



Joint Tenancies

If you have difficulty with reading this policy, including any difficulties with sight or hearing, or if you require this document translated into another language, please contact us and we will be happy to provide this information in a format that suits your needs.

Our Vision, Our Mission, Our Values

Our Vision

Elderpark Housing will lead the way in delivering outstanding customer services and great places to live.

Our Mission

To provide quality, affordable homes and excellent services which place a focus on our customers and enhancing our communities.

Our Values



Equality and Diversity Statement

Elderpark Housing are committed to ensuring people or communities do not face discrimination or social exclusion due to any of the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex or sexual orientation.

This document complies with our Equality and Diversity Policy.

We will regularly review this Policy and consider any equalities implications taking the necessary action to address any inequalities (either directly or indirectly) that result from the implementation of this Policy.

Executive Summary

Policy Author

The Housing Manager has developed this policy on behalf of the organisation. It applies to all requests for a joint tenancy.

Purpose of the Policy

The Joint Tenancy Policy aims to ensure that we have an accountable process to identify, record and put in place procedures to deal with joint tenancy requests, in accordance with legal provisions and contractual terms contained within the tenancy agreement.

Aims and Objectives of the Policy

The keys aims and objectives of this policy are:

- To give clear guidance on the process for dealing with joint tenancy requests
- To ensure that all requests for a joint tenancy are dealt with in line with and in accordance with legal provisions and contractual terms contained within the tenancy agreement
- To ensure that any requests are dealt with in accordance with our equality and diversity policy
- To advise customers of the complaints process

Legislative and Regulatory Compliance

We will seek to meet all of our legal obligations as set out in the following legislation:

- The Housing (Scotland) Act 2001
- The Housing (Scotland) Act 2014
- The Matrimonial Homes (Family Protection) (Scotland) Act 1981
- Equality Act 2010

In addition, we will meet the outcomes and standards contained within the Scottish Housing Regulator's Regulation Framework.

- Outcome 1 Equalities - Social landlords perform all aspects of their housing services so that 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.
- Outcome 2 Communication - Social landlords manage their businesses so that tenants and other customers find it easy to communicate with their landlord and get the information they need about their landlord, how and why it makes decisions and the services it provides.

- Standard 2 -The landlord is open about and accountable for what it does. It understands and takes account of the needs and priorities of its tenants, service users and stakeholders. In addition, its primary focus is the sustainable achievement of these priorities.
- Standard 5 - The RSL conducts its affairs with honesty and integrity

Equalities

We will ensure there is a consistent approach in promoting equality and diversity across all areas and this policy will be administered in accordance with this policy.

Privacy

This document fully complies with General Data Protection Regulations (2018) and once approved will be published on our website to ensure transparency of how we will seek to ensure Equality and Diversity across everything we do.

Related Policies

Policy Title	Location
Allocations Policy	V:\Elderpark Policy Suite\Housing Management Policies\H2 Allocations Policy.pdf
Equality and Diversity Policy	V:\Elderpark Policy Suite\Governance Policies\G13 Equality and Diversity Policy.pdf
Succession Policy	V:\Elderpark Policy Suite\Housing Management Policies\H17 Succession Policy.pdf
Abandonment Policy	V:\Elderpark Policy Suite\Housing Management Policies\H1 Abandonment Policy.pdf
Ending a Joint Tenancy Policy	V:\Elderpark Policy Suite\Housing Management Policies\H11 Ending a Joint Tenancy Policy.pdf

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1 Introduction

- 1.1 Elderpark Housing Association (EHA) is a registered social landlord, established in 1975. We have strived to improve the lives of our residents, create opportunities and build a safe and secure environment. The Association is a 'not for profit' organisation, registered and regulated by the Scottish Housing Regulator and is governed by a voluntary Management Committee of up to 15 people who employ a team of staff to manage the Association on a day-to-day basis.
- 1.2 The Management Committee is responsible for approving this Policy, and for overseeing its implementation. The Chief Executive and Management Team have operational responsibility for policy implementation, and for reporting to the Management Committee on areas relevant to joint tenancy requests.

2 Purpose of Policy

- 2.1 The joint tenancy policy aims to ensure that we have an accountable process to identify, record and put in place procedures to deal with occasions where there is a request for a joint tenancy, in accordance with legal provisions and contractual terms contained within the tenancy agreement.
- 2.2 This policy is written in accordance with our Equality and Diversity Policy to ensure that tenants and residents in our community do not face discrimination, victimisation, harassment or social exclusion due to any of the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex or sexual orientation.

3 Aims and Objectives

- 3.1 This policy is a key document within the Association. Its underlying objectives are:
 - To give clear guidance on the process for dealing with requests for a joint tenancy
 - To ensure that all joint tenancy requests are dealt with in line with and in accordance with legal provisions and contractual terms contained within the tenancy agreement
 - To ensure that any joint tenancy requests are dealt with in accordance with our equality and diversity policy
 - To advise customers of the complaints process

4 Legal and Regulatory Framework

- 4.1 Legal provisions exist within the Housing (Scotland) Act 2001 as amended by The Housing (Scotland) Act 2014 section 12(1) that give Scottish Secure Tenants the right to apply for a joint tenancy with one or more individuals who either live (or intend to live) as their only or principal home.

5. Applying for a Joint Tenancy

- 5.1 Before a tenant can have someone added to their tenancy agreement, they must apply to us for written consent. In order to create a joint tenancy, the following criteria must be fulfilled:
- The proposed joint tenant must have lived at the property as their only or principal home for 12 months prior to the joint tenancy application.
 - For the 12 month period to begin, we must have been informed in writing by the tenant, joint tenant or proposed joint tenant that the person was residing in the property as their only or principal home. The 12 month period applies to anyone wishing to be a joint tenant including the tenant's spouse, civil partner or co-habiting partner.

6. Refusal of a Joint Tenancy

- 6.1 Applications for joint tenancies will only be refused where there are reasonable grounds for doing so. The legislation does not clearly define what is regarded as "reasonable grounds" for refusal, however, the following grounds would be considered as reasonable for refusing an application for joint tenancy.
- The property has not been the proposed joint tenant's only or principal home during the 12 months immediately before the application is received
 - The tenant, joint tenant or proposed joint tenant failed to notify us in writing that the person they wish to become a joint tenant is living in the property
 - The proposed joint tenant has been suspended from the Housing List under Section 20B (6) (a) or (b) of The Housing (Scotland) Act 2014. The joint tenancy can be refused on anti-social behaviour or previous convictions. Details of suspensions under the above section are contained within our allocations policy.
 - The proposed joint tenant has outstanding tenancy debt with us amounting to more than one month's rent and has not kept to a reasonable payment arrangement for 3 consecutive months or more.

- A Notice of Proceedings has been served on the tenant specifying any of the grounds set out in paragraphs 1 to 7 of Schedule 2 of The Housing (Scotland) Act 2001.
- We have commenced legal action against the original tenant to recover possession of the house, including abandonment proceedings
- The approval of the joint tenancy would lead to overcrowding
- The proposed joint tenant has previously been evicted by us or other social housing tenancy within the last five years
- We are proposing to carry out work to the house or building that would affect the accommodation that would be occupied by the proposed joint tenant

7. Timescale for Responding to Requests

- 7.1 The tenant and proposed joint tenant will be advised of the decision in writing within one month of the original application being received. They will also be advised of the complaints procedure.

8. Principal Home

- 8.1 The issue concerning whether or not a house is a person's principal home is a question of fact and each case will be assessed on its merits. Different factors which will be taken into account are:

- Information held on the tenancy file
- Information about another tenancy, for example, information provided by other landlords
- Information from official sources such as an employer or medical records
- Information from other agencies such as Social Work or the DWP
- Information from neighbours, relatives etc

9. Creation of a Joint Tenancy

- 9.1 Where a joint tenancy has been granted the tenant, the proposed joint tenant will be asked to sign a Minute of Variation of the original tenancy agreement. All joint tenants will be joint and severally liable for all responsibilities of the tenancy agreement and will be advised of this at the time of signing.

10. Termination of a Joint Tenancy

10.1 Any joint tenant has the right to terminate their interest in the tenancy by us and each of the other joint tenants 4 weeks written notice. Details of ending a joint tenancy are contained within our ending a Joint Tenancy policy.

11. Succession to Tenancy

11.1 Where one of the joint tenant's dies the other automatically has the right to succeed the tenancy provided it is their only or principal home at the date of the other tenant's death. Details of succession are contained within our Succession Policy.

12. Implementation of the Policy

12.1 This policy will be implemented in line with our joint tenancy procedures. Staff will be fully conversant and trained to carry out all aspects of the policy and procedures in a fair and equal manner.

13. Monitoring of the Policy

13.1 In order to comply with our service commitments, we will monitor aspects of joint tenancy requests, for example, complaints.

14. Complaints and Appeals

14.1 The law does not provide for an appeal to the Sheriff Court in cases of dispute. However, any complaints will be dealt with in line with our Model Complaints Handling Procedure. We monitor the effectiveness and efficiency of current practice by recording the following:

- The number of complaints received
- The types of complaints
- The outcome of complaints
- Satisfaction levels through CX Feedback

15. Review

15.1 This policy will be reviewed every three years or as good practice and legislation dictate.

Equality Impact Assessment

Name of Policy to be assessed	Joint Tenancies	New policy or revision of existing?	Revision of existing policy
Person(s) responsible for assessment		Elaine Somerville	
Briefly describe the aims, objectives and purpose of the policy.	<p>The aims, objectives and purpose of the policy are to:</p> <ul style="list-style-type: none"> • To give clear guidance on the process for dealing with joint tenancy requests • To ensure that all requests are dealt with in line with in accordance with legal provisions and contractual terms contained within the tenancy agreement • To ensure that any requests are dealt with in accordance with our equality and diversity policy • To advise customers of the complaints process 		
Who is intended to benefit from the policy? (e.g. applicants, tenants, staff, contractors)	Tenants will benefit from this policy		
What outcomes are wanted from this policy? (e.g. the measurable changes or benefits to members/ tenants / staff)	<p>The outcomes wanted from this policy are:</p> <ul style="list-style-type: none"> • To give clear guidance to staff and tenants on the process for dealing with joint tenancy requests • To ensure that all requests for a joint tenancy are dealt with in line with in accordance with legal provisions and contractual terms contained within the tenancy agreement • To ensure that any requests are dealt with in accordance with our equality and diversity policy 		
Which groups could be affected by the policy? (note all that apply)			
Age		Disability	
Gender reassignment		Marriage and Civil Partnership	
Pregnancy and Maternity		Race	
Religion or Belief		Sex	
Sexual Orientation			
If the policy is not relevant to any of the equality groups listed above, state why and end the process here.			
The policy pertains to everyone and does not affect one particular group			
Have those affected by the policy / decision been involved?			
Tenants have previously been notified of the policy via newsletters and letters			

Describe the likely positive or negative impact(s) that the policy could have on the groups identified above.	Positive Impact(s)	Negative Impact(s)
What actions are required to address the impacts arising from this assessment? (This might include: additional data, putting monitoring in place, making adjustments, taking specific action to mitigate any potentially negative impacts)	Satisfaction/dissatisfaction will be recorded through CX Feedback and any necessary policy/procedural changes implemented following this.	

Signed:	<i>Elaine Somerville</i>
Dated:	10/8/21

GDPR Impact Assessment

Name of Policy to be assessed	Joint tenancies	New policy or revision of existing?	Revision of existing policy
Person(s) responsible for assessment		Elaine Somerville	
Briefly describe the aims, objectives and purpose of the policy.	<p>This aims and objectives of the policy are to:</p> <ul style="list-style-type: none"> • To give clear guidance on the process for dealing with joint tenancy requests • To ensure that any requests are dealt with within the existing legal provisions, regulatory requirements and best practice guidance • To ensure that any requests are dealt with in accordance with our equality and diversity policy • To advise customers of the appeals process 		
Which type of data will be used by implementation of this policy? (e.g. personal, sensitive or special category)	Personal data will be used to implement this policy		
What outcomes are wanted from this policy? (e.g. necessary to meet legal obligations)	<p>The outcomes wanted from this policy are:</p> <ul style="list-style-type: none"> • To give clear guidance to staff and tenants on the process for dealing with joint tenancy requests • To ensure that all requests for a joint tenancy are dealt with in line with in accordance with legal provisions and contractual terms contained within the tenancy agreement • To ensure that any requests are dealt with in accordance with our equality and diversity policy 		
Which groups could be affected by the policy? (note all that apply)			
Tenants	X	Committee	
Employees		Contractors	
If the policy is not relevant to any of the data groups listed above, state why and end the process here.			
Have those affected by the policy / decision been involved?			
Tenants have previously been notified of the policy via newsletters and letters			
Describe the likely positive or negative impact(s) that the policy could have on the groups identified above.	Positive Impact(s)		Negative Impact(s)

What actions are required to address the impacts arising from this assessment? (This might include: additional data, putting monitoring in place, making adjustments, taking specific action to mitigate any potentially negative impacts)	The Association has systems and checks in place to ensure that personal data remains confidential.	

Signed:	<i>Elaine Somerville</i>
Dated:	10/8/21