

# ENDING A TENANCY

Guidance for residents with loss of capacity and/or their advocates



## Legal advice

For support to end the tenancy, we advise you seek legal advice via Citizens Advice.

## Pre-termination visit

Before ending a tenancy, a housing officer will arrange a pre-termination visit with the resident and/ or their representative at a time that's convenient. This is to check the property condition and discuss next steps, it's also a chance to ask any questions.

## If the resident has left the property

If the resident has moved home, for example into a care home, we'll check with adult services and the care home that the resident won't be returning home. We'll then end the tenancy by issuing a Notice to Quit.

If there are other people living in the property, they should contact us for support and look for alternative accommodation.

## THIS GUIDANCE EXPLAINS WHAT HAPPENS IF SOMEONE NEEDS TO END A TENANCY, BUT THE RESIDENT IS UNABLE TO MAKE THAT DECISION THEMSELVES.

### Ending a tenancy

If a resident lacks capacity, they're unable to end their tenancy themselves. We'll work with anyone who has power of attorney or has been appointed by the Court of Protection to make decisions in the resident's best interests. We'll also work with adult services to arrange a mental capacity assessment and make sure everything is handled with care and respect.

Before taking any steps to end a tenancy, we'll always consider our duties in relation to the Equality Act 2010 and when capacity is in question, we'll carry out a thorough written Equality Act Assessment.

### Who can end the tenancy?

Someone can sign or end a tenancy on behalf of a person who lacks capacity if they are:

- An attorney with a registered lasting or enduring power of attorney
- A deputy appointed by the Court of Protection
- Or someone else the Court of Protection has officially authorised to act

We'll need to see documentation to evidence any of the above.

If there's a social worker or professional working on behalf of the resident, we'll liaise with them to determine the capacity and best interests of the resident.

We follow the principles of the Mental Capacity Act 2005. If someone has made an advance decision or "living will" for situations where they might lose the ability to decide for themselves, we'll respect and follow their wishes.

### What documents are required?

In order for us to end the tenancy, you must provide the following:

- Evidence on the power of attorney
- Evidence of the mental capacity assessment
- A completed and signed end of tenancy form



# ENDING A TENANCY

Guidance for residents with loss of capacity and/or their advocates



## End of tenancy form

Once it has been decided that ending the tenancy is in the best interests of the resident, we'll ask you to complete an end of tenancy form. Once we receive the completed form, we'll start the four-week notice period to end the tenancy. The tenancy will end four weeks later, always on a Monday.

## Clearing the property

Before returning the keys, please make sure the property is empty, including gardens, cupboards, lofts, and flooring. If you can't remove something, like medical equipment, let us know who installed it so it can be returned.

If items are left after the end of tenancy date, we'll serve a two-week TORT notice and dispose of the items at the end of the two-week period.

## Returning the keys

The keys will need to be returned to us on or before the end of tenancy date. The keys must be returned by 12pm on the Monday the tenancy ends. All keys including window keys, back door keys, front door keys and fobs must be returned to us.

Keys can be returned to us by:

- Delivering them to one of our offices, they must be labelled
- Left with a neighbour, you must inform us of who the keys have been left with
- In the keysafe if one has been fitted
- Window keys and back door keys can be left in the property

## Rent and other charges

Rent is charged until the end of the four week notice period. We'll let the attorney or court-appointed deputy know about any arrears up to the end of the tenancy, including the amount owed through the notice period.



## Further support

If you need any support, including additional time to clear the property or referrals to other agencies to help, please contact us on **0300 303 1066** or **hello@southernhousing.org.uk**.