



<b>Policy Name</b>	Joint Tenancy Policy		
<b>Policy Ref</b>	HM		
<b>Review Date</b>	May 2023		
<b>Purpose</b>	REVIEW & APPROVE		
<b>Next Review Date</b>	May 2027		
<b>Committee</b>	Committee of Management		
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<b>Charter Outcomes</b>	<b>Number(s)</b>
<b>The Customer/landlord relationship</b>	1. Equalities 2. Communication 3. Participation
<b>Housing quality and maintenance</b>	
<b>Neighbourhood and community</b>	
<b>Access to housing and support</b>	7, 8, 9 & 10
<b>Getting good value from rents and service charges</b>	

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<b>Department</b>	Housing Management

<b>Approval Date by Committee</b>	24 May 2023
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**Notes**

Policy drawn up with reference to:

Housing (Scotland) Act 2001

Housing (Scotland) Act 2014

Civil Partnership Act 2004

Data Protection Act 1998

Social Housing Charter 2012, Reviewed 2016, 2021 Social Housing Charter 2022

This policy was originally approved on December 2008

This policy was reviewed at Committee on 2 May 2012, 14 March 2018, October 2019

# **Angus Housing Association - Joint Tenancy**

## **1. Purpose of Policy**

The purpose of this policy is to clarify Angus Housing Association's requirement to accept and consider any applications for a joint tenancies as set out in the Housing (Scotland) Act 2001 as amended by the Housing (Scotland) Act 2014 and the revised Scottish Secure Tenancy Agreement.

## **2. Qualifying Period for Joint Tenancy**

In accordance with 5.2 Section 12(1) of the Housing (Scotland) Act 2014 –

- The proposed joint tenant must have lived at the property as their only or principal home for the 12 months before the tenant can apply for them to become a joint tenant (previously there was no qualifying period); and
- The 12 month period cannot begin unless the Association has been told that the person is living in the property as their only or principal home. The onus is on the tenant or the person the tenant now wishes to become a joint tenant to inform the Association they have moved into the property. Any period of occupation prior to notifying the Association doesn't count towards the 12 months occupation required.

The 12 month period applies to everyone including the tenant's spouse, civil partner or cohabiting partner.

## **3. General Principles**

### **3.1 Application for a Joint Tenancy**

Angus Housing Association will consider any application for a joint tenancy where the tenant and prospective joint tenant have formally applied in writing.

The creation of a joint tenancy will only be approved where it is reasonable to do so in consideration of the circumstance of the tenancy and the prospective joint tenant.

The Association will accept notification in writing or by email. 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.

The assessment process will take account of both the tenant's and proposed joint tenant's circumstances both of which should satisfy the criteria set down in Section 11 of the Housing (Scotland) Act 2001 regarding an application to create a joint Scottish Secure Tenancy.

### 3.3 Reasons for Which an Application may be Refused

- Where a Notice of Proceedings for Recovery of Possession has been served
- specifying any ground set out in Schedule 2 to The Housing (Scotland) Act 2001.
- Where an Order for Recovery of Repossession has been made against the tenant.
- Where the tenancy will not be the only or principal home of the joint tenant.
- The joint tenancy would lead to an overcrowding situation.
- Where there is substantial damage or disrepair to the property caused by the tenant, a member of the household or a visitor to the property.
- Where a development has been specifically designated for a particular type of tenant such as over 55 years old and the joint application does not meet the criteria.
- Where Angus proposes to carry out work on the house or building so that the proposed work will affect the accommodation.
- Where one of the applicants for a joint tenancy has arrears of rent greater than 1 month and has not made or maintained an arrangement for 3 months to reduce the arrears.
- The proposed joint applicant has been evicted in the last 3 years for anti social behaviour or the joint applicant or a member of their household has had an ASBO granted against them in the past 3 years.
- The house is unsuitable for the proposed joint applicant's needs.

- We have clear evidence that the tenant has caused problems in their tenancies in the 5 years prior to application.

#### **4. Abandonment of joint tenant's interest**

Where the Housing Officer believes that a joint tenant is not occupying the house or does not intend to occupy the house, then a notice will be served on the abandoning tenant followed by a second notice.

*See Policy and Procedures on Abandonment for full details.*

Copies of notices under the abandonment procedures must also be served on the other joint tenant(s)

An aggrieved tenant may raise court proceedings within 8 weeks of the serving of the second notice and may nullify the abandonment notices or, if that would be unreasonable, direct Angus Housing Association to make other suitable accommodation available to the tenant.

#### **5. Termination of a joint tenant's tenancy**

Section 13 of the Housing (Scotland) Act 2001 allows a joint tenant to end his/her interest in the tenancy by giving 4 weeks (28 days) written notice to the Association and to the other joint tenants under the tenancy.

On death, a joint tenancy ends on the date of death of the joint tenant.

#### **6. The Role of the Housing Management Department**

The recording of applications to create a joint tenancy is the responsibility of the Housing Management Department. We will respond within 28 days to all requests.

The recording of applications for a joint tenancy is the responsibility of the Housing Assistant.

The appropriate Housing Officer is responsible for the processing of all applications for

a joint tenancy.

## **7. Notification of Decision**

The Association will notify the tenant in writing of its decision within 28 days of receiving their application. Where consent has been refused we will advise the applicant of the reason/s for refusing consent. If the Association has not made a decision within 28 days of receiving the written application the Association will be deemed to have consented to the same under and in terms of Schedule 5, Part 2, Para 12 of the Housing Scotland 2001 Act. Where the applicant is dissatisfied with the Association's decision, the applicant may seek further information and explanation of our decision and may exercise their right to appeal.

## **8. Appeals Process**

Any appeals on a decision where an applicant had been refused should be made to the Housing Manager. Where the Housing Manager upholds the original decision, the tenant can pursue any further grievance through Angus Housing Association's Complaints Procedures. This does not prejudice the tenant's right to raise a Court action under Part 2 of Schedule 5 of the Housing (Scotland) Act 2001.

## **9. Civil Partnership Act 2004**

For the purpose of a joint tenancy Angus Housing Association will take into consideration the above legislation where a civil partnership has been granted registered in the terms of the Act.

## **10. Equal Opportunities**

In developing and implementing policies covering all aspects of our work, Angus Housing Association will ensure that our strong principles and commitment to equality of opportunity are evident. In line with the Housing (Scotland) Act 2001 the Association operates in a manner which encourages equal opportunities and observes the equal opportunity requirements described in Section 106 of the Act. The Association also takes account of all applicable legislation, including the Equality

Act 2010 and relevant Codes of Practice issued by the Equality and Human Rights Commission -

Our Policy recognises the protected characteristics as defined by the Equalities Act

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Gender
- Sexual orientation

In line with this commitment to equal opportunities, this policy and any summary or information leaflet can be made available free of charge in a variety of formats including large print, translated into another language or on audio tape.

## **11. Review**

This policy will be reviewed within 4 years from the date of implementation which will be the date the policy is approved by the Committee of Management or earlier if deemed appropriate.