

CHANGES TO YOUR TENANCY

Joint → Sole

and factors to be considered
when applying for



Sole → Joint

The information in this leaflet is for general guidance on your rights and responsibilities and is not legal advice. If you need more details on your rights or legal advice about what action to take, please contact the Law Centre, Citizens Advice or a Solicitor.



Introduction

A joint to sole tenancy is the process where a joint tenant is removed from a tenancy and the property places (vests) in the remaining tenant.

This can be done by Court Order. Where there is no Court Order the joint to sole process can only be achieved by ending the existing joint tenancy and starting a new sole tenancy. The Council is not obliged to allow a joint to sole arrangement (unless there is a Court Order) but may do so at its discretion. The onus is on you, as joint tenants, to resolve any issues relating to who is to request the tenancy before approaching the Council.

Option 1 - Informal Route

You should bear in mind that each tenant of a secure tenancy is jointly and individually liable for the tenancy. This means that you are each fully responsible for meeting the obligations of the tenancy. For instance, you would both be responsible for all of the rent, even if one of you moved out. As long as you remain a joint tenant, you are responsible for that tenancy.

Any breach of the tenancy agreement is the responsibility of both tenants.

In the same way, if one of you signs a Termination Form ending the tenancy, the whole tenancy will end, even if the other tenant does not know about the form. If you owe rent arrears when the joint tenancy ends, each of you will be responsible for paying them off. In other words, if one person won't pay their share, we will require the other person to pay in full.

In the event of one tenant ending the joint tenancy, the Council is not obliged to grant a sole tenancy to the remaining joint tenant. We will consider future occupancy of the property, breaches of tenancy conditions, e.g. rent arrears, anti social behaviour, your circumstances and each case on it's own merits.

Ending a joint tenancy is the tenant's responsibility.



Option 2 - Formal Route through the courts

We cannot recommend a course of action you should take but have listed the options available to you.

We recommend that you take independent legal advice from the Citizens Advice, Law Centre or Solicitor before changing your tenancy.

The severance of a joint tenancy can take place in several circumstances:

Matrimonial Causes Act 1973

The court can make an order during divorce proceedings that the property be transferred to one or other of the tenants. The tenants still have to carry out an assignment. We need a copy of the court order and deeds of assignment before arranging severance of the joint tenancy.

Family Law Act 1996

This allows the court during divorce proceedings to vest a tenancy in one of the partners. Where a court vests a tenancy in one of the tenants then there is no need for them to carry out an assignment. We need a copy of the court order before arranging severance of the joint tenancy.

Children Act 1989

Court orders can only be obtained for transfers of property by those going through a divorce. Therefore it would be of no use to those not getting a divorce. Under the Children Act, the court may order the transfer of property for the benefit of a child of the relationship. The parties will then have to assign the tenancy and send us copies of these and the court order. The court may need our permission before agreeing to the order.

Civil Partnership Act 2004

Civil partners can apply for a property adjustment order when seeking to terminate the civil partnership through the courts.

Definition: Assignment of a tenancy is defined as the legal transfer of an interest in a property from one person to another and can only happen in limited circumstances.



Useful Contacts

Rykneld Homes Ltd

Tel: 01246 217670 Web: www.rykneldhomes.org.uk

Derbyshire Law Centre

Tel: 01246 550674 Web: derbyshirelawcentre.org.uk

Citizens Advice

Tel: 0808 250 5702 Web: citizensadvicened.org.uk

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