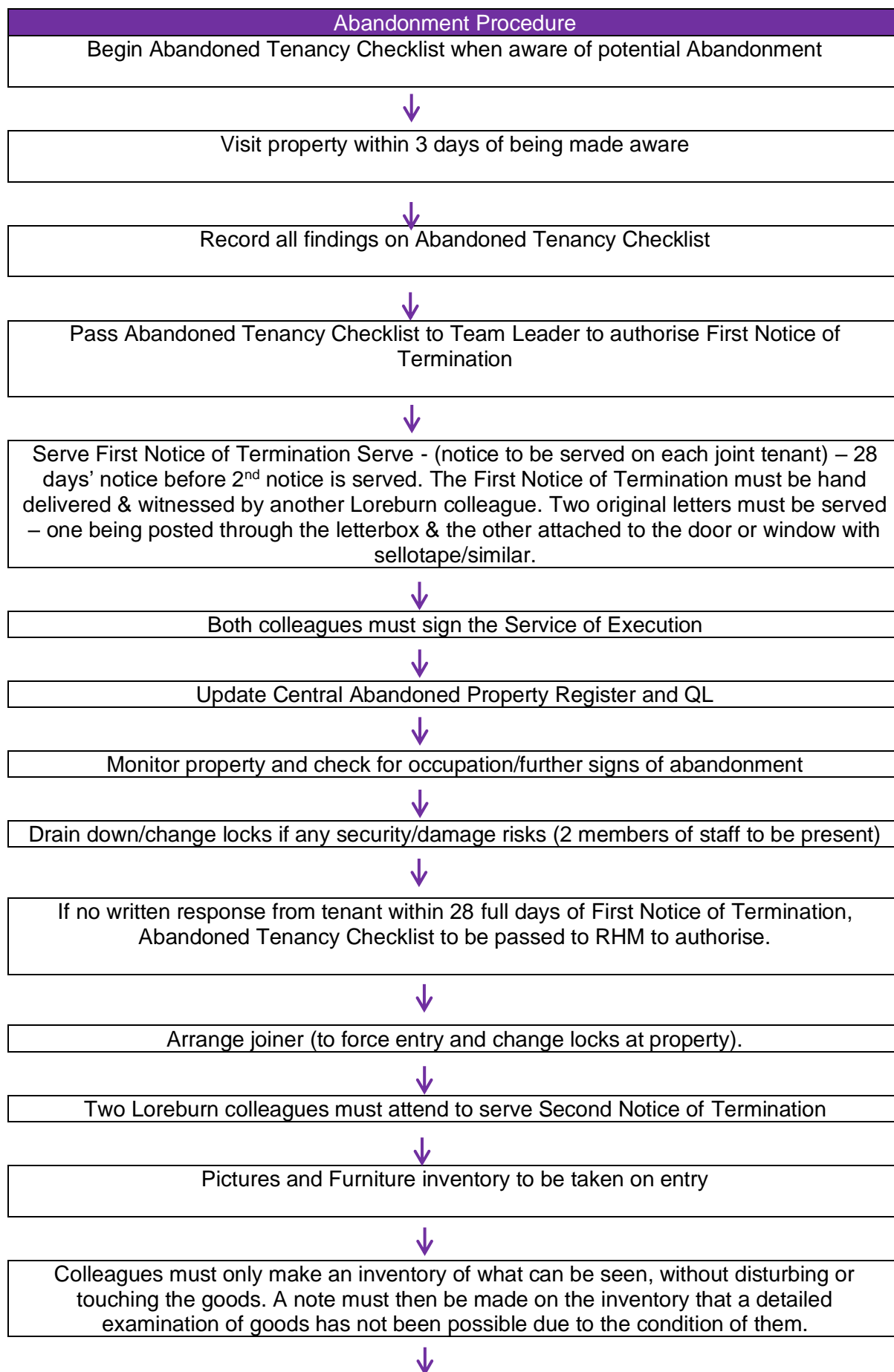
## **Appendix One - Succession Procedure**



## **Appendix Two - Assignment Procedure**



### **Appendix Three – Abandonment Procedure**



Dependent on the condition/value of goods, arrangements must be made for the storage/disposal. The decision to store goods or not will be made by the RHM. Goods & furnishings can be stored, dependent on their value, for a period of up to 6 months from the termination date. The decision to sell the goods or dispose of them will be whatever is considered the most cost effective.

### Joint Tenant Abandonment Procedure

Start Abandonment Tenancy Checklist when aware of potential Abandonment – record all findings



Serve First Notice of Termination on joint tenant (copy to be given to remaining tenant for info)



Complete Service of Execution



Update Central Abandoned Property Register and QL



21 days after First Notice of Termination, serve Abandonment Warning Letter advising of pending Second Notice of Termination (copy to be served on remaining tenant)



After 28 days of First Notice of Termination, serve Second Notice of Termination giving 8 weeks notice to terminate their part of tenancy



Follow up visit 7 weeks after Second Notice of Termination to ensure joint tenant isn't present and no material change identified

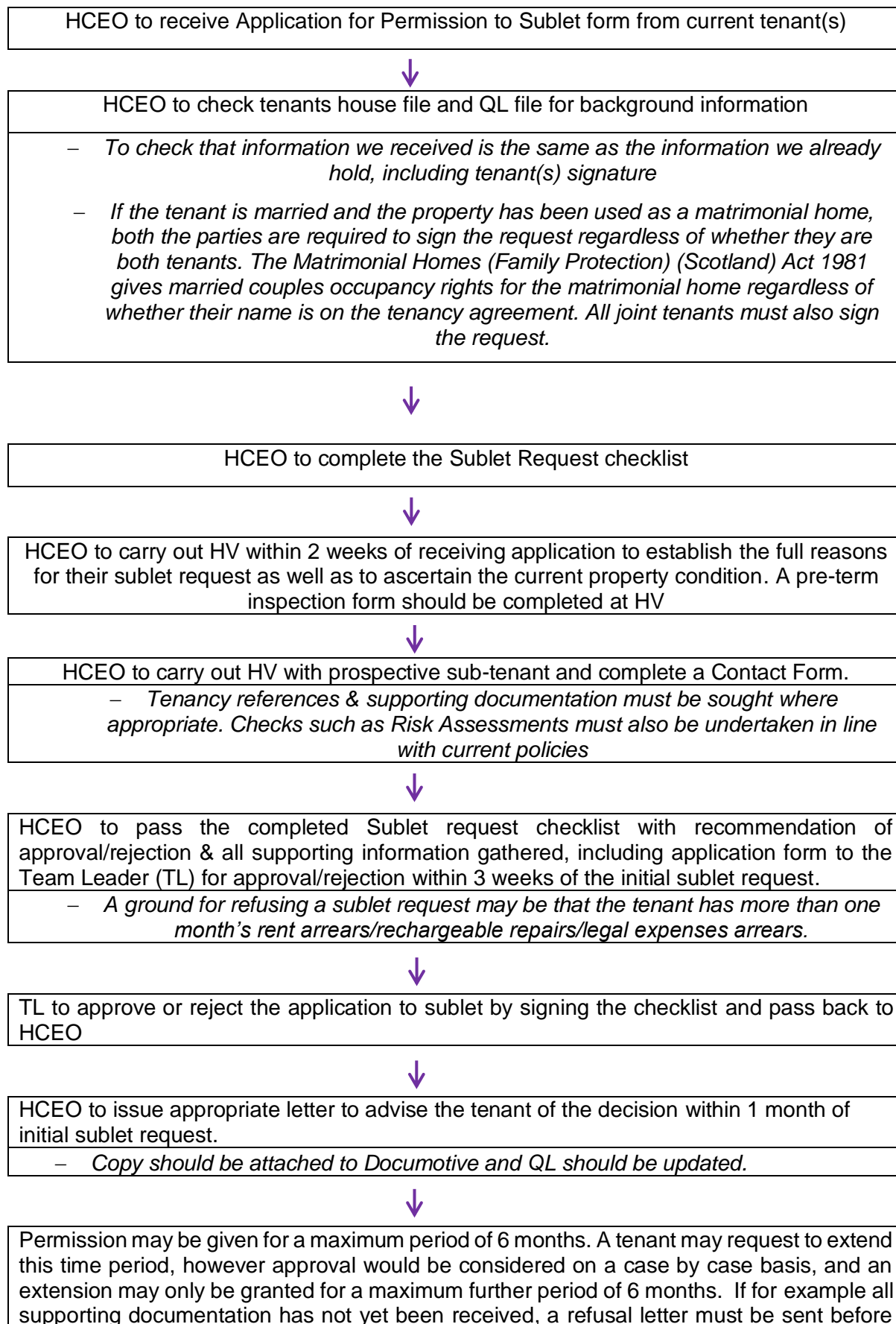


8 weeks after Second Notice of Termination has been served, the abandoned tenants name can be removed from tenancy.



Sole Tenant Confirmation Letter to be issued to remaining tenant.

## **Appendix Four - Subletting Procedure**



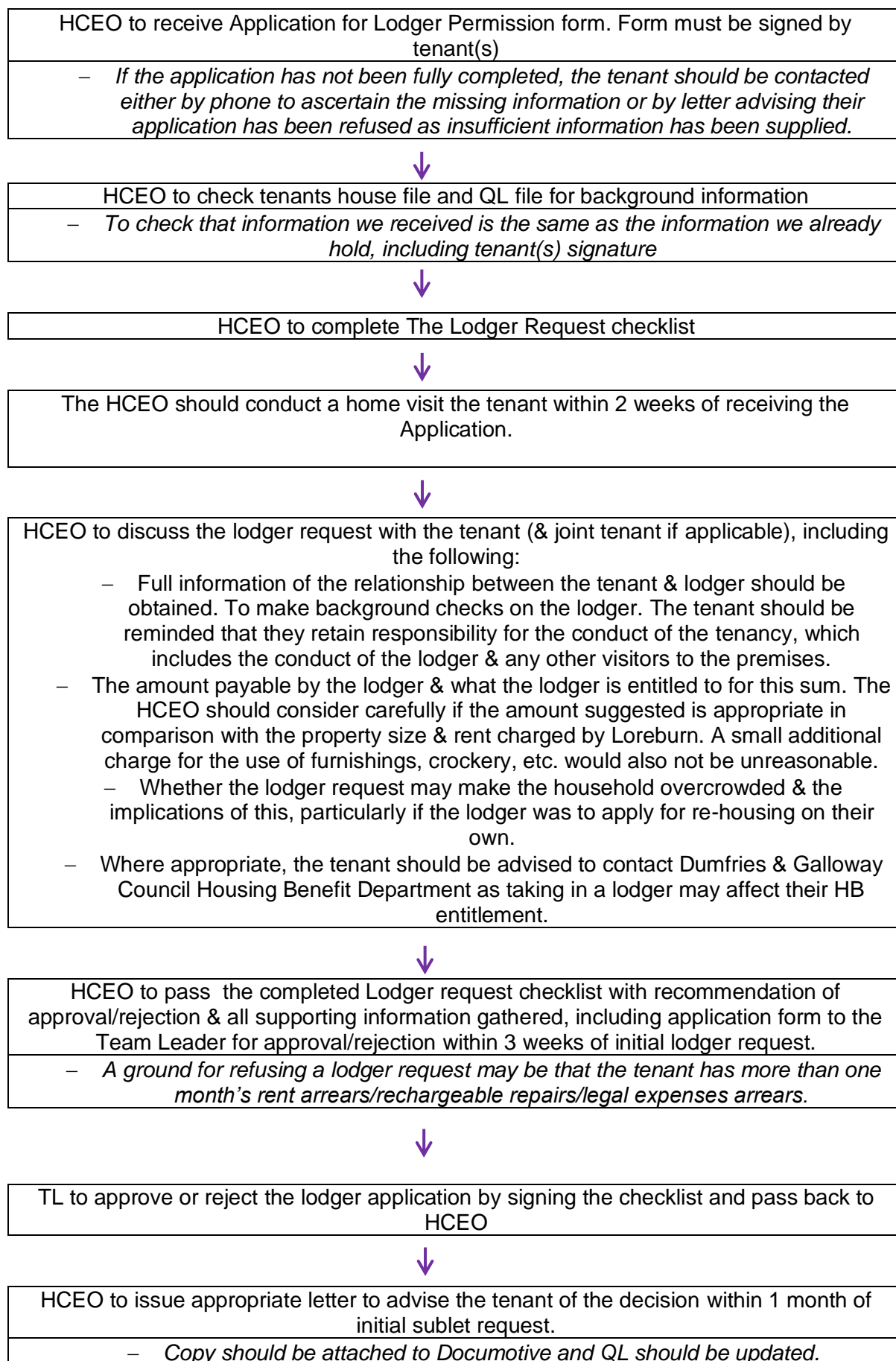


the expiry of one month. Failure to respond to a sublet request within 1 month will imply that consent has been given.



HCEO to diaries to check the status of the sublet one month before the end of the period permission granted for, to ensure the tenant makes arrangements to end the sublet as per permission conditions.

## Appendix Five – Lodgers Procedure

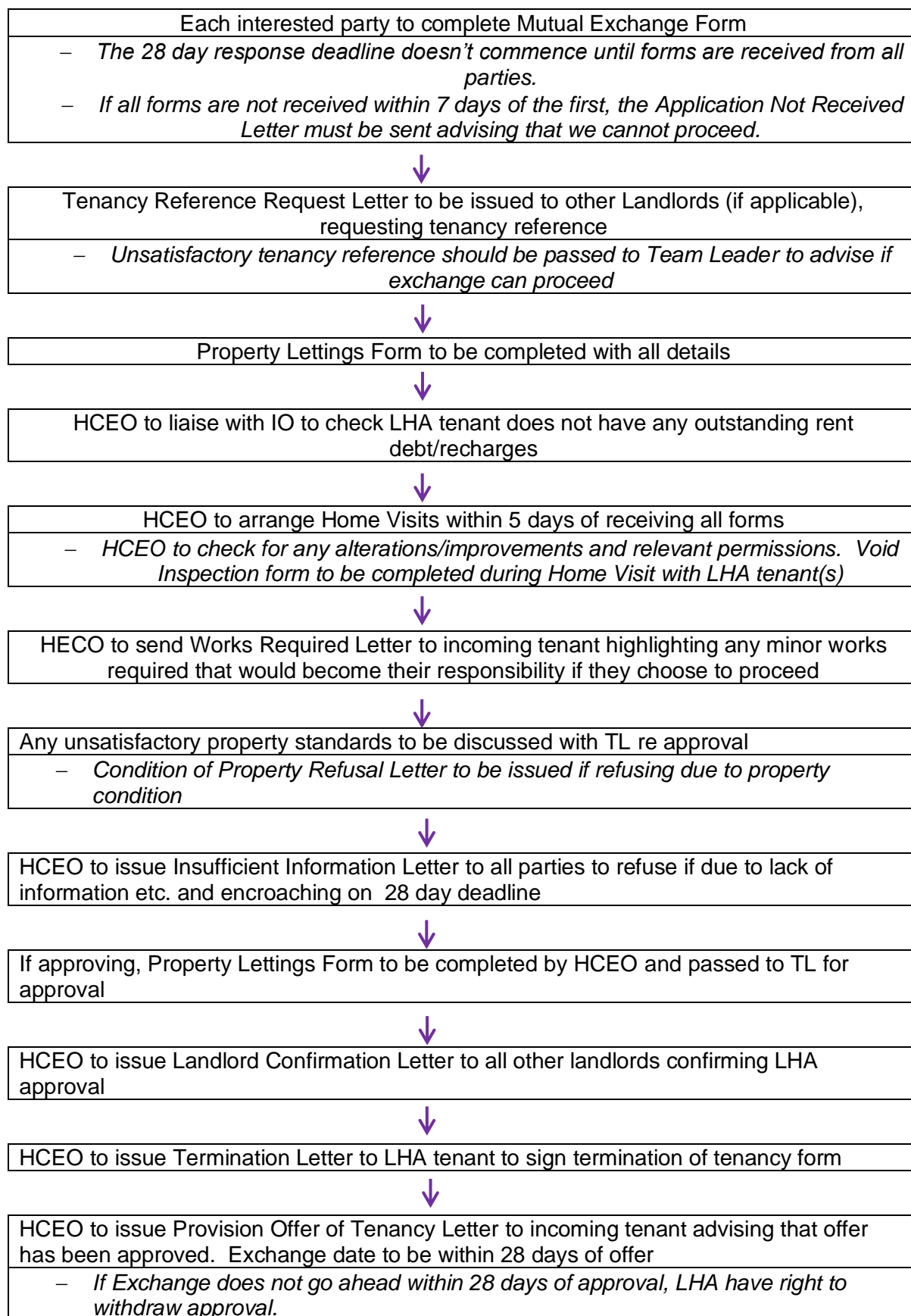


- Permission may be given for a maximum period of 12 months. If, for example, all supporting documentation has not yet been received, a refusal letter must be sent before the expiry of one month. Failure to respond to a lodger request within 1 month will imply that consent has been given.*

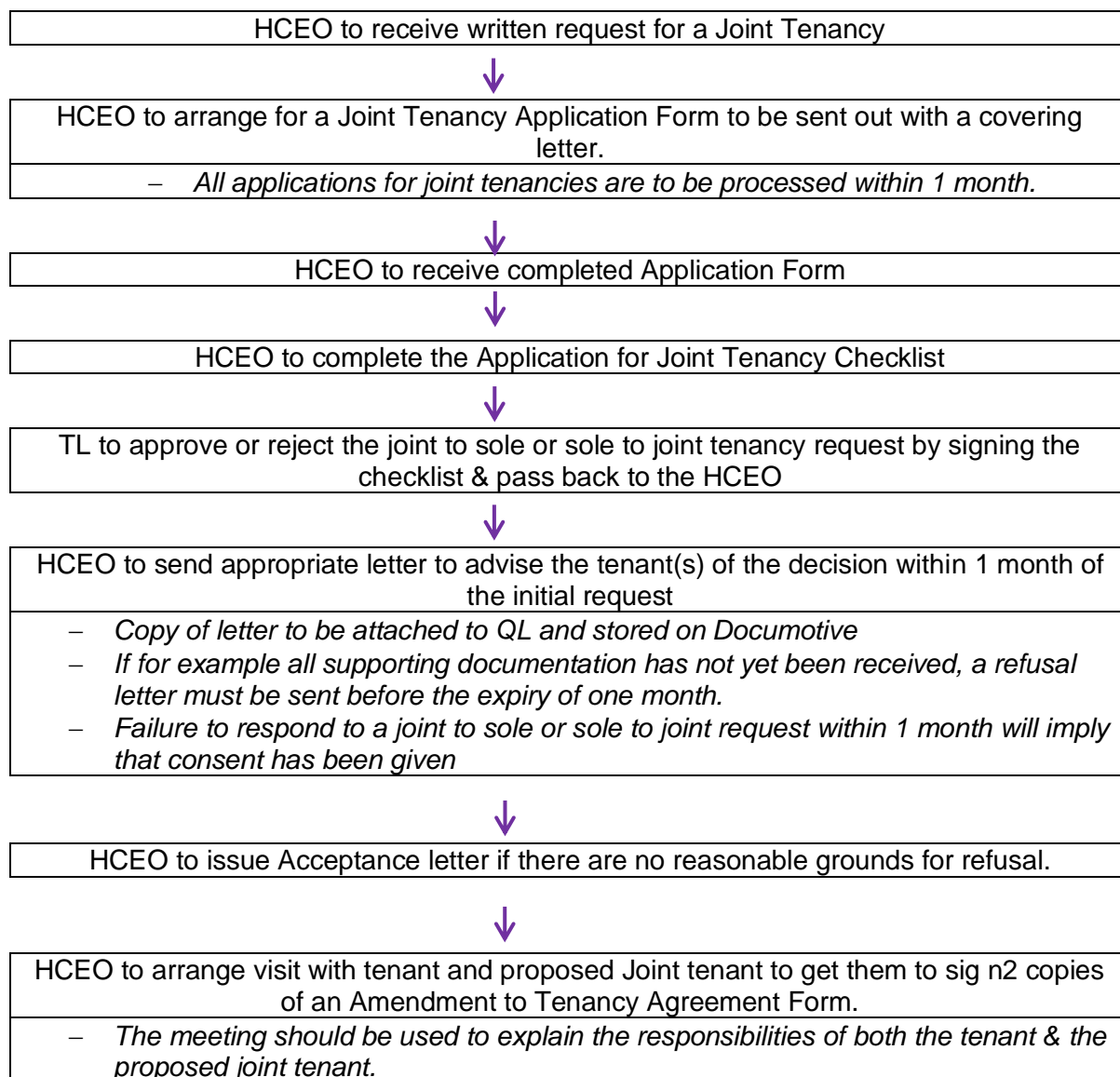


HCEO to diarise to check the status of the lodger one month before the end of the period permission granted for, to ensure the tenant reapplies for permission if they wish the lodger to remain resident.

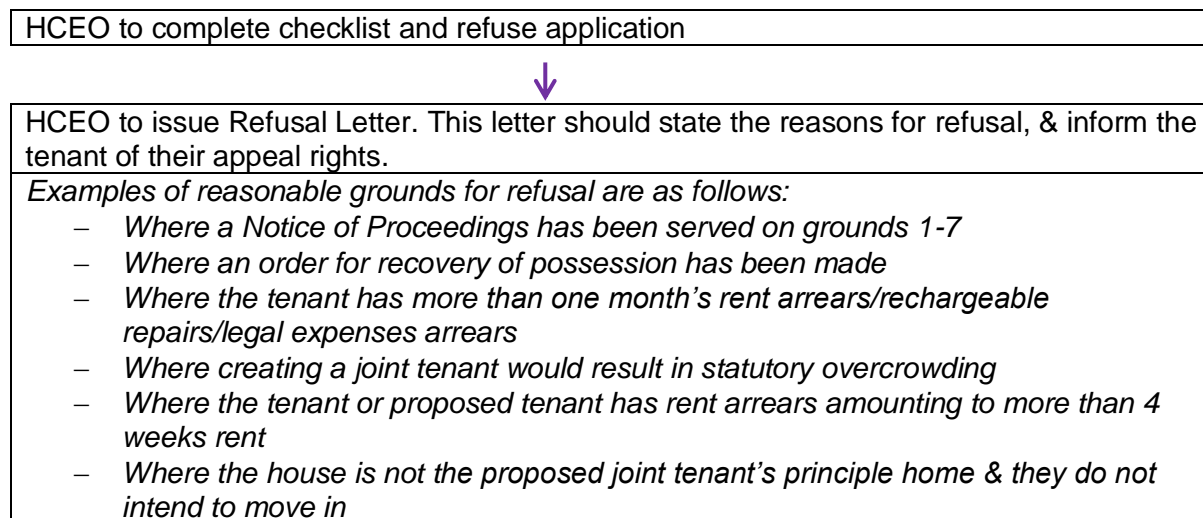
## **Appendix Six – Mutual Exchange Procedure**



## **Appendix Seven – Joint to Sole/Sole to Joint Procedure**



### **Refusal of Joint Tenancy Applications**



- *Where the proposed joint tenant does meet the eligibility criteria for the property & would be contrary to the Loreburn's Allocations Policy e.g. sheltered housing*

### Request for Conversion to Sole Tenancy

HCEO to receive 4 weeks written notice that one joint tenant wishes to end their interest in the tenancy. This tenant must also provide written notice to the other Joint tenant



If a joint tenant contacts LHA to enquire about ending their interest in the tenancy, the HCEO should issue a covering letter & 2 copies of the termination form



On receipt of termination forms, HCEO should send a copy to each joint tenant



HCEO to issue letter confirming their termination date to the joint tenant who wishes to end their interest in the tenancy

### Points to Consider

#### **Special Needs/Adapted Properties:**

- If the joint to sole request is submitted where the property is one which has been designed or adapted for the elderly/disabled & the person becoming the sole tenant does not require this type of specialised accommodation, then consideration has to be given to this fact. Spouses, co-habitees, joint tenants & other persons with special needs can be approved to take on the sole tenancy of that property. Whilst other 'qualified' persons will legally succeed, Loreburn may seek to offer the person more suitable alternative accommodation via a management transfer, thus releasing the specialised accommodation to be allocated to someone who requires it

#### **Other Checks:**

- Colleagues should pay particular attention to signatures and household details when considering all tenancy change requests, to ensure every effort is made to prevent inappropriate information being given to the wrong person, for example.
- Colleagues should check other relevant procedures to ensure other necessary processes are completed, such as gas checks or EPCs where appropriate, etc.

## Policy Assessment Checklist

### Health & Safety Assessment

**Does this policy have the potential to affect:**

Lone Working	Yes
Safety and/or wellbeing of staff	Yes
Safety and/or wellbeing of customers	Yes
<b>Have the above items been considered in the preparation of this policy?</b>	<b>Yes</b>

**Comments:**

### Equality, Diversity & Inclusion Assessment

**Does this policy have the potential to affect:**

Staff's rights to equal opportunities	Yes
Tenants' / Customer's rights to equal opportunities	Yes
Tenants' / Customer's ability to access to homes and/or services	Yes
<b>Have the above items been considered in the preparation of this policy?</b>	<b>Yes</b>

**Comments:**

### Agile Working Assessment

**Agile working requirements have been considered and addressed in the preparation of this policy:** Yes