

# Ending a joint tenancy and creating a sole tenancy



You have requested advice on removing one parties name from the tenancy to create a sole tenancy.

**It is not legally possible to remove someone's name from a tenancy.**

There are two options available to you:

1. Service of a Notice to Quit by one or both tenants to end the whole tenancy
2. the courts issuing a court order (usually as part of a divorce/separation or guardianship proceedings).

You must consider carefully which option is best for you.

## **Option 1 – termination of tenancy**

Ether tenant can end a joint tenancy by surrendering their interest in the tenancy by a tenant serving a valid Notice to Quit on the Council. This ends the tenancy for all tenants and gives the Council the right to recover possession of the property despite the fact that the other joint tenant(s) may not want to leave.

Remaining occupants do not have a legal right to a new tenancy – it is the Council's discretion whether to issue a new tenancy.

When considering whether to issue a new sole tenancy, we will review the tenancy conduct, including the following:

- previous succession to the tenancy or assignment to a potential successor
- rent arrears;
- legal action taken against the property including but not limited to a notice seeking possession has been served, an injunction is in force, a possession claim has been issued; a suspended possession order is in force;
- overcrowding or under occupation of the property;
- immigration status of the tenant
- enforcement action previously taken against the proposed joint tenancy, anti-social or criminal conduct.

This list is not exhaustive.

**We strongly encourage you to contact us before Notice is issued. You cannot legally rescind notice once it has been served.** We will review the tenancy history to advise whether it is likely that a new tenancy will be issued.

If it is not likely that a new tenancy will be issued, we strongly encourage you not to serve the Notice and to proceed through option 2. If you serve Notice, and we do not choose to issue a new tenancy, you will be advised to secure your own accommodation. We will set timescales with you to allow the remaining occupants a small period of time such as 28 days to find a new home, after this time, we will start possession proceedings.

If you voluntarily terminate the tenancy and subsequently make a homeless application, you could be found to be intentionally homeless.

## **Option 2 – court involvement**

The county court can transfer a tenancy for couples who are married or in a civil partnership in conjunction with proceedings for divorce, dissolution, separation or nullity under the Family Law Act 1996.

A joint tenancy can be transferred into the sole name of one party. In reaching a decision, the courts must take account of the circumstances of the case and:

- circumstances in which the tenancy was granted
- housing needs and housing resources of each spouse or civil partner and of any children
- financial resources of each spouse or civil partner
- likely effect on the health, safety and wellbeing of each spouse or civil partner and of any children
- suitability of each spouse or civil partner as tenants (the landlord's views can be taken into account).

The courts also have the power to transfer a tenancy under the Matrimonial Causes Act 1973 by making a 'property adjustment order'. Certain tenancies count as property. In making such an order the court must have regard to various matters, including the welfare of any child under 18 years of age. Cohabitees may also apply to the county court to secure/establish their occupation rights following a relationship breakdown.

You will need to seek legal advice and assistance if you wish to take this option.

## **In summary**

Unless a court order is in place, a joint tenancy will continue and both tenants are liable for the rent and other conditions, even if there is only one tenant living at the property.

South Holland District Council cannot decide who should remain on the tenancy. Ending a joint tenancy is your responsibility. You should seek independent legal advice.

If you wish to proceed with option 1, please complete the notice to quit form enclosed.

# NOTICE TO TERMINATE A TENANCY

This will end your tenancy and you should take legal advice before signing it.



South Holland  
District Council

It is very important that you read this document, including the guidance notes, before you sign it as this will end your tenancy with South Holland District Council. In accordance with your tenancy agreement, you are required to give at least four weeks written notice to end the tenancy. This notice must end on a Sunday and you must return the keys to the South Holland District Council Offices. If you do not return the keys by the following Monday at 12 noon, you will be charged additional rent. **Please do not backdate this document.**

## TENANT DETAILS

I/we give four weeks notice to end the tenancy of:

\_\_\_\_\_ (property address)

\_\_\_\_\_ Postcode \_\_\_\_\_

I/we give you four weeks notice that the tenancy shall end on Sunday \_\_\_\_\_ of \_\_\_\_\_ (date) (month)

of \_\_\_\_\_ I/we shall leave the property on \_\_\_\_\_ (year) (date)

I/we shall quit and deliver up vacant possession of the premises which I/we hold. I/we also confirm that the Council can dispose of any items (of any description) left on the premises (including the garden). I am aware that if I leave any belongings or rubbish behind I will be charged for the reasonable cost of disposal.

### 1. Tenant details:

Full name: \_\_\_\_\_ Phone number: \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Full name: \_\_\_\_\_ Phone number: \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

### 2. Forwarding address

\_\_\_\_\_  
\_\_\_\_\_ Postcode: \_\_\_\_\_

### 3. Reason for ending tenancy

- |   |  |
|---|--|
| <input type="checkbox"/> Moving to a property owned by SHDC       | <input type="checkbox"/> Moving to a property owned by another Council |
| <input type="checkbox"/> Moving to a housing association property | <input type="checkbox"/> Moving to private rented accommodation        |
| <input type="checkbox"/> Buying your home                         | <input type="checkbox"/> Buying a new property                         |
| <input type="checkbox"/> Moving in with family and friends        | <input type="checkbox"/> Moving into residential care                  |
| <input type="checkbox"/> Tenant has passed away (deceased)        |  |

Other – please state: \_\_\_\_\_

**4. If you are completing this form on behalf of the tenant, please complete the following section**

I am the executor of the tenant's will/administrator of the estate.

*Please ensure all Executors sign this form and include a copy of the will & death certificate with this notice. Where there are more than 2 Executors, please attach an additional sheet. Please contact us if you have difficulties in arranging for all Executors to sign this document.*

I have Power of Attorney

*Please supply a copy of the Power of Attorney document with this notice.*

Full name: \_\_\_\_\_ Phone number: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Full name: \_\_\_\_\_ Phone number: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

**PROPERTY DETAILS**

**1. Gas, Electricity & Water Suppliers**

You should inform your utility suppliers that you are moving out. Please provide them with a forwarding address and meter readings.

Who provides your utilities? E.g. British Gas

Gas supplier: \_\_\_\_\_

Electricity supplier: \_\_\_\_\_

Do you have a water meter?  Yes  No

**2. Adaptations to the property**

Does your property have any adaptations?  Yes  No. If yes, please tick the relevant boxes

Level access shower  Stair lift  Ramp  Hoist  Wheelchair accessible  Grab rails

**3. Viewings and property inspection**

We may contact you to arrange an appointment to carry out an inspection of the property. This is to ensure the property details are correct and to inform you of any repair works that you are required to complete before moving out.

Are you willing to let the new tenants view the property before you leave?  Yes  No

(They will be accompanied by a representative of the Council).

## NOTICE FOR GARAGES/GARAGE PLOTS

**If you have a garage licence, please complete this section too.**

Do you wish to end your garage licence too?  Yes  No.

If yes, you are required to give a minimum of one week's notice, however you can give four weeks notice so that your property and garage licence end on the same date. Rent will be due until the licence ends.

**Notice to terminate a garage licence**

I/we give notice to end the garage licence of:

\_\_\_\_\_ (address)

\_\_\_\_\_ Postcode \_\_\_\_\_

I/we give you notice that on Sunday \_\_\_\_\_ of \_\_\_\_\_,  
(date) (month and year)

I/we shall quit and deliver up vacant possession of the premises which I/we hold.

The garage and/or plot will be vacated in a clear and tidy condition and the rent account will be clear. I/we understand that I/we will be charged for replacing the locks if the keys are not returned on time. I/we understand that the rent is due until the licence expires. I agree that any items remaining in the garage, after I have returned the keys, will become the property of South Holland District Council who will dispose of them as they see fit. I/we agree that I/we will be liable for any costs incurred.

Tenant 1

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Tenant 2

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

## GUIDANCE NOTES

### 1. Joint tenants

If you're a joint tenant, and you give notice, the whole tenancy will end. The other tenant won't automatically be allowed to stay. If one tenant wishes to remain in the property, do not complete this form until you have spoken to your Housing Officer.

### 2. Information for executors/administrators following the death of a sole tenant

We understand this is a difficult time - if you have any queries regarding this process, please contact the Housing Services Team on 01775 761161. Please supply copies of the will (naming the executors) and a copy of death certificate with this form.

If family members lived with the tenant when they died, they may be entitled to inherit/succeed the tenancy. Please contact us if you think someone may be able to succeed to the tenancy before completing this form.

The Council can only issue a set of keys to the Executor or Administrator of the estate. Only the executor (person given authority in the tenant's will to deal with their affairs) or the administrator (person who has been given Grant of Probate for the tenant) can legally end the tenancy. If there is no executor or administrator, South Holland District Council will serve notice to quit on the Public Trustee to legally end the tenancy.

Rent will continue to be charged until the tenancy has ended and the keys to the property have been returned – four weeks notice is still required. Housing Benefit or Universal Credit payments will stop the Sunday following the death of the tenant. Any arrears should be paid from the deceased tenant's estate. If there is no estate for an arrears balance to be paid from, the representative will need to make a declaration that there are no funds available. If there is a credit on the rent account, a form will need to be completed representative of the estate.

### 3. Moving out

Before you leave the property, you should:

- Make sure the property is clean and tidy, with no damage. The property should be left in good decorative order and all fixtures and fittings should be left in good working order. You will be charged if we need to carry out repairs because of you altering, damaging or neglecting the property.
- Remove all rubbish, furniture and possessions from your home, loft, garden and outbuildings. You can book a 'bulky waste collection' through the Council if you need to get rid of any large item. You will be charged if we need to remove any belongings or rubbish from your property.
- Leave gas and electric meter keys, and window keys on the kitchen worktop
- Pay any outstanding rent and other charges – your Housing Officer will advise you of this amount
- Make sure everyone in the property has moved out – this includes animals
- Tell council tax that you're moving
- If you need to, let Housing Benefit or Universal Credit know that you're moving.
- Provide your forwarding address to agencies including utility companies, doctors surgery, schools, bank/building society, insurance company, DVLA, HM Revenue and Customs (HMRC). You can redirect your mail through the Post Office.

### 4. Handing in the keys

Please label all keys with your name and address, and return the keys to the Council offices, Priory Road, Spalding by 12 noon on the Monday after your tenancy has ended. If you don't hand the keys in by 12 noon, you will be charged extra rent payments, and the costs for us to change the locks.

### 5. Returning this form

Please ensure this form is fully completed and you have signed and dated the form where required. Please return this form to: Housing Services Team, South Holland District Council, Council Offices, Priory Road, Spalding, Lincs, PE11 2XE.