



## Granting Sole and Joint Tenancies Policy

ENFORCEMENT POLICY			
Author:	Lisa Griffin	Authorised by:	Sharon Morgan
Owned by:	Sharon Morgan	Issue No:	1
Effective from:	01/06/15	Next Review date:	01/06/17
Consultation Required?		List who was consulted	
EIA Required?		EIA Completed	
Section:	Tenancy Management		
Ref. No:	GSJPTM01	Applies to:	



## 1. Table of content.

Page No	Section
Page 3	Purpose of the policy, scope & background/legal framework
Page 4	Policy statement
Page 5	Implementation
Page 7	Enforcement and recharge
Page 7	Service standards
Page 7	Value for money
Page 7	Equalities
Page 7	Monitoring and review



## 2. PURPOSE OF THE POLICY

This document sets out Haringey Council's policy for Applicants to be offered housing because of a secure joint tenancy ending as contained within the 2014 Housing Allocations Policy. Homes for Haringey as the Council's Managing Agent are required to implement and adhere to this policy.

The policy sets out the Council's approach to managing tenant requests to create a sole to joint tenancy and to convert a joint to a sole tenancy.

## 3. SCOPE

All requests for joint tenancies from existing sole tenants and requests for a sole tenancy from existing joint tenants.

## 4. BACKGROUND

### 4.1 Background/legal framework

#### Joint Tenancies

- There is no specific provision in the law that governs the granting of joint tenancies.
- Joint tenancies are granted at the discretion of the council.
- The council can register eligible applicants who wish to have a shared application as joint applicants for housing. All applicants have to meet the conditions on eligibility; all applicants must also qualify, although the Council may include non-qualifying persons on a joint tenancy provided at least one tenant qualifies.
- On an application to convert a **sole tenancy to a joint tenancy** all proposed joint tenants must also meet the conditions of eligibility.
- Joint tenancies will not, except in exceptional circumstances be granted with non partner family members. Any such decision will be made by the Decisions Panel in accordance with its published criteria.

#### Sole Tenancies

- Applications to convert a **joint tenancy to a sole tenancy**, commonly occurs where there is a relationship breakdown (with or without domestic violence).



- There are potential implications if there is a relationship breakdown (use of the McGrady Notice to formally end the joint tenancy).
- Should a joint tenant die, the tenancy automatically continues for the surviving joint tenant; whether it remains secure depends on whether the surviving joint tenant remains resident.

On relationship breakdown the courts have powers to order the transfer of a secure tenancy (joint or sole) in proceedings for divorce, separation and nullity. This 'transfer' is completed by applying for a property adjustment order under the relevant legislation. In making such an order the court must have regard to various matters, including the welfare of any child under 18 years of age.

## 5. POLICY

### 5.1 Policy statement

#### Creating a joint tenancy from a sole tenancy

All applications for a joint tenancy should be put in writing by the sole tenant.

The Council use the following criteria to consider whether to grant a joint tenancy to a couple who are married, civil partners, or living together as either married or civil partners –

- They must have been living together as such for at least twelve months. (unless they are married or in a civil partnership)
- The rent account must be clear (not in arrears).
- There must be no outstanding legal action or notice for breach of tenancy against the sole tenant for example Notice Seeking Possession or Notice to Quit (or where this is being considered).
- There must be no management problems such as nuisance or antisocial behaviour.
- Both the proposed joint tenants must be eligible for an allocation of housing.

#### Refusal



The Council can **refuse** to grant a joint tenancy or **extend the monitoring period** where:

- There is sufficient doubt about the relationship being genuine.
- The tenant had a joint tenancy in the past
- There is a limiting “covenant” on the tenancy, for example where the sole tenant had signed a declaration to give up an adapted property when it was no longer needed.
- If the partner is someone from whom the tenant had previously suffered/fled domestic violence or with whom the tenant had a previous joint tenancy dissolved by serving a McGrady Notice; then a joint tenancy should not be granted at this stage.

A request for a joint tenancy will only be considered after twelve months have elapsed in the permanent accommodation.

### **Advice**

A sole tenant requesting a joint tenancy will be provided with initial advice about the advantages and disadvantages of a joint tenancy and also advised to take independent advice. Main issues include:

- a) Both joint tenants are equally responsible for meeting the conditions of tenancy including paying the rent
- b) Potential implications if there is a relationship breakdown [use of the McGrady notice].
- c) Either joint tenant can apply for Housing Benefit although benefit is assessed on the household circumstances
- d) Should a joint tenant die, the tenancy automatically continues for the surviving joint tenant
- e) A new joint tenant cannot be held liable for a previous sole tenant's arrears

### **Creating a sole tenancy from a joint tenancy**

This request is usually the result of relationship breakdown but also occurs automatically when one of the joint tenants die. In the latter case the surviving joint tenant becomes the sole tenant on the first Monday after the date of death. S/he is legally responsible for any arrears as a new tenancy is not created.



## Relationship breakdown - ending a secure tenancy and granting a replacement sole tenancy

- A single joint tenant may end the tenancy by service of a McGrady notice; where the joint tenancy is so terminated, the property is not automatically offered to the tenant remaining; they may be offered a sole tenancy of that property or, if appropriate, of an alternative, smaller property. If the leaving former tenant wishes to apply for housing, they must apply to join the register in their own right.
- In deciding whether to grant a new sole tenancy, the Council will take into account:
  - Whether the departing joint tenant left as a result of domestic violence by the remaining tenant (in which case proceedings to evict would normally be taken)
  - Whether the remaining tenant under-occupies the property
- If the remaining former tenant qualifies to be offered the same property, the Council may offer them the tenancy of that property.
- If the remaining tenant qualifies to be offered a smaller property, they will be placed in Housing Needs Band A and will be able to express an interest in properties advertised through the Choice Based Lettings Scheme. However, if they have not been rehoused within six months of being placed in Housing Needs Band A, the Council will interview the applicant and decide whether or not to make them a 'direct offer'.
- If the applicant subsequently refuses a suitable offer, they will have no right to remain in their current accommodation.
- The decision on whether and if so what accommodation will be offered will be taken by the Decisions Panel

## 5.2 Enforcement and recharge



All applications and supporting documentation will be verified by the Council's Fraud Team. In cases where the applicant is required to vacate the property and fails to do so, appropriate action will be taken to recover the property

### 5.3 Service standards

Outcome within 20 working days from receipt of all verified supporting evidence.

### 5.4 Value For Money

Value for Money will be achieved by correct application of this policy and ensuring properties go to those on the waiting list as they should. Robust adherence to policy and procedure will minimise any loss of rent or equivalent charge.

### 5.5 Equalities

The 2014 Housing Allocations Policy was subject to an Equalities Impact Assessment.

## 6 MONITORING AND REVIEW

This is a Haringey Council policy. The Deputy Director of Operations in Homes for Haringey will monitor implementation and performance.

Revision	Date	Description of changes	Was a consultation carried out ? Who	Reviewed by
1.0	18/06/15	Initial Release		Lisa Griffin