

A09 – Policy on Major Tenancy Changes

Authorised Reviewer: Head of Service Management

1. Summary of Policy

There will be occasions where significant life events take place which can impact upon how an existing tenant and their family will occupy one of our homes. There are too many variable scenarios to list them all, but some common examples are: -

- Marriage or Civil Partnership breakdown;
- Tenant must move into full time residential care;
- Death of the tenant where a spouse or partner is residing in the home;
- Death of the tenant where a child/children under the age of 18 years are residing in the home;
- Death of the tenant where a child/children over the age of 18 years are residing in the home;
- A major change in a tenant's circumstances (such as reduced household members or the loss of 'Entitled' status under the Control of Housing & Work (Jersey) Law 2012)

This Policy aims to provide clients and other stakeholders with information and advice in respect of the approach that Andium Homes will take in working with tenants and their families to minimise the impacts of these types of events, recognising that these will be difficult and stressful situations and each and every case must be considered on its merits.

Andium Homes will always have to recognise both statutory constraints put in place by Common Law, the Control of Housing & Work Law, the Residential Tenancy (Jersey) Law 2011 and other legislation, as well as Policy Directions put in place by the Government of Jersey.

2. Marriage or Civil Partnership Breakdowns

Joint Tenancies

Where both parties are signatories on the Tenancy Agreement "joint tenants" Andium Homes will permit either party to take on sole responsibility for the Tenancy and the rent account including any arrears balance on the account. The party who will be leaving the home will need to complete a relinquishment form and the existing tenancy can then be made sole, without the need for a new tenancy to be signed by the remaining (now sole) tenant. It will be for the parties to make any financial arrangements between them to deal with any arrears.

Where the household includes children, the Company would aim to allow the parent with the majority care of the child/children to remain in the family home wherever possible.

Sole Tenancies

Where only one of the parties is signatory to the Tenancy Agreement and the parties have decided that the party holding that tenancy will leave the matrimonial home, Andium Homes will allow the other party to remain in the family home wherever legally possible provided that they have the majority care of the child/children.

The parent remaining in the home must possess or obtain 'Entitled' status under the Control of Housing & Work (Jersey) Law 2012. If not already 'Entitled' that party may need to make an application to the Population Office of the Government of Jersey to be granted 'Entitled' status on the grounds of Hardship. Guidance on this and the process to be followed can be found at: -

Control of Housing & Work Law Guidance

Once eligibility has been confirmed by the production of the requisite 'Registration Card' the partner remaining in the family home will be required to sign a new Tenancy Agreement concurrent with the relinquishment of the existing tenancy by their former partner. A new rent account will be created in the sole name of the new tenant. In such instances, because it is ostensibly the same household being housed any rental uplift normally triggered on a new tenancy will not take effect, rent will continue to be charged at the previous level, subject to any normal annual increases in line with the Government of Jersey's Social Housing Rent Policy.

Any arrears on the existing rent account must be cleared at this time. It will not generally be acceptable for arrears to be transferred to the new tenants rent account.

Each party will then be personally responsible for the rent accrued during their respective tenancy.

Until such time as the existing tenancy is relinquished and either the property returned, vacant to Andium Homes or a new tenancy is entered into with another person, the existing tenant will remain responsible for the property and the rent thereon, regardless of whether or not that person is living in the property.

3. Move into full time Residential Care

Joint Tenancies

Where both parties are signatories on the Tenancy Agreement "joint tenants" and one party has to move into full-time residential care, Andium Homes will permit the remaining joint tenant to have sole responsibility for the Tenancy and the rent account including any arrears balance on the account. The tenant moving to residential care does not have to relinquish their tenancy unless they specifically wish to do so, in which case the remaining tenant will be offered a new sole tenancy. The existing rent account will be transferred into the sole name of the remaining tenant. Any rental uplift normally triggered on a new tenancy will not take effect, rent will continue to be charged at the previous level, subject to any normal annual increases in line with the Government of Jersey's Social Housing Rent Policy. Any arrears on the rent account will remain and it will be for the parties to make any financial arrangements between them to deal with those arrears.

Sole Tenancy

Where it becomes necessary for a sole tenant to move into full-time residential care it is hoped that the tenant will take steps to relinquish their tenancy in the normal manner. In a circumstance where the tenant is either not in a position to relinquish their tenancy, for instance if they are unwell, or is unwilling to do so.

Every effort will be made to get the tenant or their delegate, in the event that they have granted Power of Attorney to another person, to relinquish the tenancy and provide vacant possession of the property, at which point the tenancy can be terminated and rent account closed.

However, when these efforts have not resulted in the tenancy being relinquished Andium Homes may have no alternative but to apply to the Courts to terminate the tenancy and get vacant possession of the home.

4. Death

There will be occasions where a tenant of one of our homes dies and this may have implications for other persons living in the household or for those who have responsibility for taking care of a deceased persons affairs following their death.

It is of course always much easier to deal with these matters if the wishes of the deceased person are documented and we will for that reason always advocate that all tenants make a Will and appoint one or more Executors to handle their affairs in the event of their death.

Notwithstanding that, when a tenant or joint tenant dies, we will generally follow the following guidelines.

Joint Tenants

Where two persons, whether they are married or otherwise, hold a joint tenancy we will take this to mean that the tenancy is held 'jointly for the survivor'. What this means is that if one of the parties dies the tenancy will not be affected and it can continue in the sole name of the surviving partner who will then be a Sole Tenant.

Sole Tenants with Spouse or Partner

Where a sole tenant dies but immediately preceding their death they were living together with a spouse or civil partner in one of our homes, we will generally accept that the spouse or civil partner can remain in the home. They will be offered the opportunity of a new tenancy for the home in their sole name subject to the following:

The spouse or civil partner remaining in the home must possess or obtain 'Entitled' status under the Control of Housing & Work (Jersey) Law 2012. If not already 'Entitled' that party may need to make an application to the Population Office of the Government of Jersey to be granted 'Entitled' status on the grounds of Hardship.

Guidance on this and the process to be followed can be found at: -

[Control of Housing & Work Law Guidance](#)

Once eligibility has been confirmed by the production of the requisite 'Registration Card' the spouse or civil partner will be required to sign a new Tenancy Agreement. A new rent account will be created in the sole name of the new tenant.

If 'Entitled' status is not granted by the Government of Jersey, then the surviving spouse or civil partner will be required to vacate the accommodation within 4 weeks. It is important to note that any rent paid after the death of the former tenant will not imply that a new tenancy has been created in favour of any other person including the spouse or civil partner, nor any child or other natural person.

Sole Tenant living alone

Where a sole tenant living alone dies it is of paramount importance that steps are taken to deal with their affairs quickly and for the former home to be returned to the letting pool for allocation to a new tenant.

We would normally expect that the Executor of a deceased persons estate or another person appointed by the Courts (in the instance of death without a will) will take responsibility for clearing the home of the deceased persons possessions and then returning the property and all keys to us.

We are mindful that this can be a difficult time but would hope that this can be achieved within 4 weeks of death. Where it is going to take longer to resolve the deceased persons affairs, particularly if there is no Will then we will work with and assist Executors or Appointed Persons wherever possible.

However, it is important that those administering a deceased persons estate are aware that rent will continue to be charged until keys are returned and there will be an expectation that the rent account will be settled from the deceased persons estate, once the keys are returned and a final rent account summary produced.

Sole tenant living with adult children

Where a sole tenant living with adult children dies, it will generally be the case that the property will be vacated by all occupants and the keys returned to Andium Homes. It is not possible for a tenancy to simply transfer to an adult child, other than in circumstances where;

The adult child seeking a new tenancy for their late parents' property is registered with the Affordable Housing Gateway; and

Has been assessed by the Affordable Housing Gateway as having a housing need for the size and type of property they are already occupying;

If it is the case that the property will be vacated, then it is of paramount importance that steps are taken to deal with the deceased persons affairs quickly and for the former home to be returned to the letting pool for allocation to a new tenant.

Sole Tenant living with dependent children

Where a sole tenant living with dependent children dies, what happens with the Property will, to a large extent, be dictated by the arrangements for the child/children and we will work in close collaboration with the Children's Service.

If it is in the best interests of the child/children, Andium Homes will consider entering into a new tenancy with a person appointed by the Courts to have parental responsibility for the child/children, provided that the person seeking the tenancy: -

Is 18 years of age or over;

Possesses or can obtain 'Entitled' status under the Control of Housing & Work (Jersey) Law 2012;

Does not own property;

Has evidence of their grant of parental responsibility for the child/children.

5. Major change in circumstances

Where a tenant goes through a major change in circumstances which may mean that they would no longer be eligible for social housing (as assessed by the Affordable Housing Gateway) the approach that the Company will take will be dictated to a large extent by the type of Tenancy Agreement held by the tenant and the prior conduct of that tenancy.

Periodic Tenancies commenced before 1st January 2017

Where a tenancy has commenced before 1st January 2017, the Company will continue to honour the Tenancy Agreement provided that the tenant has not and does not, breach the Tenancy Agreement. The Company may exercise its right to require that the Tenant move to an alternative, smaller home if the change in the tenant's circumstances dictates that this is appropriate. Refusal by the tenant to comply with the Company's reasonable request to downsize may be considered a breach of tenancy and result in notice to quit being given by the Company to the tenant and or the instigation of eviction proceedings.

Fixed Term Tenancy commenced on or after 1st January 2017

Where the tenant has a fixed term tenancy, the Company will continue to honour the Tenancy Agreement for the duration of the tenancy term, provided that the tenant does not otherwise breach the agreement. However, the Company will not generally agree to renew such a Tenancy Agreement and may:

1. require that the tenant transfer to an alternative home but only where the tenant is still eligible for social housing in a different property type or size;
2. give notice to the tenant that the Company does not intend to renew the tenancy or to offer another tenancy because the tenant no longer meets the requirements for social housing as assessed by the Affordable Housing Gateway. The Company will notify the tenant of its decision in writing and will confirm the date on which the tenant is required to vacate the property, remove all his/her possessions from the property and return the keys. The Company will make it clear that where the tenant does not provide vacant possession as required by the Tenancy Agreement, the Company will initiate eviction proceedings and seek to recover all its reasonable costs associated with the eviction from the tenant.

A tenant's loss of 'Entitled' status under the Control of Housing & Work (Jersey) Law 2012

That a tenant has lost his/her entitlement to housing under the Control of Housing & Work (Jersey) Law 2012 is most likely to become apparent during consideration as to whether to renew a Fixed Term Tenancy.

Where it becomes apparent that the tenant has lost their entitlement the Company will give notice to the tenant that the Company does not intend to renew the tenancy or to offer another tenancy because the Control of Housing & Work Law 2012 prevents the Company from entering into a tenancy. The Company will notify the tenant of its decision in writing and will confirm the date on which the tenant is required to vacate the property, remove all his/her possessions from the property and return the keys. The Company will make it clear that where the tenant does not provide vacant possession as required by the Tenancy Agreement, the Company will initiate eviction proceedings and seek to recover all its reasonable costs associated with the eviction from the tenant.

Where immediately before losing their entitlement to housing the tenant was living with a person who is, or can demonstrate that they can become, 'Entitled' under the Control of Housing & Work (Jersey) Law 2012, the Company will consider entering into a Tenancy Agreement for the property with that entitled person but only where that person:-

Produces a Registration Card demonstrating that they are 'Entitled' under the Control of Housing & Work (Jersey) Law 2012;

Is registered with the Affordable Housing Gateway as being eligible for the type and size of property already occupied;

Meets any other criteria set by Andium Homes for allocation, including passing any relevant credit or other checks.

6. Appeals

Please refer to **A15 – Appeals and Complaints Policy**

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3 years