

Relationship Breakdown Policy (social rent)

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Responsible officer	Head of Operations (Triathlon Homes) (Responsibility for proposing final draft, implementation and review)
Author	Policy and Project Officer

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1. Introduction

- 1.1 Triathlon Homes recognises that when individuals experience a relationship breakdown they can sometimes find it difficult to make practical decisions regarding their home and children in an often complex area of law.
- 1.2 This policy is applicable for Social Rent tenants who inform Triathlon Homes of a **permanent** breakdown in the relationship within the household. It does not apply to leaseholders and Intermediate Rent Tenants.
- 1.3 It covers the variety of different circumstances in which Social Rent tenants on East Village live. It is assumed that the permanent breakdown in the relationship is **non-violent in nature**. In instances of violent relationship breakdowns Triathlon Homes will follow its Domestic Abuse Policy.
- 1.4 Triathlon Homes LLP ('Triathlon Homes') is the owner of 1,379 homes within the East Village and is landlord to the occupiers of these properties and has appointed a Managing Agent to manage the properties on its behalf. Both Triathlon Homes and the Managing Agent are members of the Housing Ombudsman Service.
- 1.5 All of Triathlon Homes' policies are its own, but are implemented by the Managing Agent on its behalf. Triathlon Homes' policies are required to comply with the Regulatory Standards of the Regulator of Social Housing.

2. Policy Statement

2.1 Aims

- 2.1.1 Triathlon Homes will respond sensitively and appropriately to tenants suffering relationship breakdown.
- 2.1.2 Our aim is to:
 - Ensure a clear and consistent approach to relationship breakdown;
 - Advise residents in relationship breakdown of their means of accessing alternative accommodation and their rights of occupation; and
 - Administer tenancy amendments and maintain accurate tenancy records and details of household composition.
- 2.1.3 We will not take legal action to end a tenancy where there is a relationship breakdown. We will encourage individuals to seek independent legal advice and will make it clear to tenants that Triathlon Homes has no legal rights to determine which partner should stay in the property.
- 2.1.4 Where one party to a joint tenancy terminates that joint tenancy by legal notice, we will always communicate the receipt of the notice to both parties using any contact information. Where one party asks us to grant them a new sole tenancy, on expiry of the notice we may, at our discretion, choose to do so where we are satisfied that the other party has not raised any objection.

2.1.5 Where both parties are in agreement or, in the absence of one party to indicate whether they are in agreement or not, we may, at our discretion, grant a new sole tenancy to either party where the existing tenancy has been legally ended.

2.2 What this policy covers

2.2.1 The policy will cover the following:

- What enquiries we will make;
- Relationship breakdown where there are joint tenancies;
- Relationship breakdown where there are sole tenancies; and
- What enquiries we will make; and what we can do when one joint tenant has left the tenancy leaving one or more joint tenant(s) remaining.

3. Context

3.1 Legislation

- s.87 and 91 of the 1985 Housing Act.
- Family Law Act 1996.
- Matrimonial Causes Act 1973.
- Matrimonial Homes Act 1983.
- Children Act 1989, 2004.
- Housing Act 1996.
- Homelessness Act 2002.

3.2 Links to other key Triathlon Documents

- Allocations policy (Social Rented homes).
- Domestic Abuse Policy.
- Changes to Tenancy policy.

4. Method Statement

4.1 Our enquiries

4.1.1 If we are notified that the relationship has permanently broken down, we will ask both parties into the office for an interview.

4.1.2 We will clarify and consider the following:

- Whether the parties are married, or are in a civil partnership;
- Whether it is a joint tenancy;
- Who is the tenant;
- Whether there are children involved;
- Whether either party has been excluded from their home; and
- Whether harassment or violence is involved.

4.2 Relationship Breakdown in Joint Tenancies

- 4.2.1 All joint tenants should be aware that they have Joint and Several liability for all rights and responsibilities under their tenancy agreement.
- 4.2.2 If the joint tenants are married or are civil partners, either tenant can apply for a transfer of tenancy through the courts as part of divorce or judicial proceedings. This is called a 'property transfer order'.
- 4.2.3 Joint tenants who are not married or who have not entered into a civil partnership can apply for a transfer of tenancy through the courts in a similar way to married couples. The courts will consider a range of criteria before making a decision.
- 4.2.4 One joint tenant cannot force the other to vacate without a court order. If this happens, we will advise both the joint tenants to seek independent legal advice.
- 4.2.5 Where either party is absent and is not contactable then Triathlon Homes will make reasonable attempts to notify them, at their last known address or through any next of kin or employer they previously nominated, before taking or approving action that will change the named tenants.
- 4.2.6 One joint tenant may choose to bring the whole tenancy to an end by serving on us a correct legal notice to terminate the tenancy. Where such a notice is served without the agreement or consent of the other joint tenant we will ensure that all parties are informed, wherever possible, of the effect of the notice and the urgent need for them to seek independent legal advice.
- 4.2.7 Following service of such a notice, in these circumstances, we will:
 - Establish whether either party wishes to continue to hold a tenancy with us and the reasons why the previous tenancy was brought to an end in that manner;
 - Consider whether it is appropriate to use our discretion to grant a new tenancy to either party and whether the current property is still suitable; and
 - Decide whether we need to enforce our right to vacant possession and take legal action to remove any remaining occupiers.

4.3 Relationship Breakdown in Sole Tenancies

- 4.3.1 If the sole tenant is married to the non-tenant, or if there is a civil partnership, the non-tenant has the right to occupy the matrimonial home as if he/she were a joint tenant. He/she can only be excluded by a court order. If the non-tenant lives with them as if they were their spouse/civil partner then they may also have rights under the Family Law act.
- 4.3.2 Where either of these non-tenant occupiers contacts Triathlon Homes to enquire about their right to remain in a relationship breakdown dispute, they will be advised to urgently seek independent legal advice and be provided with the contact details of local advice agencies and the local authority's Homeless Persons Unit.

4.4 Court Order

- 4.4.1 We will comply with any court order that requires us to transfer the tenancy to another named party. However, where we believe that the court order has been made on the basis of false information or representation to the court then we reserve the right to appeal against the order.

4.5 No Court Order

- 4.5.1 In cases where residents have not sought court orders they will both be encouraged to do so. They will be encouraged to take independent legal advice or to try again to reach a mutual agreement, rather than relying on Triathlon Homes to make a decision for them.
- 4.5.2 Where the relationship breakdown is permanent, the separation is not due to domestic violence and the parties are in agreement we will obtain their written consent through asking them to sign a deed or, in exceptional circumstances, the grant of a new sole tenancy (see section 4.6).

4.6 Discretion to Grant a New Tenancy

- 4.6.1 When a tenancy is legally ended by notice, by any of the parties or by court possession order then we may, at our sole discretion, agree to grant a new tenancy of a suitable property where we feel it is appropriate and we are able to do so. Under no circumstances will Triathlon Homes re-house both parties separately.
- 4.6.2 In making this decision we will consider, amongst other things, the profile of the household, who has legal responsibility for any (minor) children or other dependents, the circumstances in which the previous tenancy was ended, the reasons why a property transfer order was not obtained by either party through the court and the conduct of the tenancy within the last 12 months.
- 4.6.3 Where either party is absent we will make enquiries and take the relevant action as set out in our changes to tenancy policy.
- 4.6.4 If we decide to grant a new tenancy, we will also consider offering alternative suitable accommodation where:
- The property is adapted for someone with a disability; or
 - There is under-occupation or overcrowding of the property.

5. Monitoring the policy

- 5.1 This policy will be monitored by the Head of Operations who will review this policy periodically, capturing best practice, customer feedback and legislative changes to inform this review.

5.2 Measures of success

5.2.1 The success of this policy will be measured through customer feedback on this process.

6. Equality Needs Impact Assessment

6.1 An equality impact assessment of this policy will be undertaken by October 2015.

7. Glossary

Social Rent tenancies – Assured ‘Lifetime’ tenancies, including starter and fixed term tenants.

Leaseholders – Shared Ownership and Shared Equity leaseholders.

Joint and Several Liability – Where the obligation or debt is the responsibility in full of either/both parties.

8. Accessibility of information/Publication

8.1 This policy is available on the Triathlon Homes website.

Policy Controls sheet		
Author	Date	Main changes and why (i.e. change in legislation, change in internal processes)
Customer Services Policy Manager	May 2021	Update to include references to new Domestic Abuse Policy. Updated Regulator details.