Amendment of Tenancy Policy - Housing

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Date: March 2026

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Introduction

Purpose of the Policy

The purpose of this policy is to provide clear, consistent guidance on how Wigan Council manages requests to amend tenancy agreements. This includes changes from joint to sole tenancies, sole to joint tenancies, and name amendments.

The policy aims to ensure that all applications are handled fairly, transparently, and in accordance with relevant legislation and council procedures.

It also seeks to support tenants through potentially complex or sensitive transitions, offering advice and signposting to additional services where needed.

This policy explains the legislation around some of these changes and the process when:

- A joint tenant requests a sole tenancy
- A sole tenant requests a joint tenancy
- A tenant requests to amend their name

It provides guidance on the legal framework and procedural steps involved in these changes.

This policy supports Wigan Council's Progress with Unity mission by ensuring fair and transparent tenancy assignments that strengthen community ties. It provides a clear framework for lawful transfers, helping maintain secure housing and reduce inequalities while promoting stability and cohesion within neighbourhoods.

Policy Commitment

Wigan Council is committed to managing tenancies in accordance with current legislation and best housing management practice. We aim to ensure consistency and fairness in how tenancy amendment requests are assessed and processed.

Application Support

We understand that the process of amending a tenancy can be difficult. Support will be provided to applicants throughout the process, including advice before applying and referrals to appropriate services where needed. Tenants are encouraged to seek guidance from their Neighbourhood Tenant Officer prior to submitting an application.

Resources and Contact

To support applicants, we have created simple a simple guide

- Guide to creating joint tenancies.

For further support, contact us by phone at 01942 489005 or email myhome@wigan.gov.uk

Scope

This policy sets out Wigan Councils approach to amendments of tenancies. This will apply to requests for a joint tenancy into a sole tenancy, a sole tenancy to a joint tenancy and name changes. The policy ensures that applications to 'amend' are dealt with in accordance with current legislation and the contractual tenancy agreements.

Glossary of Terms

Deed of Surrender: A legal document used when a tenant gives up their tenancy.

Notice to Quit: A written notice from a tenant to end the tenancy.

Introductory Tenancy: A trial tenancy with fewer rights, usually lasting 12 months.

Secure Tenancy: A long-term tenancy with more rights and protections.

Unauthorised Occupier: Someone living in a property without a valid tenancy agreement.

Aims and Objectives

The aim of this policy is to ensure tenancy amendment requests are processed fairly, consistently, and in line with legal and procedural requirements.

- Provide clear operational guidance to Wigan Council staff and transparency for tenants.
- Support tenants through potentially complex or sensitive changes to their tenancy.
- Promote compliance with relevant legislation, including:
- Safeguard the Council's housing stock by ensuring amendments align with the allocations policy and any applicable local lettings plans.

Legal and Regulatory Requirements

Wigan Council will comply with current legislation and guidance. Government legislation has been considered when formulating this policy and accompanying procedure, legal requirements and regulatory framework.

The following Acts and relevant codes of guidance should be considered as a minimum when assessing applications for amendments of tenancy:

- Localism Act 2011
- Housing Act 1996
- Law of Property Act 1925
- Matrimonial Causes Act 1973
- Civil Partnership Act 2004
- The Prevention of Social Housing Fraud Act 2013

In addition, the policy aligns with:

- The Regulatory Framework for Social Housing in England, as set out by the Regulator of Social Housing.
- The Housing Ombudsman's Complaint Handling Code, which promotes fairness and transparency in resolving tenant concerns.

Any personal information provided to us regarding customers' personal or financial circumstances will be dealt with in the strictest confidence. All data held in respect of residents will be recorded and processed in accordance with the Data Protection Act 2018.

Statutory Requirements

According to the Housing Act 1985, a joint tenancy can only become a sole tenancy in the following circumstances:

- Court Order In the event of a relationship breakdown between joint tenants, the courts can assist with transferring the tenancy into a sole tenancy. Wigan Council will require copies of the court order along with any deed of assignment.
- Death The tenancy continues for the surviving joint tenant, Wigan Council will adhere to the succession policy in circumstances where one joint tenant dies.

Type of Tenancy Amendments

- Joint Tenancies
- Joint to Sole Tenancy
- Sole to Joint Tenancy
- Name Change

Proof of Identity Requirements

It is Wigan Council policy to check identification held on file, before completing any changes to tenancies. Should this not be available, proof of identification must be obtained from all parties.

Before any tenancy changes are approved, Wigan Council requires:

General Identification

- Two forms of ID from all parties involved
- One must be photographic

For Name Changes

One of the following legal documents:

- Marriage Certificate
- Final Decree of Divorce (Decree Absolute)
- Deed Poll Document

For Sole to Joint Tenancy Applications

Spouses/Civil Partners:

- Legal documentation (e.g. marriage or civil partnership certificate)

- Cohabiting Partners:
- Proof of residency showing they've lived at the property for 12 months prior to application

Surrender and regrant of a tenancy for Joint to Sole, Sole to Joint Tenancy Changes

If the original tenancy is a secure joint tenancy, upon receipt of a Deed of Surrender/Notice to Quit from either tenant, the tenancy will end. If Wigan Council grant a new tenancy to the remaining tenant, any new tenancy will be an Introductory Tenancy. However, the Council may exercise its discretion and grant the sole tenant a secure tenancy.

Upon the grant of a new introductory tenancy, the tenant will have fewer rights/protections. An introductory tenant does not have a right to buy, no right to a mutual exchange and fewer succession rights. As an introductory tenant, tenants will also have less statutory protection from eviction.

The tenancy shall remain as an introductory tenancy for a period of 12 months and normally converts to a secure tenancy at the end of this period. However, Wigan Council may choose to extend the term of the introductory tenancy for 6 months should it have concerns regarding to conduct of the tenancy (i.e. rent arrears or anti-social behaviour). In such situations, Wigan Council shall provide the tenant with a formal notice of extension and the tenant has a right to a review of the decision.

If the original sole tenancy is a Secure Tenancy, then new Secure Tenancy agreement will be signed up creating of a new joint tenancy.

The above progress is at the discretion of Wigan Council

Joint Tenancies

It is our policy to only grant a joint tenancy to two people when they are either married or in a civil partnership, via a joint application, or are in a relationship. We do not permit intergenerational tenancies or joint tenancies to siblings or friends.

Joint to Sole

Simply removing a name from a tenancy agreement does not end the tenancy or convert it from a joint tenancy to a sole tenancy. Other than, as a result of the death of the joint tenant or a court order transferring the tenancy into a sole tenancy.

Wigan Council will only approve an application to create a sole tenancy from a joint tenancy if:

- One tenant wishes to surrender their legal right to the tenancy and all joint tenants and Wigan Council agree with the change of tenancy.

Where a relationship breakdown occurs, either Tenant may terminate a joint tenancy by serving a valid Notice to Quit which will end the tenancy and the legal right to occupy for both joint tenants. Whilst a joint tenancy exists, both tenants will be jointly liable for any outstanding debts or matters relating to the tenancy.

Wigan Council has no legal responsibility to grant either party a new tenancy in their sole name, this decision is at the discretion of Wigan Council. Should we agree to grant a new introductory tenancy to the newly single occupant this would be in the form of a new tenancy and the usual pre-tenancy checks would apply.

Before surrendering your joint tenancy, we ask that you contact us. You can complete an application online to make us aware of your request via the following link Amending / ending your tenancy or in writing via email to us at myhome@wigan.gov.uk. Once we have received your application the Neighbourhood Tenant Officer will review and contact you to discuss.

Abandonment or Agreement

If a joint tenant abandons the property, Wigan Council may agree to termination of the joint tenancy and grant of a sole tenancy to the remaining tenant. Evidence of abandonment will be required, and the decision will be at the discretion of Wigan Council.

Tenants' Notice

A joint tenant can serve a notice to end the tenancy; no permission is needed from the other tenant(s) to do this. When the notice ends, the tenancy and the right to live in the property will end for all tenants.

A valid notice (known as a 'notice to quit') must be in writing and the notice period must be at least four weeks clear notice ending on a Sunday. The tenant can download a Notice of Termination Form online.

The joint tenant who serves notice and leaves the property will no longer be liable for rent once the notice expires. If the remaining joint tenant stays in the property after the notice has ended, they will be an unauthorised occupier and liable to pay an 'occupation charge'.

As the remaining joint tenant no longer has the right to live at the property, they will have to leave unless they can agree a new tenancy agreement with the Council.

If a new tenancy cannot be agreed and the unauthorised occupier does not leave, the Council will need to obtain a court order to end their occupation of the property.

Any tenant who would like to stay in the property must agree a new tenancy agreement with the Council. It is advisable that the potential of a new tenancy of the property is discussed and agreed before any notice is served. We would advise you to discuss this with your Neighbourhood Tenant Officer, you can contact us by phone at 01942 489005 or alternatively via email at myhome@wigan.gov.uk

In cases of domestic abuse, we will work with wider council teams and partner agencies to support applicants and to ensure that any applications are dealt with in line with good practice.

Where a joint tenant wishes to surrender their legal interest in their tenancy, Wigan Council will not agree to this if:

- The proposed remaining sole tenant owns property elsewhere.
- There has already been a change of tenancy other than an assignment by way of mutual exchange.
- The proposed remaining sole tenant would be under occupying the property by more than one bedroom.
- The proposed remaining sole tenant cannot afford the property on their own.
- There are breaches of the current tenancy or there has been anti-social behaviour or criminal activity.
- The proposed remaining tenant is ineligible or not a qualifying person under the council's allocations policy.

- Granting a sole tenancy to the remaining tenant is not compliant with Wigan Councils allocations policy and local lettings policy, if one is in place.

Sole to Joint

We will allow a sole tenancy to become a joint tenancy where the proposed joint tenant is the sole tenant's spouse, civil partner, or cohabiting partner. For applications from cohabiting partners to be approved, they must have lived at the property 12 months prior to the application and be able provide proof of residency. Spouses and civil partners will be required to provide legal documentation to support their application such as a copy of their marriage certificate or civil partnership certificate, but do not need to provide proof residency.

If you wish to apply for a joint tenancy you can do so online Amending / ending your tenancy or in writing via email to us at myhome@wigan.gov.uk. Once we have received your application, the Neighbourhood Tenant Officer will review. We have 28 days in which to make a final decision on your request this decision will be made to you in writing.

Name Change

Tenants requesting a name change will need to provide Wigan Council with one of the following legal documents before approval will be granted:

- Marriage certificate
- Final decree of divorce (Decree Absolute)
- Deed poll document

If a tenant has not formally changed their name but wishes to be known under a different name, this information will be recorded, however the tenancy will remain in the original name.

If you wish to apply to change your name on your tenancy you can do so online Amending / ending your tenancy or in writing via email to us at myhome@wigan.gov.uk. Once we have received your application, the Neighbourhood Tenant Officer will review. We have 28 days in which to make a final decision on your request this decision will be made to you in writing.

Equality and Diversity

We are committed to fairness and equality for all regardless of their colour, race, ethnicity, nationality, gender, sexual orientation, marital status, disability, age, religion or belief, family circumstances or offending history.

Our aim is to ensure that our policies and procedures do not create an unfair disadvantage for anyone, either directly or indirectly. Our commitment to fairness and inclusion reflects the Progress with Unity mission to create equitable opportunities for all residents.

Data protection and equality impact assessments have been undertaken in respect of this policy and which identified no negative impact on any person/group with a protected characteristic as a result of this policy.

Complaints and Feedback

Complaints

Unfortunately, we don't always get things right, if a customer is unhappy with the service, they have received from Wigan Council, we ask that they let us know. We are committed to making it easy for anyone who is unhappy with a service, or experience provided by the Council, to tell us about it. Where customers require additional support, we will endeavour to provide a service that seeks to meet the needs of a particular individual or household.

You can make a complaint to us in whichever way is easiest for you.

- Use our online form at www.wigan.gov.uk/contactus
- Email us at complaints@wigan.gov.uk
- Phone us on (01942) 827607.
- Write to us at the Complaints and Information team, PO Box 100, Wigan, WN1 3DS.
- Call into any public Council office.

In cases where we cannot resolve complaints informally, complaints are dealt with in line with Wigan Council Complaints Policy and a Stage 1 and Stage 2 complaints process is followed. If a customer remains unhappy and are not satisfied with our response, they can appeal through the Housing Ombudsman service, the Local Government Ombudsman, or their local MP.

How to complain to the Housing Ombudsman

- Use the online complaint form at Make a complaint - Housing Ombudsman (housing-ombudsman.org.uk)
- Phone them on 0300 111 3000
- Email: info@housing-ombudsman.org.uk

How to complain to the Local Government Social Care Ombudsman

- Use the online complaint form at Contact us - Local Government and Social Care Ombudsman
- Phone them on 0300 061 0614

Feedback

It is vital we know what our customers think and that is why your feedback and suggestions are important to us.

- Tell us about any feedback or suggestions you have that might make our services better or more efficient
- Let us know if we have given you a good service.

This helps us to understand what is important to you and to share good practice so that we can improve our services. Use this link to complete the online form Give us feedback

Review and Version Control

This policy will be reviewed every two years or sooner if required by legislative changes or operational needs. The Service Manager for Tenancy Management is responsible for coordinating the review process.