

Joint Tenancies

A Guide to Joint Tenancies



The information contained in this guide answers some of the general questions about creating joint tenancies. It also includes details about our policy on creating joint tenancies with existing tenants and the process that Wigan Council will follow when dealing with your application.

What is a Joint Tenancy?

A tenancy is a legally binding contract. It is therefore important that all tenants who enter the contract understand the terms and conditions. These terms and conditions are contained in Wigan Council Tenancy Agreements. As an existing tenant, you will already be familiar with your Tenancy Agreement. However, people who you wish to create a joint tenancy with should also familiarise themselves with these terms and conditions before they apply.

A joint tenancy is where two or more adults sign the tenancy agreement. As a joint tenant you are jointly and severally liable for the tenancy. This is a legal term which means that you are collectively and individually responsible. For example, each tenant is responsible for all the rent. If one of the joint tenants stops paying their share Wigan Council can request all of the rent from the other joint tenant.

A breach of tenancy by one is the responsibility of all the tenants. Ending of the tenancy by one ends the tenancy for all the tenants. There must be trust and co-operation between tenants if the tenancy is to work.

Advantages of a Joint Tenancy

- a joint tenant you have equal rights with the other tenant(s), giving all joint tenants security of tenure.
- Having a joint tenancy may help meet the costs of the tenancy, such as the rent.
- You may find it easier to access credit by being a tenant.
- If the other joint tenant dies you will have a right to succeed to the tenancy. However, there can only be one succession.
- One joint tenant may 'assign' (or gift) their interest in the tenancy to the other joint tenant(s). This is provided that certain rules have been satisfied. We can give you more detailed information about these rules upon request

Disadvantages of a Joint Tenancy

- If one joint tenant does not pay the rent or money owed, the other joint tenant(s) are still responsible for the debt. This can be a problem if you are on a low income.

- Having a joint tenancy may not be suitable if you are not sure that living with the other person will work out. This is important as all joint tenants have equal rights to the tenancy.
- If one joint tenant gives Notice to Quit, the whole of the tenancy comes to an end. This leaves the other joint tenant(s) without a tenancy.
- All joint tenants must agree to any proposed exchange. This applies even if one of the joint tenants has left. If the other joint tenant(s) cannot be traced then the exchange will not be allowed to go ahead.
- A sole tenant's entitlement to benefits may be affected by becoming a joint tenant with someone else.

Any wife, husband or registered civil partner of a sole tenant has a right in law to live in the family home (matrimonial home). These are known as occupancy rights. A person does not need to be a joint tenant to have these rights. If the relationship breaks down the tenants' wife, husband or civil partner can only be made to leave if there is a court order. The same rights do not apply in the case of an unmarried couple.

Can I add more than one person to my tenancy?

It is possible to create a joint tenancy with three or more people however; Wigan Council will only agree this in very exceptional circumstances.

Who can I add to my tenancy?

Joint tenancies can only be created between an existing tenant and members of their family:

- The tenant's spouse or civil partner, providing they occupy the property as their only or principal home and can provide a copy of their marriage or civil partnership certificate.
- The tenant's partner (including non-heterosexual relationships), providing they occupy the property as their only or principal home and can provide evidence that they have been living with the tenant for the last 12 months.
- Any other member of the tenant's family (for example, son, mother, aunt or nephew), can apply providing they occupy the property as their only or principal home and can provide evidence that they have been living with the tenant for the last 12 months. However, Wigan and Leigh Homes does not normally give consent for inter-generational joint tenancies (for instance between a parent and a child).

Can you refuse my application to create a joint tenancy?

The law does not require Wigan Council to create joint tenancies for people. It is our policy to do so provided there are no good reasons for withholding consent.

We will also refuse your application if:

- there is any legal action being taken against your tenancy.
- there has been a previous succession or assignment of the tenancy.
- you have outstanding rent arrears.
- the property is adapted or is classed as "suitable for elderly residents only", and the person(s) you wish to create a joint tenancy with does not meet the necessary age criteria.
- the house would become overcrowded or under occupied.

- another person's rights may be affected if the joint tenancy is agreed.
- we have started eviction action because of your conduct
- we have obtained an eviction order.
- the applicant is aged under 18. Wigan Council will consider applications from minors aged 16 or 17 providing it can be independently proven the joint tenancy is necessary for the minor.
- the person applying to be a joint tenant is not eligible for council housing
- the person(s) you wish to create a joint tenancy with does not qualify for accommodation under our Allocations Policy.
- there is a history of relationship breakdown between you and the person(s) you wish to create a joint tenancy with.

Visiting you at home.

When we receive your application we will carry out checks to make sure that you meet the criteria described above and there are no reasons to refuse the application. The Tenancy Management Officer will then make an appointment to visit you at your home. At this visit the officer will

- ask to see the evidence/documents to support your application (like a marriage certificate or proof that the applicant has been living with you for 12 months if they are not your spouse or partner.
- check who would be living at the property if the application was approved.
- make sure you understand the consequences of creating a joint tenancy and answer your questions

Following the visit Tenancy Services Manager will make a decision on whether to approve your request and we will confirm our decision in writing within 10 working days of your visit.

What will happen if I am allowed to create a joint tenancy?

If the Wigan Council is able to approve your request for a joint tenancy you will be sent a letter of confirmation. We will then arrange the following:

- The Tenancy Services Officer will contact you within seven days to sign the necessary tenancy paperwork.
- You will need to sign a New Tenancy Agreement.
- The existing rent account will be transferred to the new tenancy.
- If you they are on a low income, you may need to re apply for Housing Benefit and Council Tax Benefit. . If you are applying for a joint tenancy with someone other than your partner, you will only be entitled to Housing Benefit on your share of the rent. In these circumstances, each joint tenant who wishes to apply for Housing Benefit will need to complete their own individual application form. Partners who are not recognised as couples under Housing Benefit regulations will be affected in the same way. Before you decide to apply for a joint tenancy, you can contact the Housing Benefit Section of Wigan Council to find out how your Housing Benefit claim may be affected.

What will happen if I am not allowed a joint tenancy?

If the Wigan Council is unable to approve your request, you will be sent a letter to advising you of this decision. If you think our reasons are unfair you can ask us to review our decision. Our letter will explain how to do this.

It is important that you understand what it means to be a joint tenant. Please seek good advice before deciding to have a joint tenancy.