



# Housing Management

## Joint Tenancies

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<b>Scope:</b>	This policy applies to Circle 33 Housing Trust, Mercian Housing Association, Merton Priory Homes, Mole Valley Housing Association, Old Ford Housing Association, Roddons Housing Association, Russet Homes, South Anglia Housing and Wherry Housing Association
<b>Effective Date:</b>	August 2009
<b>Review Date:</b>	November 2011
<b>Author:</b>	Zoe Buick, Policy Manager
<b>Policy Owned by:</b>	Group Policy Team
<b>KLOE:</b>	Lettings and Allocations
<b>QAF (Supported Housing):</b>	N/A
<b>Statute:</b>	Housing Act 1988 Civil Partnership Act 2004 Human Rights Act 1998
<b>Regulatory Code:</b>	3.5.2, 3.5.4

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# Joint Tenancies

## 1 Scope

- 1.1 This policy applies to: Circle 33 Housing Trust, Mercian Housing Association, Merton Priory Homes, Mole Valley Housing Association, Old Ford Housing Association, Roddons Housing Association, Russet Homes, South Anglia Housing, Wherry Housing Association.

## 2 Policy Statement

- 2.1 Circle Anglia works to improve people's life chances through providing great homes and reliable services to residents, and through helping build sustainable communities where people want to live and work.
- 2.2 Circle Anglia is committed to empowering residents to exercise as much choice as possible in the conduct of their tenancies. We acknowledge that the creation of a joint tenancy can often assist residents to sustain their tenancies in a more stable and solvent way.
- 2.3 However, we also acknowledge that where relationship breakdown occurs, assigning a joint tenancy to a sole tenancy may lead to a loss of tenancy rights and an increased vulnerability to the tenancy being terminated.
- 2.4 We will therefore act responsibly towards tenants wishing to form joint tenancies by providing appropriate advice and assistance at the point of request and making sure that our residents are equipped to make informed decisions about changing their tenancies.

## 3 Policy

- 3.1 Joint tenants are jointly and severally responsible for all the obligations of the tenancy. A single joint tenant is held responsible for rent arrears or nuisance even if the breach is committed by the other tenant. This remains the case even if they no longer live at the property.
- 3.2 Correspondence that is sent from Circle Anglia will be addressed to both joint tenants, even if one has moved out of the property. The only exception to this may be in rent arrears cases where the Pre-Action Protocol demands otherwise.
- 3.3 Once a joint tenancy has been created we have no power to transfer the tenancy to one party unless both tenants agree.
- 3.4 Joint tenants have greater property rights in successions than other household members.
- 3.5 A joint tenancy will only be made between a tenant and his or her partner, including same sex partners, and apart from exceptional cases, not between a tenant and their carer, parent, sibling or other family member.

- 3.6 Where the term 'partner' or 'common law partner' is used, this includes same sex partners.

### **Criteria for eligibility – joint tenancies**

- 3.7 We will allow the creation of a joint tenancy if all of the following apply:
- the property is self-contained
  - the incoming tenant is a married, civil, or common law partner of the current tenant
  - the current tenant gives their consent in writing
  - the incoming tenant has lived at the property with the tenant for at least 12 months, unless married to, or a civil partner of the tenant
  - the current tenant is not in rent arrears.
- 3.8 Where the property is designated as supported housing, the proposed joint tenant must also be in need of the support service provided at the property, unless exceptional circumstances apply.
- 3.9 We would not allow the creation of a joint tenancy where the current tenant is subject to an existing court order for a breach of the tenancy agreement, or a valid Notice of Seeking Possession (NOSP) has been served.
- 3.10 Married couples and civil partners do not need to fulfil the 12-months residency rule and can be made into joint tenants provided that all the other requirements are satisfied and that proof is provided of their legal status. Partners who are not part of a civil or married partnership do not have a legal status (although it is Circle Anglia's policy to treat them the same).
- 3.11 Once eligibility is established, we will ensure that appropriate advice and information is provided about the rights and obligations of joint tenants so that the legal implications are clearly understood.

### **Creation of joint tenancy at letting**

- 3.12 We will only create a joint tenancy at letting when both parties' names appear on the nomination papers. Where only one person was nominated or referred but both request a joint tenancy, this will only be possible after 12 months, unless they provide proof of marriage or civil partnership.
- 3.13 We will not in most cases permit a joint tenancy at any stage where people are not partners and have not been nominated as joint tenants.

## **4 Separation of a Joint Tenancy**

- 4.1 As a landlord we do not have the legal right to transfer a tenancy from joint names to a sole name unless both parties agree, or there is a court order.

### Joint tenants in agreement

- 4.2 We will create a new sole tenancy where both tenants agree; any breaches of tenancy have been put right and a signed request is received in writing from both tenants.

### Joint tenants in conflict

- 4.3 We are legally unable to change a joint tenancy to a sole tenancy where only one party wishes to do so or where both tenants want the sole tenancy.

### Joint tenants' Notice to Quit (NTQ)

- 4.4 ***In no circumstances, including domestic abuse, will we ever advise or suggest that one joint tenant end the tenancy for both joint tenants by serving a NTQ.***
- 4.5 Where one joint tenant is seeking advice on ending the tenancy we must be extremely careful to protect the rights of both of our tenants. ***We must insist that they seek independent legal advice on their options.*** It is essential that this recommendation is recorded on the tenancy file, as it may be used as court evidence.
- 4.6 If a joint tenant contacts us to inform us that they are going to serve a NTQ to end the tenancy, we must again insist that they seek independent legal advice before signing it, and must not be drawn into a discussion on serving the notice. This advice must be recorded on the tenancy file.
- 4.7 Where we simply receive a tenants' NTQ without prior discussion from the tenant(s), we are obliged to act on it in the usual way, as it is legally binding

### Discretionary cases

- 4.8 In highly exceptional cases a discretionary decision may be made by the Head of Neighbourhood or Housing Services, or the Director of Supported Housing, to grant a multiple tenancy, or grant a joint tenancy to non-partners, for example, to a carer or a sibling. These cases must be strongly evidenced, with decisions made on the basis of our duty of care towards vulnerable tenants, and best use of our housing stock to meet housing need.

## 5 Service Standards

- 5.1 We will reply to written requests for tenancy changes within 10 working days.
- 5.2 We will contact tenants to arrange a sign-up appointment within five working days of sending written approval.

## 6 Equality and Diversity

- 6.1 We will not discriminate in the creation of joint tenancies on the grounds of sexuality or marital status.

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- 6.2 We recognise that customers of all races, ages, religions, gender, sexual orientation, literacy levels and disability should be treated equally and fairly and we will not discriminate in implementing these policies and procedures.
- 6.3 We will be sensitive to tenants' individual needs and will tailor our services and approach accordingly.
- 6.4 We will take steps to identify any language or communication requirements and ensure that we provide information in the appropriate format.
- 6.5 All customers will have access to this document upon request or from our website [www.circleanglia.org/customers](http://www.circleanglia.org/customers).
- 6.6 This document can be translated or provided upon request in alternative formats, such as, Braille, large print and audio.
- 6.7 Equality and diversity training is mandatory for all staff.

## **7 Publicising the Policy**

- 7.1 Circle Anglia publicises its policies and procedures on Joint Tenancies to residents and staff in a number of ways:
- Residents' Handbooks
  - Leaflets
  - Residents' Newsletter
  - Residents' Website
  - CIRANO
  - Policy Briefings and
  - Training

## Version history

<b>Version no.</b>	1	<b>Date effective:</b>	October 2006
<b>Full / partial review?</b>	New group policy for Circle 33, Wherry, South Anglia and Old Ford.		
<b>Brief summary of changes:</b>	As above.		
<b>Staff consultation (teams):</b>	Income Teams – all RPs Neighbourhood Teams – all RPs		
<b>Resident consultation:</b>			
<b>Other consultation:</b>			
<b>Signed off by:</b>	Group Policy Forum, 15 <sup>th</sup> September 2006		
<b>Author:</b>	Zoe Buick		

<b>Version no.</b>	2	<b>Date effective:</b>	December 2008
<b>Full / partial review?</b>	Full		
<b>Brief summary of changes:</b>	Policy reviewed to incorporate Mole Valley, Russet and Roddons.		
<b>Staff consultation (teams):</b>	Income Teams – all Registered Providers Neighbourhood Teams – all RPs Heads of Continuous Improvement – all RPs Supported Housing		
<b>Resident consultation:</b>	Mole Valley Operations Working Group		
<b>Other consultation:</b>	N/A		
<b>Signed off by:</b>	Group Policy Forum, 21 <sup>st</sup> August 2008		
<b>Author:</b>	Zoe Buick		

<b>Version no.</b>	3	<b>Date effective:</b>	
<b>Full / partial review?</b>	Partial review to ensure policy complies with our new obligations under the Human Rights Act 1998, following the ruling in the Weaver v L&Q case.		
<b>Brief summary of changes:</b>	<ul style="list-style-type: none"> <li>• Clauses added to policy and procedures that we will never advise one joint tenant to end the tenancy for both joint tenants by serving a Notice to Quit, even in circumstances of domestic abuse. We will only advise that the tenant seeks independent legal advice.</li> </ul>		
<b>Staff consultation (teams):</b>	n/a		
<b>Resident consultation:</b>	n/a		
<b>Other consultation:</b>	Devonshires Solicitors regarding NTQ		
<b>Signed off by:</b>	Zoe Buick, Policy Manager		
<b>Author:</b>	Zoe Buick		