

# **Islington & Shoreditch Housing Association (ISHA)**

## **Creating Joint Tenancies Policy**

### **1. Policy Statement**

This policy outlines Islington & Shoreditch Housing Association's (ISHA) approach to the creation of joint tenancies. ISHA will enable all Assured tenants who wish to create a joint tenancy with another person to do so, subject to the laid down criteria contained in this document.

Requests may be made to add a spouse, partner, parent, child, sibling or other family member to an existing tenancy, subject to the conditions outlined in 5 below.

ISHA will be mindful in creating joint tenancies that it is making best use of its housing stock and not prejudicing the position of those in housing need. (See 5 below)

### **2. Definition of 'Joint Tenancy'**

A joint tenancy is one tenancy held between two or more tenants.

### **3. The Legal Position**

The Housing Act 1988, Part 1, Section 1 under the definition of an Assured Tenancy makes reference to the ability of an Assured Tenancy to be created as a joint tenancy or subsequently become one.

In a joint tenancy each tenant is jointly liable for the tenancy, ie each tenant is responsible for all of the rent, a breach is the responsibility of all, a notice served on one or by one applies to all.

### **4. Background to Policy**

From time to time requests are received from ISHA tenants who wish to add another individual to the tenancy. This policy provides clear guidelines for staff dealing with requests.

### **5. How Requests to Create Joint Tenancies will be Dealt With**

Requests to create joint tenancies will be dealt with by the relevant Tenancy Services Manager.

Each application should be in writing and will be dealt with fairly, consistently and in line with this policy.

The Tenancy Services Manager will check the existing tenancy to make sure that:

- The existing tenant agrees to the creation of a joint tenancy
- The new tenant does not own a property of their own in England, Wales or Northern Ireland

- The property is not a supported housing or similarly designated property eg a specially adapted unit for a wheelchair user
- There has not been a previous assignment of the tenancy (only one assignment is allowed per tenancy)
- There are no current rent arrears and the rent account has been maintained in a satisfactory manner for at least a six month period prior to the request being made
- There are no outstanding breaches of tenancy eg tenant damage, complaints of anti social behaviour, outstanding recharges etc.
- There is no suspended Court Order for possession etc.
- In creating a joint tenancy this will not lead to the household becoming overcrowded and therefore needing to be transferred
- All parties to the joint tenancy are aware of the implications of creating a joint tenancy as laid out in point 6 below.

In addition, the person applying to join the tenancy will need to prove either that:

- They are living in a permanent relationship with the existing tenant eg by marriage or civil partnership, or
- They can prove at least one year's residence at the property. Evidence of this must be obtained and might include passport, driving licence, utilities bills, council tax bills etc.
- And, they will need to provide a passport sized photograph for the tenancy agreement record

The Tenancy Services Manager should advise the tenant of the decision in writing and, where consent is granted, make arrangements for **both** parties to come to the office to arrange the termination of the existing tenancy agreement and to sign a new agreement. The Tenancy Services Manager will also make any changes required to the records held by ISHA – UH etc.

## 6. The Implications of Creating a Joint Tenancy

When a joint tenancy has been created the following rules apply:

- Joint tenants have equal rights of occupation. This means that if one joint tenant dies or moves away the other person remains as tenant and continues to occupy the home. If two people share the home, but only one of them is tenant, the other will only have protection if they have right of succession or the tenancy can be assigned to them. Spouses and cohabitants may have additional rights under the provisions of the Family Law Act 1996.
- Joint tenants have equal responsibility for paying the rent, for looking after the property and abiding by the tenancy conditions.

- Either joint tenant can terminate the tenancy by giving written Notice to Quit to ISHA and individuals need to consider the implications of this before making another person joint tenant.
- If the tenancy reverts back to a sole tenancy in the future this will count as a succession of that tenancy.

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