

Tenancy Changes Policy

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1.0 Scope and aims

- 1.1 This policy covers the granting of new tenancies, and changes to existing tenancies. It reflects Hexagon's position on sole and joint tenancies.
- 1.2 Residents may be granted or hold sole or joint tenancies. This policy outlines how Hexagon will respond to requests from residents to change their tenancies.
- 1.3 The policy applies to all residents who are granted a new Hexagon tenancy and those residents who request changes to the tenancy.
- 1.4 The policy aims to:
 - Clarify the terminology and difference between joint tenancy and sole tenancy.
 - Explain when a joint tenancy can be granted to new residents
 - Explain when existing residents can request changes to their tenancy.
 - Provide an excellent service to residents who are granted a new tenancy or changes to an existing one in accordance with best practice and the law.
 - Prevent fraud occurring
 - Maximise the use of the housing stock

2.0 Equality and Diversity Impacts

- 2.1 An initial screening has been made via Hexagon's equality impact assessment and there are no adverse equality impacts.
- 2.2 This Policy will be implemented in accordance with Hexagon's responsibilities and duties under relevant legislation, including the Equalities Act 2010.

3.0 Consultation

This policy has not been consulted on as it was not selected by Hexagon's Resident Advisory Group (RAG).

4.0 Policy Statement

- 4.1 Granting or changing a tenancy is an area that has great potential for fraud. Hexagon will ensure that documents are verified thoroughly and a credit check is carried out.
- 4.2 Hexagon will usually offer joint tenancies where it is the intention for both parties to occupy the property as their only or principal home:
- Couples with a legal relationship – marriage or civil partnership
 - Couples nominated or referred jointly to the association
 - Other established couples who can show that they have been living together for a period of at least one year.

5.0 Granting of the Initial Tenancy

- 5.1 If only one of a couple has been nominated or referred, then a sole tenancy will be granted. If a couple has been nominated, then the tenancy will be granted in joint names as long as they both fulfil the requirements in 4.2.

6.0 Death of a joint resident

- 6.1 On the death of a joint resident, the tenancy automatically continues for the surviving joint resident provided they occupied the premises as their only or principal home at the time of the death.
- 6.2 Please see the Hexagon Succession Policy

7.0 Request to change a tenancy

- 7.1 **Joint to sole tenancy**
- 7.2 Hexagon cannot amend a tenancy simply because one of the joint residents is no longer living at the home. The tenancy continues as long as one joint resident continues to occupy the property as their only or principal home and the non-occupation of one party does not affect the rights and responsibilities of both joint residents.
- 7.3 Hexagon will notify all joint residents if a request for assignment is being refused and the reason(s) why. There will need to be good

reason not to notify all joint residents, for example where this would put a joint residents or other household member at risk.

7.4 A court may also order that a tenancy is changed from joint names to a sole tenancy.

7.5 **Absentee Residents**

7.6 If one of the joint residents has left the property and cannot be traced or is uncooperative, then it will not be possible to assign the tenancy to a sole resident because both residents must agree to this. However, in some cases, Hexagon will agree to grant a new tenancy to the remaining resident if they end the tenancy by completing a valid notice to quit giving four weeks' notice. Hexagon would not normally agree to this unless:

- The absent joint resident has made it clear by their actions that they have no intention of returning to or retaining a legal interest in the property AND
- Evidence and investigation shows that there is no chance of getting in touch with the absent resident to confirm their intentions OR such contact could put the remaining resident at risk.

7.7 A new tenancy will only be granted where the rent account is clear and no legal action is pending or exclusion order etc. exists.

7.8 Hexagon may not agree to grant a new tenancy if the home would be unsuitable for the proposed new sole resident, for example under-occupied.

7.9 In cases where Hexagon consent, the remaining resident will need to serve a valid notice to quit. Once this has expired, a new tenancy is then granted to the remaining customer making them a sole customer.

7.10 **Sole to joint tenancy**

7.11 There is no legal requirement for a landlord to grant a request from a sole resident for their tenancy to become a joint tenancy. A

spouse or partner would have the right to succeed to the tenancy in the event of the sole tenant's death.

7.12 Sole to joint tenancies is a way of passing one tenancy to another, and can be open to abuse and fraud. Hexagon will therefore not grant sole to joint tenancies.

7.13 If an assignment is completed without the prior consent of Hexagon, this will be legally invalid and Hexagon will consider taking possession proceedings against the occupants of the property.

8.0 Legal Framework

- Housing Acts 1980, 1985, 1988, 1996
- Localism Act 2011
- Protection from Eviction Act 1977
- Landlord and Tenant Act 1997
- Civil Procedure Rules 1998
- County Courts Act 1984
- Equality Act 2010
- Human Rights Act 1998
- Data Protection Act 1998

9.0 Relevant Hexagon Policies and Procedures

- Allocations policy and procedure
- Rent Arrears policy and procedure
- Succession policy and procedure
- Mutual exchange policy and procedure