

Information for Tenants

Leaflet No. 15
(Issue May 2011)

Joint Tenancies

A joint tenancy is normally offered to married and other established couples when they are housed by the Association. However, applications from other family members or friends may be considered. In addition, any existing tenant may request that a partner be included on their tenancy. Such requests will normally be agreed after a waiting period of one year.

Problems arise when couples split up but cannot agree on who should keep the tenancy. Once a joint tenancy has been created, Arcon has no power to change the tenancy to the sole name of one partner.

This leaflet explains some of the issues involved in creating and ending joint tenancies.

Creating Joint Tenancies

- Where there is a new letting or a transfer, joint tenancies will normally be offered to married couples, civil partners and other established couples who can show they have been living together for a period of at least one year.
- If only one of a couple has been nominated for housing then, in general, sole tenancy only will be offered.
- A sole tenant who subsequently marries or enters in to a civil partnership will usually be granted a joint tenancy on request.
- Any tenant may request that their cohabiting partner be included on their tenancy agreement. Arcon will register the request and consider it after a period of at least one year. Such a request may be refused for the following reasons:
 - rent arrears
 - history of relationship breakdown
 - one or both of the parties have not lived in the premises for at least one year
 - the proposed joint tenant is not a spouse or cohabiter.
- For the creation of a joint tenancy to be legally effective, the sole tenant must agree in writing to give up their existing tenancy on the understanding that a new joint tenancy will be issued.

Implications of creating a Joint Tenancy

- Sole tenants should give careful consideration before giving up their sole tenancy in favour of a joint tenancy.
- Joint tenants are jointly and individually liable for obligations under the tenancy. If one leaves, the remaining tenant can be pursued for the whole of any arrears owing.
- If one partner in a joint tenancy leaves, he/she does not lose any rights under the tenancy. The presence of the other partner in the property ensures that the absent tenant retains security of tenure. The absent tenant can return at any time and claim their tenancy rights.

Ending a Joint Tenancy

There are only 5 ways in which a joint tenancy can be ended or changed into the sole name of one partner.

- By a Notice to Quit and/or Possession Order granted to Arcon in the Courts on one of the grounds laid down in the Housing Act 1985 or Housing Act 1988 (as amended by the Housing Act 1996).
- By legal assignment from one of the joint tenants to the other (see Information for Tenants Leaflet No. 14).
- By Notice to Quit by one or both partners which will completely end the tenancy.
- By a Property Adjustment Order made during divorce, separation or guardianship proceedings.
- On death by succession right (see Information for Tenants Leaflet No. 14).

Relationship Breakdown

When a relationship breaks down there is little that Arcon as a landlord can do. We can give basic information on the legal protection available to safeguard the interests of children and deal with violence or harassment but tenants should pursue these matters with the aid of professional legal advice. Tenants should note that alternative housing for one partner is not automatic under Arcon's lettings policy and that the Association cannot change a person's right to a tenancy except in the circumstances given overleaf.

Domestic Violence

A person suffering, or in fear of violence, may seek an injunction against a partner in the Courts. Different acts may apply depending on all the circumstances of the case. One example is the Domestic Violence and Matrimonial Proceedings Act which may be used by married couples, civil partners and joint tenants living together as man and wife. Under this Act an order can be made granting protection from violence or harassment and regulating who should occupy the home.

Protecting Children

In divorce, end of a civil partnership, separation or custody proceedings, the Courts have the power to order that a tenancy is transferred to one parent alone so as to safeguard the interests of any children.

Partner has disappeared

A tenancy cannot be changed simply because one of the joint tenants has left. However, if the absence is lengthy eg over a year, and the remaining tenant can show that every effort to trace the other tenant has been made, the Association may agree to issue a new sole tenancy when the remaining tenant formally gives up the joint tenancy by Notice to Quit.

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