

### **Married Couples—short term rights:**

If your partner is the sole tenant but you are married you have the rights to

- occupy the marital home and not be excluded except by court order
- If not occupying the home obtain a court order to regain entry and live there
- Pay the rent—there is no legal liability to do so except by court order

If you and your partner cannot agree about living arrangements during a marital breakdown then you can apply to the court for an occupation order and the court will decide what should be done in the short term.

### **Long Term Options for married or cohabiting couples:**

If you are married and/or getting a divorce or you have had a relationship breakdown then you have the option of asking the courts to transfer the tenancy into your name the court will consider both your situations before deciding whether to do this.

In the absence of the tenant instructed to give up their interests the landlord can amend the tenancy on the authority of the court order

### **If only your name is on the tenancy:**

If you are the sole tenant of the property you will have many rights in the short term as any person sharing the home with you can only remain with your agreement, unless they are married to you or obtain an occupation order from the court.

If you are married or been in a relationship your partner can apply to the court to get the property transferred into his/her name.

If you don't want to stay in the property it may be in your interest to try and get the tenancy transferred by way of assignment into your partner's name. This will end all liabilities with regard to your tenant obligations including paying rent. You should seek independent advice about doing this.

No matter what relationship you are in it may be possible to voluntarily transfer the tenancy into your name **if your partner agrees**. It will depend on the type of tenancy your partner has and whether an assignment of tenancy is not prohibited. Your Housing officer can give you further advice.

### **Access to Courts:**

The nearest Family Law Court is the Northampton Crown Court. There is a standard application fee which may be exempted for persons on benefits or low incomes— further advice can be obtained from the court offices.

Further confidential advice and assistance in completing forms is available from the Citizens Advice Bureau or Welfare Rights. A number of local firms of solicitors may also be able to assist you however this is likely to involve a cost payable by you.

Housing and Neighbourhood Services Deene House New Post Office  
Square Corby Northants NN17 1GD Tel 01536 464000  
Email landlord\_services@corby.gov.uk  
For further advice or information please contact your housing officer

## **Housing and Neighbourhood Services**



## **2. Your Council Tenancy & Relationship Breakdown**

**EVERY SITUATION IS DIFFERENT AND IT IS IMPORTANT THAT YOU SEEK INDIVIDUAL INDEPENDENT ADVICE FROM A SOLICITOR SPECIALISING IN FAMILY LAW OR THE CITIZENS ADVICE BUREAU OR WELFARE RIGHTS ADVISORY SERVICE BEFORE ACTING TO END THE TENANCY OR ASSIGN TO ANOTHER**

This leaflet is available on request in large print. A translation service into a wide range of languages is also available. If you have any special need, please tell us so we can help you. Please ask at the Reception desk for further information.

## What are my rights ?

If your relationship breaks down you may have rights to remain in your own home even if you are not the tenant. You may even be able to get the property transferred into your name. What rights you have will depend upon the relationship you were in, the type of tenancy or occupancy agreement you and your partner had and your personal circumstances.

### If both your names are on the tenancy:

If both you and your partner signed the tenancy agreement then you will be joint tenants.

### Your rights as a joint tenant.:

- You have the right to remain in the property and can only be made to leave by a court order
- You can only make your partner leave by getting a court order
- You have to pay the rent and are liable for the whole amount if your partner fails to pay his/her share. You are liable to pay the whole amount (not half) if the other joint tenant stops paying
- You are liable for the rent until the tenancy is ended formally even if you leave the property
- The joint tenancy and your obligations continue until formally ended even if only one of you remain in the property

## What we as a landlord are unable to do

### Take sides.....

We will never side with one party in a relationship breakdown. If joint tenants can't agree who can have the tenancy then you must seek independent legal advice to explore your options using the legal process if necessary.

Courts can order the tenancy be given up in favour of one or the other tenant in certain circumstances. It's not enough just to tell us that one of you is leaving this will only leave the tenancy and tenants rights in a state of limbo

### What you can do:

You can ask the court to make an occupation order if your partner tries to make you leave.

This will state who should live in the property. If your partner ends the tenancy by giving legal notice (which he/she is entitled to do) this will end the tenancy for you too, even if you did not or intend to move out.

If you think your partner might do this you may be able to prevent it but will need to seek urgent independent legal advice before any formal notice is given.

If you are married and divorcing or have been living with a long term partner you can ask the courts to transfer the tenancy into your name. The courts will take both situations into account before deciding whether to do this.

No matter what relationship you are in it may be possible to transfer the tenancy into one name if **both** of you agree without involving a solicitor.

If this is a realistic option you may not have to go court, your housing officer will be able to advise you further on the process and its limitations according to your tenancy agreement.

### If only your partner's name is on the tenancy:

If your partner formally ends their sole tenancy by giving legal notice this will end the tenancy and any right to occupy the property for you too, even if you don't wish to move out. If you think your partner might do this you may be able to prevent it but must seek **urgent** independent advice to explore the options open to you **before** it happens.

### Unmarried/Cohabiting couples—short term rights

If you are unmarried and your partner is the sole tenant then you will only be able to remain in the property with their agreement. In the short term you may be able to get an occupation order from the court to allow you to stay temporarily. Your right to do this will be strengthened if you have children which you intend providing a stable home for.

If you think your partner has given notice and intends moving out you must seek independent legal advice quickly.