



This leaflet tells you about the legal rights of your tenancy with Innisfree.

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## **SIGNING THE TENANCY AGREEMENT**

When you move into an Innisfree Housing Association room, flat or house, we will ask you to sign a tenancy agreement. This will be either an Assured tenancy or, in supported housing schemes, an Assured Shorthold tenancy. A tenancy agreement is a contract between a tenant and a landlord and is legally binding on both. An 'assured' tenancy has special rights protected by law.

As a tenant of Innisfree you have certain rights and responsibilities. Your tenancy agreement tells you these. It also tells you Innisfree's responsibilities to you.

## **JOINT TENANCIES**

### **What is a Joint Tenancy?**

If you have signed the agreement together with someone else you are 'joint tenants'. You share the responsibilities and the benefits equally. You must each ensure that the responsibilities are met. For example, you are both responsible for payment of rent and for any rent arrears.

If a joint tenant dies, the surviving joint tenant inherits the tenancy as a whole.

### **When does Innisfree offer joint tenancies?**

We may offer people a joint tenancy where:

- People are nominated or referred to us together.
- An existing Innisfree tenant asks for their partner, (including a lesbian or gay partner) to be included as a joint tenant, if they have been living together for at least 12 months. In this case the existing tenancy must be ended and Innisfree would grant a new joint tenancy.

Sometimes we may refuse an application for a joint tenancy if there is a good reason, for instance if you owe rent.

There are special legal rules to add or to remove a joint tenant from a tenancy once it has started. If one joint tenant wants to leave, or you want to add a new joint tenant to share your responsibilities, you must discuss this with your Housing Officer.

### **'ONLY OR PRINCIPAL' HOME**

The property you rent from us must be your only or principal home. This means you cannot:

- Let out the whole of your home and move somewhere else;
- Give your home away to someone else;
- Leave your home for a long time without letting us know that you intend to return;
- Own a property elsewhere.

If you are not living at the property we can take legal action to repossess it. This could mean that you might lose your home and we will evict anyone living there. See also Leaving Home Temporarily below

### **VARIATION OF TERMS OF TENANCY**

#### **Can the terms of my tenancy agreement be changed?**

If you want to change the terms of your own agreement Innisfree would be very reluctant to allow this, because we prefer to grant the same rights and responsibilities for all our tenants. (We might in special circumstances agree to a temporary change).

If we want to change the terms of your agreement we must consult you about the proposed changes and explain their effects. After consulting and agreeing the change with

you we would need your consent in writing. The same applies, whether the change is to your individual tenancy or a common change to all Innisfree's tenancies.

### **SERVICE OF NOTICES**

If we need to serve a formal 'notice' on you, for example a Notice of increase in rent, we can do so by delivering it or posting it to your home, or if you have left us a forwarding address, to that address. You can serve notice on us by delivering or posting it to our Head Office address, shown on your tenancy agreement and this leaflet.

### **PASSING ON YOUR TENANCY (ASSIGNMENT)**

#### **Can I transfer my tenancy to someone else?**

##### **Assured Tenants**

You can transfer your tenancy to someone else only if:

- A Court has ordered the transfer, for example as part of divorce or separation proceedings;
- You have our written permission to do a mutual exchange (See our leaflet *Moving Home*);
- You die (but see 'Succession' below);
- You pass your tenancy on to one of the people who could take it over if you died.

If you want to pass on your tenancy in one of these ways, discuss it with your Housing Officer, who will arrange for the transfer to be done legally. If it's not done properly we could take legal action to repossess the property.

##### **Assured Shorthold Tenants**

In most circumstances Innisfree only grants shorthold tenancies of a room for a single person in a shared house. Therefore there are no legal rights of assignment for these.

## PASSING ON YOUR TENANCY WHEN YOU DIE (SUCCESSION)

### Can my family take over my tenancy when I die?

Only certain people can take over your tenancy. These are:

- The other joint tenant, if you have a joint tenancy;
- Your spouse or partner (including a lesbian or gay partner) if they are living with you when you die, and it is their only or main home.

In most circumstances Innisfree only grants shorthold tenancies of a single room in a shared house, therefore these succession rights do not apply to them.

In law, a spouse or partner can only take over a tenancy if the tenant who died had not already taken over the tenancy in the same way, i.e. from a previous joint tenant or a former partner, or by inheritance. However, in such a case, IHA would consider offering a new tenancy instead.

We would also consider offering a new tenancy, in certain circumstances, to a close member of your family who has been living with you for at least 12 months before you die. A close member of your family includes: parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece.

If more than one member of your family wants Innisfree to offer a new tenancy, they must decide between them who is to apply.

### Can I 'leave' my tenancy in a will?

If you name a person in your will to inherit your tenancy, we would take legal action to end the tenancy immediately. The only exceptions we make to this rule are for a spouse or partner, or in certain circumstances, a close member of your family who has lived with you for at least 12 months before you die.

### What happens when a tenant dies?

A person who may be eligible to take over a tenancy on the death of a tenant, or who considers they should be granted a new tenancy of the home, should contact Innisfree as soon as possible after the tenant's death.

If a joint tenant or a partner takes over a tenancy, and the home is too large or unsuitable for their needs, Innisfree would encourage them to move to more suitable accommodation.

Where no-one is eligible to take over the tenancy, the tenancy should be ended by the

executors as soon as possible. Unless we have granted a new tenancy of the same property to a family member (see above) we allow the family of the former tenant 2 weeks rent-free to clear the home. After that rent will be charged by the day.

### What happens to any credit/arrears left on the rent account?

Arrears and credits are passed with the tenancy to a person who is eligible to take over the tenancy.

If no-one takes over the tenancy arrears and credits are passed to the former tenant's estate.

## LODGERS AND SUB-TENANTS

### What is the difference between a lodger and a subtenant?

A *lodger* is someone who pays to share the facilities of your home and lives with you as part of your household. They might have their own room but you can still enter it if you need to.

A *sub-tenant* is someone who pays rent for one or more rooms and does not expect you to enter these rooms without their permission. A sub-tenant may share some rooms (e.g. the bathroom) but will generally lead a separate life to your household.

### Can I take in a lodger or subtenant?

We will normally let you take in a lodger, but not a sub-tenant. This would not be a 'tenancy' but should be simply your 'permission to use and occupy'. However, you should ensure you understand how taking lodgers in could affect your rights.

In most circumstances Innisfree only grants *shorthold tenancies* of a single room in a shared house, therefore these shorthold tenants cannot take lodgers or sub let. Any shorthold tenant of self contained property should speak to their Housing Officer if they wish to take a lodger.

### Do I need Innisfree's permission?

Yes. All Innisfree tenants need our written permission before taking someone to live in their home (other than immediate family). We will only refuse if there is a good reason (e.g. if it would make your home overcrowded). We also need to record additional family members living with you, to help us decide about 'succession' rights if you should die (see above).

Lodgers and sub-tenants have certain rights that could affect your own tenancy. You must not create any type of sub-tenancy.

You **must** ask our permission, and you need to use a suitable form of written contract. Your Housing Officer can help to explain this to you. You can also get detailed advice from a Citizens' Advice Bureau, Law Centre or Housing Advice Centre.

### **What do I need to tell Innisfree?**

Let your Housing Officer know:

- the name, age and sex of the proposed lodger or subtenant,
- the number of rooms they will occupy,
- how much you will be charging,
- how long you expect the person to stay **and**
- show your Housing Officer your proposed written contract.

### **Will having a lodger affect my benefits?**

The payment you receive from a lodger, or the presence of any additional independent adult in your home can affect how much Housing Benefit you get. You should get advice about this before you take someone in.

### **What are my responsibilities?**

When you have a lodger:

- You decide how much to charge. This should be reasonable and less than the total rent you pay to Innisfree.
- You must tell the Benefits Agency and the council Housing Benefit section about the payment you are getting. If you don't, and they pay too much benefit, they will claim it back.
- You are responsible for the behaviour of anyone staying in your home.
- **Your** tenancy will be at risk if the person breaks any of the conditions of your tenancy - for example, if they harass a neighbour.
- If you leave your home permanently, you must make sure that the person moves out before you do. We will not rehouse them and we would charge you for any costs we incur for making them leave. They will not take over your tenancy.

If you are taking someone in because your home is too big for you to manage, talk to your Housing Officer about applying for a transfer to a smaller property.

## **LEAVING HOME TEMPORARILY**

### **Can I get a 'flat-sitter'?**

There may be times when you need to leave your home for a long period although you will definitely be returning. You may need to go into hospital or want to take an extended holiday.

Tell us beforehand if you want someone to stay in your home to look after it while you are away. If we don't know about your arrangement we may believe that you have left permanently and take steps to repossess your home.

### **What does Innisfree need to know?**

At least a month before you go away, tell your Housing Officer:

- an idea of why you are going away;
- the date you will be coming back;
- who will be living in your home;
- how you can be contacted while you are away;
- whether there will be any financial or contractual arrangement between you and the house sitter;
- how the rent will be paid (Housing Benefit will not pay during a long absence)

If you are likely to be away for more than a few months, we may ask you to give up your tenancy.

We have no responsibility to flat-sitters and we will only accept rent from them on your behalf. If arrears build up while you are away you are responsible for them. Innisfree may take steps to repossess your home.

We will only agree to this sort of arrangement if you:

- tell us in advance,
- are not in arrears,
- have not broken any of the conditions of your tenancy,
- have told the council Housing Benefits team (if you are receiving Housing Benefit)  
Note that Housing Benefit is rarely paid during long absences)

## RELATIONSHIP BREAKDOWN

People who live together may split up and no longer want to share their home.

We will not normally rehouse the person who leaves when a relationship breaks down. If that person is vulnerable and in housing need we may ask them to apply for rehousing. But often we can only give advice.

If you are thinking of moving out of your home following a relationship breakdown, make sure you understand the implications of what you are doing. Get advice from a Citizens' Advice Bureau, Law Centre or Housing Advice Centre.

***Get legal advice urgently if your partner has been violent to you or other members of your household, or you have had to leave your home because of violence.***

***See also our leaflet on Nuisance, Harassment and Domestic Violence.***

## CAN I BE MADE TO MOVE OUT?

You cannot be made to leave your home unless we get a Court Order giving us possession of the property. Before applying to court for repossession, we must issue you with a formal Notice. At this stage we will suggest you get independent advice.

### • **Assured Shorthold Tenants**

We can give you Notice that we want to end your tenancy without quoting particular reasons (grounds). We can only do this if we give you at least 2 months notice that end 6 months or more after your tenancy began. If we serve the proper notice correctly, a Court must give us possession. There does not have to be a court hearing, unless you or we ask for one.

We can also ask a Court to end a shorthold tenancy or to make an order, for example to repay arrears, under the same grounds and in the same way as for Assured tenants (see below).

### • **Assured Tenants**

We can ask the court for possession for a number of different reasons (grounds). We will usually give you four weeks' warning before applying to court and the 'notice' must be in the proper form.

## How do Courts decide whether to give possession?

They will only give us a possession order if:

- we have given you the proper type of notice, and
- we can prove that the specific 'grounds for possession' apply to your case.

Sometimes the Court will look at whether:

- we are acting reasonably, and/or
- we are providing you with other suitable housing.

## What are these 'grounds for possession'?


The main ones are if:

- You owe, or persistently delay paying rent;
- You, a member of your household or a regular visitor, is harassing someone, causing a nuisance, or committing some illegal action at or near your home;
- You have caused damage to your home or other Innisfree property;
- You have broken any of the terms of your tenancy agreement;
- You misled us so that we would grant you a tenancy;
- You have inherited the property but are not eligible for Innisfree housing;
- We need the property empty so that we can carry out repair works or redevelop it;
- We need to move you for some other relevant reason - for example because you don't need special disability facilities that are in your home.

## How does IHA take legal action?

If we decide to take action we must give you notice. For most of the grounds 14 days is sufficient in law, but Innisfree will usually give you at least 4 weeks' notice. In a few cases we must give you 2 months notice. However, in cases of violent behaviour or harassment no Notice is required or could legally be given on the same day as we apply to court.

Before we start action we will warn you and give you the opportunity to correct any problems. We will carry on trying to resolve the problems all the way through the legal process.



If we do go to Court, you should come along to put your case forward. Someone can speak on your behalf in Court if you want.

You should get independent legal advice from a Citizens' Advice Bureau, Law Centre or Housing Advice Centre.



# Innisfree

Housing Association

A charitable Housing Association



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