

Tenancy Succession Policy

1.0 SCOPE

Purpose

- 1.1. This Policy outlines our approach to tenancy succession specifically when there is a claim for succession on the death of a tenant.
- 1.2. The Policy defines the different types of succession rights, specifically:
 - Survivorship
 - Statutory succession
 - Contractual succession
 - Tenancy vested in a will or intestacy
- 1.3. The right of succession of a tenancy in the event of the death of a tenant can take place once during the life of a tenancy (where a previous succession has not taken place) with the exception of Protected Assured Tenancies. Appendix 1 below sets out succession rights contained within our tenancy agreements.
- 1.4. The Policy outlines our approach to failed successions and when we would offer suitable alternative accommodation to make best use of our homes.
- 1.5. The Policy does not apply to Leaseholders and Shared Ownership customers.

Legal and regulatory framework

- 1.6. The Equality Act 2010 (S.34) requires us to ensure we do not unlawfully discriminate against a person on the basis of a protected characteristic (age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership and pregnancy and maternity) when making decisions about successions and tenancy changes.
- 1.7. The Housing Acts 1985 and 1988 specify the terms on which successions can take place (as amended by the Localism Act 2011 s.160 affecting fixed terms tenancies and succession rights of these tenancies let after April 2012).
- 1.8. The Tenancy Standard of the Regulator of Social Housing (RSH) requires us to issue tenancies which are compatible with the purpose of the accommodation, the needs of individual households, community sustainability and the efficient use of our homes. We are also required to ensure we follow

practices to make the best use of our homes.

2.0 POLICY STATEMENT

Claim for Succession – Survivorship/Statutory Succession

- 2.1. Survivorship succession occurs automatically when there is a joint tenancy and one party to the joint tenancy dies, at which point, and on proof of death, the surviving joint tenant will succeed the tenancy automatically from the date of death.
- 2.2. Statutory succession occurs automatically when the deceased is the sole tenant and the right of succession passes to someone living as or is the husband/wife/civil partner who can provide proof:
 - of death; and
 - of their relationship with the deceased; and
 - that they occupied the home with the deceased as their only or principal home immediately prior to death.
- 2.3. The succession will take effect from the date of death.
- 2.4. After the succession has taken place, we will review housing options sensitively with the customer in accordance with the Allocations Policy, to make best use of our homes.

Claim for Succession – Contractual Succession

- 2.5. This occurs when the tenant dies and there is:
 - no surviving husband/wife/civil partner or someone living as husband and wife who would automatically succeed the tenancy; and
 - a previous succession has not taken place; and
 - there is a family member who may claim succession, subject to the terms of the deceased's tenancy agreement, noted in Appendix 1.
- 2.6. If all terms are met, a contractual succession will take place. If the terms are not met, the potential successor will be dealt with as a failed successor – see below.

Tenancy vested in a Will

- 2.7. Where a tenancy is vested in a Will, we will comply with its terms, following which we will apply to court for mandatory possession of the home under Ground 7, informing the tenant that rent payments will be accepted until such time possession takes place. Where there is a failed succession, see the section below.

- 2.8. We will offer information and signpost the occupant to move on to their next home.

Failed Succession

- 2.9. A failed successor is someone who applies to succeed the tenancy when the deceased was a successor as stated in the terms of the deceased's tenancy agreement, and / or the terms of the tenancy agreement for succession are not met.
- 2.10. If there is no succession entitlement or executor to administer the end of a tenancy on the death of the tenant, we will write to the Public Trustee to serve notice on the tenancy which will bring it to an end. We will liaise with family members as sensitively as possible.

NB. The Public Trustee is a government office who legally serves notice on a tenancy on behalf of the deceased where there is no will or executor to do it for them. Any claims on the estate are referred to the Public Trustee.

- 2.11. If the home continues to be occupied by someone after the tenancy has ended, who has not met the terms for succession, we will follow the Allocations Policy and/or the Unauthorised Occupiers Policy and Procedure. The level of support we offer will be determined on a case by case basis.

Making the best use of our homes

- 2.12. We are required to ensure we make the best use of our homes, which may require a successor to move to suitable alternative accommodation in the following circumstances:
- if the home is under occupied by two bedrooms or more (including three bedroom bungalows); and/or,
 - if the home had been built or adapted for a person with disabilities and the successor does not need them; and/or
 - if the home is designated for older people and the successor is not in need of older person's services or accommodation.
- 2.13. We expect the successor to engage and work with us to achieve an offer of suitable alternative accommodation. If the successor refuses to work with us, we will ensure that suitable alternative accommodation will be available when the possession order takes effect.

Suitable Alternative Accommodation

- 2.14. To help us make the best use of our homes, The Housing Act 1988 grounds for possession refer to an offer of suitable alternative accommodation as "suitable to the needs of the tenant and his/her family as regards proximity to place of work, and either:

- similar in rent and the property meets the needs of the tenant and the family make up; or
 - is furnished accommodation where the next property will also require furniture similar to the previous property; and
 - the property is not overcrowded.”
- 2.15. We will make one offer of suitable alternative accommodation.
- 2.16. Given the sensitive nature of successions, we will consider each case on its own merits, taking into account individual circumstances prior to taking any possession action. We will not start possession proceedings until after six months of the tenancy has passed, and within 12 months from the date of succession.
- 2.17. All other circumstances where we may offer suitable alternative accommodation will be considered on a case by case basis.

3.0 PERFORMANCE MEASURES

- 3.1. We aim to complete all successions within 28 days of being notified of the death.

4.0 MONITOR AND REVIEW

- 4.1. This Policy will be monitored by the Director of Housing and reviewed every three years, unless an earlier review is required due to legislation or regulation change.

5.0 ASSOCIATED DOCUMENTS, POLICIES AND PROCEDURES

- 5.1. Documents, policies and procedures associated with this policy are:
- Relevant Tenancy Agreements
 - Tenancy Succession Procedures
 - Unauthorised Occupiers Policy and Procedures
 - Lodgers, Subletting and Tenancy Fraud Policy and Procedures
 - Starter Tenancy Policy and Procedure
 - Tenancy Policy and Procedures
 - Allocations Policy and Procedures
 - Housing Act 1985 and 1988

APPENDIX 1

Tenancy Type	Succession Right
<ul style="list-style-type: none"> • Starter Tenancy • One Year Fixed Term Tenancy • Mortgage Rescue Tenancy • Market Rent Tenancy • Rent to Buy 	Survivorship and Statutory Succession only
<ul style="list-style-type: none"> • Assured Tenancy • Five Year Fixed Term Tenancy – General/Affordable 	Survivorship, Statutory Succession and Contractual Succession applies with specific terms contained within the tenancy agreement of the deceased.
Protected Assured Tenancy	<p>Survivorship, Statutory Succession and Contractual Succession applies with specific terms contained within the tenancy agreement of the deceased.</p> <p>Any succession that took place before stock transfer in 2003 is discounted.</p>

Version control

Version	Version 1
Document author	Jenny Calderbank
Document owner	Gary Brookes – Director of Housing
Legal advice	Legal Services have reviewed the policy and amendments have been made to accordingly.
Consultation	Consultation has been undertaken with Tenancy Services, Service Managers and the Director of Housing
Approved by	Policy Group – April 2018 [Insert Board or Committee approval date if relevant]
Review Date	October 2021
Corporate Plan aim	Deliver high quality homes and services to our customers
Equality analysis	None
Key changes made	New Policy