

Policy	Tenancy changes - Relationship Breakdown
Users of Policy	Colchester Borough Homes, Colchester Borough Council
Date Adopted	30th January 2014
Date last Reviewed	
Review Frequency	Review every 3 years
Best Before Date	
Scheme Delegation	
Formation of Policy	Portfolio Holder with delegated responsibility for Housing
Amendments	Portfolio Holder with delegated responsibility for Housing
Monitoring	ALMO Performance Manager
Implementation	ALMO Performance Manager
Approval of	Head of Service responsible for the Council's Housing Revenue account.

1. Aims of Policy

- 1.1 To inform Colchester Borough Council (CBC) tenants of their legal rights for housing when a relationship with a partner breaks down, where there is no violence or threatened violence involved. The policy also gives guidance on how CBC Joint tenants can deal with conflicts over property rights and what action can be taken by the council once the tenant and partner have decided on the property issue.

2 Legislation and Guidance

- 2.1 Housing Act 1996 - The act addressed a variety of issues, setting out a framework for the conduct of tenants in order to ensure that both parties knew their rights when signing up for a tenancy agreement.
- 2.2 The Act gave responsibility to the council to prioritise those in greatest need of housing, based on particular needs they have and on the likelihood of them being able to secure accommodation themselves.
- 2.3 The Homelessness Act 2002 made further provision about the functions of local housing authorities relating to homelessness and the allocation of housing accommodation.

3. The Policy

- 3.1 Each case will be considered on an individual basis due to the varied and complex circumstances of individual households, which include married and co-habiting couples, households with or without children, and same sex couples.

- 3.2 Both parties will be advised to seek independent legal advice, and to be made aware of the implications of ending their tenancy. We will do this at the initial enquiry and throughout the duration of the case.
- 3.3 We will follow legislation, in the case of joint tenants the legal position is;
- Both parties have equal rights to stay in the home
 - Both parties have the right to remain as a joint tenant although they may not be living at the property
 - Both parties have the right to hand over (known as voluntarily assignment) their tenancy by deed to the other joint tenant, so ending their own secure tenancy rights and giving the other joint tenant the whole tenancy. The remaining sole tenant will have all the rights and responsibilities of the tenancy including responsibility for payment of the rent and any arrears.
 - If divorce proceedings have been started the Court can decide who should have the tenancy. The joint tenants will need to make a request to the court to make a Property Adjustment Order. This will determine who will be given the tenancy
 - One tenant can unilaterally end the tenancy by giving the correct notice, and this will automatically end the tenancy for both parties. The consequence of this will be clearly explained to both parties. The parties will have no legal right to stay in the property.
- 3.4 In all cases of relationship breakdown any decision on eligibility for social housing will be made with regard to the Council's Allocation Policy due to the limited number of homes available to applicants. In line with homelessness legislation the council will not have a duty to re house people that are not in priority need.
- 3.5 In order to identify the exact circumstances of the household in question and the alternative courses of action available to them, Housing Options advice will be available to help people to make informed decisions.
- 3.6 Where domestic abuse is a feature of the relationship breakdown, a separate policy will be followed.
- 3.7 Where there are children involved the aim will be to accommodate the adult who has custody/residence order for the children. In all cases, advice and assistance will be offered to the partner who does not have custody/residence order of the children.

4. Appeals Procedure

- 4.1 Appeals must be received in writing within 28 days of the decision.

- 4.2 Appeals against the decision will be investigated and responded to by the Head of Service responsible for the Council's Housing Revenue account.
- 4.3 Appeals must set out which particular aspects of the application of the policy or procedure the appeal is based on.

5. Service Standards

- 5.1 Colchester Borough Homes will acknowledge requests within 5 working days.

6. Monitoring and Review

- 6.1 The policy will continue to be monitored by monthly meetings set up to ensure that Relationship Breakdown cases are being dealt with under the law and this policy. Cases and outcomes will be recorded by Colchester Borough Homes.
- 6.2 Reviews of the policy will be conducted every 3 years to make sure the policy continues to be efficient and effective.

7. Communicating the Policy to Staff

- 7.1 Managers and staff involved in the implementation of the Policy will receive a copy of the policy.
- 7.2 The Council will provide sufficient training to enable staff to understand and comply with the Policy.
- 7.3 A copy of the Policy will be placed on the 'Hub' – the Council's central electronic communications point.
- 7.4 Any amendments to the law and the Policy will be communicated to managers and staff involved in implementing the policy.

8. Communicating the Policy to Customers

- 8.1 A fact sheet of frequently asked questions will be put together for this policy by CBH
- 8.2 A copy of the policy will be placed on the Council's website

9. Scheme Delegation

Formation of Policy - Portfolio Holder with delegated responsibility for Housing

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10. Appendix