

<b>KNOWES HOUSING ASSOCIATION LTD</b>	
<b>Policy Name</b>	Joint Tenancies
<b>Policy Category</b>	Housing Management
<b>Policy Number</b>	HM09
<b>Date to Housing Management Sub-Committee</b>	October 2019 (signed)
<b>Previous Review</b>	May 2006, August 2008 & October 2011, November 2017
<b>Next Review Date</b>	October 2022
<b>Links to other Policies</b>	HM04 – Allocations Policy HM10 – Abandonment Policy
<b>Consultation</b>	Internal

## **1. AIMS & OBJECTIVES**

- 1.1 This document follows the legislation outlined in the Housing (Scotland) Act 2001 which provides tenants with a right to have a joint tenancy as well as a sole tenancy in accordance with Section 11(5) of the legislation. The Policy has also taken into account the changes introduced in the Housing (Scotland) Act 2014.
- 1.2 This Policy document details the relevant information relating to an application for and termination of a joint tenancy. This includes the circumstances where Knowes HA has reasonable grounds for refusing an application.
- 1.3 Once an application has been approved, all Joint Tenants will sign a new Tenancy Agreement and the original “date of entry” will be used for this purpose. All Joint Tenants will be mutually and severally liable for all responsibilities outlined in the Agreement, including any debt, which was accrued prior to the new Agreement being signed.
- 1.4 The Joint Tenancy procedure, which is a separate document, details how an Application for a Joint Tenancy will be dealt with internally by officers of the Association. When an application is made this will be scanned on to the Associations Housing Management IT system against the tenants file requesting the Joint Tenancy. All

correspondence relating to the request, including refusals which is covered in section 4 of this document, will also be recorded in this way. When a Joint Tenant application is approved the IT system will be updated with the new tenant details. More details of the process will be covered in the Joint Tenancy Procedure document.

## **2. RISK MANAGEMENT**

- 2.1 By having a written detailed Policy & Procedure to deal with Joint Tenancies the Association is able to ensure that a uniform and professional approach is adopted throughout the organisation and the service delivered is compliant with law, best practice and internal policy.
- 2.2 The risk of not having this Policy in place is an absence of the above, poor record keeping regarding tenancy information and a poor reputation.

## **3. APPLYING FOR A JOINT TENANCY**

- 3.1 Any tenant of Knowes HA is entitled to apply for a Joint Tenancy with one or more individuals, and this is done by completing the Associations Joint Tenancy Application Form. The application will not be refused unless the Association has reasonable grounds for doing so and these are outlined in Section 3 and Section 4 below. Prior to agreeing to an application however, the Association should be satisfied that both existing tenant(s) and new joint tenants will use the property to which the tenancy refers, as their only or principal home.
- 3.2 A decision will be made within 28 days from receipt of the application and all tenants will be advised of this and if acceptable, asked to complete a new Tenancy Agreement.
- 3.2 There is no limit to the number of occasions on which a joint tenancy can be created, or is there any limit to the number of joint tenants in a tenancy providing this does not lead to overcrowding.

## **4 QUALIFYING CRITERIA**

- 4.1 The proposed joint tenant must have lived at the property as their only or principal home for the 12 months before the tenant applies for them to become a joint tenant (previously there was no qualifying period);

And;

- 4.2 The tenant, joint tenant or proposed joint tenant must have notified the landlord that the person they wish to become a joint tenant with is living in the house. The 12-month period does not start until the landlord has been told that the person is living in the property as their only or principal home. Notification can be made in a variety of ways from

email, letter and in the office, as long as there is supporting notification and date of when the notification has been made.

- 4.3 The 12-month period applies to anyone wanting to be a joint tenant including the tenant's spouse, civil partner or co-habiting partner.

## **5. REASONABLE GROUNDS FOR REFUSAL**

- 5.1 The legislation does not clearly define what is regarded as "reasonable grounds" for refusal, however the Association has detailed in this Section what would be regarded as a ground for refusing an application for a joint tenancy. These are as follows;

- The request does not meet the qualifying criteria as covered in section 4 of this document.
- The proposed joint tenant owes Knowes HA (or other social landlord) a debt and has not adhered to a reasonable arrangement for 3 months;
- The proposed joint tenant was previously evicted for anti-social behaviour within the last 5 years (this includes eviction by other social landlords);
- Legal action has been started against the "new" joint tenant to recover repossession, including abandonment proceedings;
- The Association has commenced legal action against the original tenant to recover possession (this includes abandonment proceedings);
- The approval of the Joint Tenancy would lead to overcrowding.

## **6.0 TERMINATION OF A JOINT TENANTS INTEREST IN THE TENANCY**

- 6.1 Section 13 of the 2001 Act states that a joint tenant may terminate his or her interest in the tenancy by giving 4 weeks written notice to **both** the Association and each of the other joint tenants. The Joint Tenancy Procedure explains how this can be done and where discretion can be applied.

## **7.0 ABANDONING A JOINT TENANTS INTEREST IN THE TENANCY**

- 7.1 Where the Association has reasonable grounds for believing that a joint tenant is not occupying the tenancy and does not intend to occupy it as their principal home, the Association will serve a notice, called "Abandonment of Joint Tenancy 1", in the sole name of the abandoning joint tenant to all parties following the appropriate enquiries being carried out.

- 7.2 At the end of the 4 weeks notice period, if the Association is satisfied that the joint tenant is not occupying or intending to occupy the property, the Association will serve a further notice. This will be referred to as the "Final Abandonment of Joint Tenant", and will again

be in the sole name of the abandoning joint tenant which will be issued to all parties. This will bring the abandoning tenant's interest in the tenancy to an end with effect from a date specified in the notice, being a date not earlier than 8 weeks after the date of service of the final notice. This process should therefore take at least 3 months.

7.3 Both of the notices being served on the abandoning joint tenant must be copied and served on each of the other joint tenants under the tenancy.

7.4 Once the tenancy has been abandoned and after the appropriate timescale, the remaining joint tenants will sign a new tenancy agreement which is explained further in the procedure document.

## **8. APPEALS**

8.1 Any tenant who feels aggrieved by their treatment under this Policy can ask for a copy of the Association's Complaints Policy which is available at the Associations office. Tenants also have a right to complain to the Public Services Ombudsman. The Complaints Policy details the way in which Tenants can complain and the timescales for responding.

## **9. EQUALITIES COMMITMENT**

9.1 Knowes Housing Association Ltd is committed to tackling discrimination on the grounds of sex or marital status, racial grounds, or grounds of disability, age, sexual orientation, language, social origin, or of other personal attributes, including beliefs or opinions, such as religious beliefs or political opinions.

9.2 Knowes' seek to embrace diversity, promote equal opportunities for all and eliminate any unlawful discrimination in all areas of our work.