



# Cassiltoun Housing Association

## POLICY AND PROCEDURES Joint Tenancies

<b>Date Approved</b>	<b>Proposed Review Date</b>
<b>November 2019</b>	<b>November 2022</b>
<b>Chair Person/Office Bearers Signature:</b>	

**CASSILTOUN HOUSING ASSOCIATION LIMITED  
59 Machrie Road, Castlemilk, Glasgow G45 0AZ**

**Registered Scottish Charity SC 035544**

# 1 Background

A Joint Tenancy ensures that both persons have the same rights and responsibilities under the Scottish Secure Tenancy Agreement. A joint tenancy can be created at the commencement of a Tenancy between any two persons who were joint housing applicants. Thereafter the existing tenant can apply to the Association in writing for the creation of a joint tenancy.

This Policy outlines Cassiltoun's requirement to accept and consider any application for the creation of a joint tenancy as set out in the Housing (Scotland) Act 2001 as amended by the Housing (Scotland) Act 2014.

## 2 General Principles

- 2.1 Tenants have the right to apply to change their tenancy from a sole to a joint tenancy provided the eligibility criteria outlined in this policy are met.
- 2.2 Consent to a joint tenancy will only be given by the Association after consideration of the circumstances of the tenant and the proposed joint tenant.
- 2.3 It is the responsibility of the joint tenants to advise the statutory authorities, including Council Tax, Housing Benefit, Department of Works and Pensions (Universal Credit), gas, electricity and telephone suppliers, of the creation of a joint tenant as both tenants will be equally liable for any payments and debt accrued.

## 3 Eligibility Criteria

- 3.1 In accordance with the Housing (Scotland) Act 2014 the Association will only permit an application for joint tenancy when the proposed joint tenant has lived at the property as their only or principal home for the 12 months prior to the tenant applying in writing for them to become a joint tenant.
- 3.2 The tenant, joint tenant or proposed joint tenant must have notified the Association in writing that the person that they wish to become a joint tenant is living in the property. The 12-month qualifying period does not start until the Association has been notified and given consent to the person who must be living in the property as their only or principal home.
- 3.3 The 12-month period applies to anyone wanting to be a joint tenant including the tenant's spouse, civil partner or co-habiting partner.
- 3.4 The proposed joint tenant must be approved by the Association, who will require a satisfactory report from any former landlord within the last 5 years.
- 3.5 The Association will accept notification in writing or by e-mail. We will not accept verbal notification. In the case of children in the household reaching the age of 16, who were part of

the household when the property was allocated and it is their long term and principal home, no further notification is required.

**Please note that if three or more people apply to be Joint Tenants and they are not related, the let must be dealt with as a House of Multiple Occupation (HMO).**

**There is a separate process for HMOs and advice must be obtained from the Director of Operations before proceeding.**

## **4 Assessing an Application for a Joint Tenancy**

The assessment of applications for joint tenancy will take account of both the tenant's and the sub-tenant's circumstances and in all cases must satisfy the criteria set down in the Scottish Secure Tenancy and Section 32 of the Housing (Scotland) Act 2001 as amended by the Housing (Scotland) Act 2014.

**The Association will not withhold consent unreasonably, but may refuse to consent to the creation of a joint tenancy on grounds which include: -**

- Where the existing tenant has not used the property as their only or principal home for the preceding 12-month period.
- A Notice of Proceedings for Recovery of Possession has been served on the tenant specifying one of the 'conduct' grounds set out in paragraphs 1-7 of Schedule 2 of the Housing (Scotland) Act e.g. rent arrears, anti-social behaviour.
- A Court Order for Recovery of Possession has been granted against the tenant.
- The Association has reason to believe that a payment has been received by the tenant in cash or in kind, in consideration of the joint tenancy request.
- There is substantial damage to the property caused by the tenant, a member of the household or a visitor to the property.
- The Association intends to carry out substantial work on the property.
- The property was designed or substantially adapted for a person with additional needs (e.g. for wheelchair use) or additional services (e.g. sheltered housing) which are not required by the joint tenant.
- The proposed joint tenant has been involved in the perpetration of anti-social behaviour as confirmed by another agency e.g. Police Scotland or has had an ASBO granted against them or a member of their household within the last 3 years.
- The house is unsuitable for the prospective joint tenant's needs.
- Either party has given false or incomplete information about the application.
- The Association would not give the prospective joint tenant reasonable preference under our Allocation Policy.
- There are current outstanding rent arrears or rechargeable repairs charges owed to the Association.
- An unsatisfactory report is received from the proposed joint tenant's previous landlord in respect of damage to property, rent arrears or anti-social behaviour.

This list, while comprehensive is not exhaustive and each application will be fully assessed by a member of the Operations Team before granting or refusing consent.

## 5 Joint Tenancy Procedure

- 5.1 Any tenant wishing to create a joint tenancy must complete a Joint Tenancy Application form which is available on request from this office. (Appendix 1) and return it to the Operations Team. On receipt of the application an acknowledgment will be issued to the tenant confirming that a member of the Operations Team will carry out all appropriate eligibility checks including carrying out a house visit to discuss the implications of a joint tenancy to both the tenant and the proposed joint tenant and to inspect the property.
- 5.2 Where the proposed joint tenant has held a tenancy within the last 5 years, the Association will request tenancy references as appropriate, having first obtained the permission from the proposed joint tenant to do so.
- 5.3 The Association will notify the principal tenant of its decision within 28 days of receipt of the Application. If the request has been refused the reason will be given. If there is insufficient information available to allow a decision to be made, the request will be refused, with reasons given and the tenant advised to re-apply when the information is available.
- 5.4 Where the request for a joint tenancy is approved, the principal tenant will be informed in writing that it can go ahead and both the tenant and the joint tenant will be invited into the office to sign a joint tenancy agreement.
- 5.5 The signing of this agreement by both tenants is the legal acceptance by them that they are both severally and equally responsible for the rights and obligations of the tenancy. This is an amendment to the existing tenancy agreement, which when completed is attached to the original agreement.

**The new joint tenant must be given a copy of the original agreement and joint tenancy agreement. The original tenant receives a copy of the new Joint Tenancy Agreement.**

**PLEASE NOTE THAT THIS IS NOT A NEW TENANCY SO DO NOT TERMINATE THE TENANCY AND CREATE A NEW TENANCY.**

## 6 Appeals Procedure

Any applicant unhappy about a decision relating to a joint tenancy request must submit a written appeal to the Housing Manager (Services) within 28 days of receiving the decision.

The Housing Manager (Services) will review the appeal and provide the applicant with the result of their decision in writing.

If the applicant is still dissatisfied, recourse can be sought through the Association's Complaints Policy and Procedure.

## **7 Equal Opportunities Statement**

We recognise our pro-active role in valuing and promoting diversity, fairness, social justice and equality of opportunity by adopting and promoting fair policies and procedures. We will check this policy and associated procedures regularly for their equal opportunity implications, taking appropriate action to address inequalities likely to result or resulting from implementation of the policy and procedures. We are committed to providing fair and equal treatment to all applicants and tenants and will not discriminate against any on the grounds of race, colour, ethnic or national origin, religion, age, gender sex, sexual orientation, marital status, family circumstances, employment status or physical ability.

## **8 Processing Information – General Data Protection Regulations**

Cassiltoun Housing Association will process information and data contained within the Housing Applications in accordance with its Policies and Procedures relating to the General Data Protection Regulations and all applicants will be issued with a Fair Processing Notice.

All staff members will be made aware of their responsibilities in relation to the General Data Protection Regulations and will be trained in the process that the Association has introduced to ensure compliance with GDPR.

## **9 Policy Review**

This Policy will be reviewed on a 3 yearly basis or earlier if the legislation changes to ensure that its aims are being met.



# JOINT TENANCY APPLICATION

**To Be Completed by Both the Current & Proposed Joint Tenant**

**The issue of this form does not imply that Joint Tenancy will be granted. Please answer all questions. All applicants must provide proof of identity.**

1. Address of Tenancy \_\_\_\_\_
2. Full Name of Present Tenant(s) \_\_\_\_\_
3. Name of Applicant(s) \_\_\_\_\_
4. Date of Birth \_\_\_\_\_ Relationship to Current Tenant \_\_\_\_\_
5. Date Joint Applicant joined Household \_\_\_\_\_
6. Date Permission to Reside Granted \_\_\_\_\_
7. Full Household Composition (if joint tenancy granted) \_\_\_\_\_

Name	Date of Birth	National Insurance Number
(tenant)		

**Yes**

**No**

8. Has anyone had an order for Recovery of Possession granted against them for Anti-Social Behaviour in the last three years?

If YES, please give details of the landlord who obtained the order

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**Yes**

**No**

9. Is anyone subject to a current Anti-Social Behaviour Order?

If YES, please give details of the order

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9. Joint Applicant(s). List all previous addresses since your 16<sup>th</sup> Birthday

Address	Landlord	Tenant/lodger/owner	Date of Leaving	Reason for Leaving

Do you consent to your previous landlord being contacted for a tenancy reference? **Yes/No**

**Yes**      **No**

10. Have you used another name in the last 10 years?

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If YES, please give details

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We hereby certify that the particulars in this application are true. We understand that any false or misleading information or withholding of any relevant information now and at any time may result in the tenancy granted to us being terminated.

I wish to give up the tenancy of the above house in favour of a Joint Tenancy.

Signed \_\_\_\_\_ tenant      Date \_\_\_\_\_

I wish to make application for Joint Tenancy

Signed \_\_\_\_\_ applicant      Date \_\_\_\_\_

Where there is a current spouse or partner of the original tenant (who is not currently a joint tenant), they must agree to the joint tenancy

Signed \_\_\_\_\_ spouse/partner      Date \_\_\_\_\_

Declaration: "Cassiltoun Housing Association is registered under the General Data Protection Regulations. Cassiltoun Housing Association is under an obligation to properly manage public funds. Accordingly, information you have provided on this form may be used to prevent and detect fraud and may also be shared for the same purpose with public bodies or other organisations which handle public funds. I understand it is my legal responsibility to inform Cassiltoun Housing Association of any persons aged 16 and over who live in my home"



	<b>Initial</b>	<b>Date</b>		<b>Initial</b>	<b>Date</b>
<b>Received</b>			Systems Updated		
<b>Debt Check</b>			<b>Reason for Decision</b>		
<b>Proof Of ID seen (copies attached)</b>			<b>Payment Ref No.</b>		
<b>Approved/Refused</b>					

Our ref: CHA/JT/02  
Your ref: «Tenant\_Number»

Date: XXXX

«First\_Occup\_Title» «First\_Occup\_Forenames» «First\_Occup\_Surname»  
«Unit\_Description»  
«House\_Code» «Address\_Line\_1»  
«Address\_Line\_2»  
«Postcode»

Dear «First\_Occup\_Title» «First\_Occup\_Surname»

### **JOINT TENANCY APPLICATION REFUSED**

Thank you for your recent application for Joint Tenancy between you, «First\_Occup\_Forenames» «First\_Occup\_Surname», and XXXX at the above address. Unfortunately, this application has been refused on the grounds: -

- Reason 1
- Reason 2
- Reason 3

If you wish to discuss this decision then please contact me at this office to discuss. I can be contacted on 0141 634 2673.

Yours sincerely

Name  
**Title**

Our ref: CHA/JT/03  
Your ref: «Tenant\_Number»  
  
Date: XXXX

«First\_Occup\_Title» «First\_Occup\_Forenames» «First\_Occup\_Surname»  
«Unit\_Description»  
«House\_Code» «Address\_Line\_1»  
«Address\_Line\_2»  
«Postcode»

Dear «First\_Occup\_Title» «First\_Occup\_Surname»

### **JOINT TENANCY APPLICATION APPROVED**

Thank you for your recent application for Joint Tenancy between you, «First\_Occup\_Forenames» «First\_Occup\_Surname», and XXXX at the above address.

I am happy to advise you that your application has been approved. I would ask that you both call in to this office on XXXX at XXXX to sign the appropriate paperwork. If this time is inconvenient please do not hesitate to contact me to arrange a more suitable appointment.

Please remember to please bring proof of identification for both of you as failure to do so will result in the application being refused. You are required to hand in proof of address and national insurance number.

As this tenancy change may affect any Housing Benefit or Universal Credit in payment, you must advise your local Glasgow City Council Housing Benefit Department or Universal Credit online portal providing proof of identification and income.

Yours sincerely

Name  
**Title**