

1.0 CONTEXT

- 1.1. It is a term of every Scottish Secure Tenancy that the Tenant may add a joint tenant to the tenancy subject to certain conditions.
- 1.2. The Housing (Scotland) Act 2001, and more recently the Housing (Scotland) Act 2014, makes provisions for a joint tenancy and defines the circumstances in which it can be used.

2.0 AIMS

- 2.1 To ensure equality of opportunity and consistency of approach in dealing with joint tenancy requests.
- 2.2 To ensure compliance with legislation, guiding standards and best practice.
- 2.3 To mitigate risk.

3.0 DEFINITIONS

- 3.1 For the purposes of this policy, the following definitions will apply:
 - 3.1.1 *Joint Tenancy* describes a situation whereby more than one person is legally responsible for the tenancy. All parties have equal rights and equal liabilities in respect of the tenancy.
 - 3.1.2 *Sole Tenancy* describes a situation whereby only one person is legally responsible for the tenancy. The sole tenant holds sole responsibility and sole liability, even if there is more than one resident, and this is irrespective of whether the Tenant's spouse is resident in the property.
 - 3.1.3 *One Month* is the term used in legislation. For the purposes of this policy and in line with the tenancy agreement, GWHA will stipulate 28 days.

4.0 POLICY

4.1 General

- 4.1.1 It is a term of every Scottish Secure Tenancy that joint tenancy is permissible only
 - i. with GWHA's consent in writing ; and
 - ii. where the prospective joint tenant has lived at the property as their only or principal home for a minimum of 12 month's prior to the request.
- 4.1.2 The 12-month period of residence is a mandatory legislative requirement, and commences only from the date the landlord was notified that the house in question was the person's only or principal home. Consistent with legal advice, GWHA requires such notification in writing and will acknowledge receipt of any notification.
- 4.1.3 All requests for a joint tenancy must be in writing.
- 4.1.4 GWHA will confirm consent or refusal (with reasons) to the Tenant in writing within 28 days of receipt of the application. Failure to respond within 28 days implies consent.
- 4.1.5 There will be no limit to the number of occasions on which a joint tenancy may be granted by GWHA, providing this does not conflict with the terms of another policy (e.g. Succession to Tenancy).
- 4.1.6 The granting of a Joint tenancy for specially adapted accommodated will generally be limited to spouses/civil partners/cohabiting couples and/or to household members who require accommodation of the nature described.
- 4.1.7 There will be a maximum of two joint tenants to a tenancy agreement at any one time, unless there are exceptional circumstances and approval has been obtained from the Services Director.

4.2 Exceptions

- 4.2.1 GWHA is entitled to refuse consent for joint tenancy if it has reasonable grounds for doing so. The following circumstances would constitute reasonable grounds for refusal, although this list is not exhaustive:
 - i. A Notice of Proceedings for Recovery of Possession has been served on the tenant, under any of the grounds 1-7 of Schedule 2;
 - ii. An order for recovery of possession of the house has been granted to GWHA in respect of the tenancy;
 - iii. The property/tenancy in question is intended specifically for a tenant with a particular support/housing need and the proposed joint tenant does not have this housing/support need. The only exception to this will be where the proposed joint tenant is the spouse or co-habitee of the tenant.

- iv. Where, by GWHA's definition¹, the joint tenancy would lead to overcrowding within the property;
- v. GWHA proposes to carry out work on the house, or in the building of which is forms part, where the proposed works will affect the accommodation.
- vi. There are outstanding rent arrears exceeding the value of one month's rent or rechargeable repairs.
- vii. The Tenant, or the prospective joint tenant has a history of anti-social behaviour, or has been the subject of legal action in respect of a previous tenancy within the previous three years.
- viii. There has been a succession to the tenancy, unless there are exceptional circumstances and approval has been obtained from the Services Director.

4.3 Request for rehousing from a Joint Tenant

- 4.3.1 Where a joint tenant is seeking rehousing with GWHA and the reason for impending homelessness is domestic violence or harassment, the tenant will be considered as an internal transfer applicant to ensure rehousing is offered at the earliest opportunity and where rehousing within GWHA geographical areas is appropriate.
- 4.3.2 In all other cases, and in accordance with the Housing Allocations Policy, GWHA will provide information and advice. Housing Applications will be assessed for access to the Housing List.

4.4 Termination of Joint Tenancy

- 4.4.1 A Joint Tenant may terminate his/her interest in the tenancy by giving 28 days notice in writing to GWHA and to each of the other joint tenants.
- 4.4.2 GWHA must be satisfied that proper notice has been given by the joint tenant to each of the other joint tenants.

4.5 Abandonment by Joint Tenant

- 4.5.1 Prior to terminating the interest of a Joint Tenant who is suspected of abandoning the property, GWHA will:
 - i. give 28 days notice in writing
 - ii. make enquiries in accordance with the Abandonment Procedures to ensure that the tenant is not occupying the property and does not intend to occupy it as his/her only or principal home
 - iii. serve a further notice bringing the abandoning tenant's interest in the tenancy to an end with effect from a date that will be not earlier than 8 weeks after the date of service of the notice.

4.6 Recovery of Possession of a Joint Tenancy

- 4.6.1 GWHA will be required to convince the Sheriff that it is reasonable to evict all parties to a joint tenancy. If any of the joint tenants has not actively contributed to the breach of tenancy, GWHA may consider an offer of rehousing for the joint tenant(s) in question.

5.0 FEEDBACK, APPEALS AND COMPLAINTS

5.1 Feedback

- 5.1.1 GWHA Tenants and other customers may provide feedback about this document by emailing admin@glasgowwestha.co.uk

5.2 Appeals and Complaints

- 5.2.1 Applicants with a grievance arising for their application for joint tenancy will be considered in accordance with GWHA's Comments and Complaints Policy.
- 5.2.2 Once the Association's Comments and Complaints Policy is exhausted, there is a right of appeal to the Scottish Public Services Ombudsman (SPSO). As the SPSO is unlikely to comment on matters of a legal nature, a review will focus on the proper application of the Association's policy, rather than the legalities of joint tenancy.

¹ GWHA's Housing Allocation's Policy outlines the occupancy standard

5.2.3 The Housing (Scotland) Act 2001, Schedule 5, Part 2 gives Tenants a statutory right to appeal against a refusal for joint tenancy to the Sheriff by way of summary application. Tenants are advised to seek legal advice, or assistance from an organisation such as Shelter Scotland or Citizen's Advice Scotland.

6.0 REVIEW

6.1 This policy will be reviewed every 5 years, or sooner, subject to a change in legislation of circumstance.

6.2 . In the event of any conflict between the policy and legislation, the latter will always preside.

7.0 DELEGATED AUTHORITY

7.1 Delegated authority is granted by the Management Committee:

- i. to the Chief Executive and Staff to implement this Policy and the associated procedures.

To the Services Director to agree exceptional circumstances as per sections 4.1.6 and 4.2.1(Viii).