

# Succession Policy

<b>1.0</b>	<b>SCOPE</b>
	<b>Purpose</b>
1.1.	This document sets out whg's policy towards tenancy succession following the death of an assured tenant.
	<b>Legal and regulatory framework</b>
1.2.	<b>Common law: Survivorship</b> Property owned jointly will pass to surviving owner on death of other party. A tenancy is considered property in this context.
1.3.	<b>Housing Act 1988 Section 17: Succession</b> At the tenant's death, an Assured tenancy passes to the tenant's partner if they were living in the property as their only or principal home; if there is no such partner, the tenancy passes to anyone specified within the tenancy agreement as eligible to succeed. This does not apply if the tenant was a successor.
1.4.	<b>Housing Act 1988 Schedule 2: Grounds for Possession</b> Ground 7: whg can apply for mandatory possession of a tenancy which has devolved under a will or intestacy, i.e. where no succession rights apply, provided we begin possession proceedings within twelve months of the tenant's death.
1.5.	<b>Housing Act 1985 Section 113: Family Members</b> A family member is defined as a person's parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece, including by marriage, by half-blood relation or by step relation.
1.6.	<b>Regulator of Social Housing: Tenancy Standard</b> Registered providers shall let their homes in a fair, transparent and efficient way, and make the best use of housing stock. They should have clear decision-making and appeals processes [1.1.1], and publish their policy on granting discretionary succession rights, taking account of the needs of vulnerable household members [2.2.1].
<b>2.0</b>	<b>POLICY STATEMENT</b>
	<b>Survivorship</b>

2.1.	When a joint tenant has died, the tenancy will continue as a sole tenancy in the name of the surviving tenant, from the date of death. This applies if there has been a previous succession. No further succession is permitted, subject to 2.5.
	<b>Statutory Succession</b>
2.2.	When a sole tenant has died, if they lived with their partner, their partner will succeed to the tenancy from the date of death. This does not apply if there has been a previous succession. No further succession is permitted, subject to 2.5.
	<b>Contractual Succession</b>
2.3.	When a sole tenant has died, if they did not live with their partner, a family member will succeed to the tenancy from the date of death, provided that they meet the criteria for succession in the tenancy agreement, the current provisions of which are set out at Appendix 1. This does not apply if there has been a previous succession. No further succession is permitted, subject to 2.5.
	<b>General Principles</b>
2.4.	An occupant claiming succession must provide sufficient proof of the succession, including death certificate, proof of occupancy and proof of relationship to the tenant.
2.5.	An occupant left in possession following the death of a tenant, where there is no right to succession, may claim discretionary succession rights. Discretionary succession rights may be awarded if there is a substantial reason why it would be unreasonable to remove the occupant from their home, for example due to care and support needs or where the property is an established family home and there is good reason for the occupant to remain.
2.6.	Discretionary succession rights will not normally be awarded to occupants who have lived in the property for less than twelve months, or who were not a member of the tenant's household. Discretionary succession rights may be awarded on the condition that the successor moves to more suitable accommodation within a specified and reasonable time period.
2.7.	Any occupant left in possession following the death of a tenant, where there is no right to succession and no discretionary succession rights have been awarded, may be provided with accommodation under the terms of the Allocations Policy or signposted appropriately with support. They will be required to pay use and occupation charges and all applicable bills and council tax from the end of tenancy until they leave the property.
2.8.	Where there has been no succession and the tenancy has been vested in a will or intestacy, this will not be treated as a succession and whg will apply for

	possession. Where there is no executor or administrator, the tenancy will be ended through notice served on the Public Trustee.
2.9.	All claims for succession will be treated with sensitivity and care. Decisions which may result in someone losing their home due to failed succession must be made by a Regional Community Housing Manager, with due regard to the needs of vulnerable household members.
<b>3.0</b>	<b>PERFORMANCE MEASURES</b>
3.1.	The Community Housing management team carries out monthly assurance checks that review whether successions have been conducted in line with policy. Additional quarterly reviews are conducted by the Policy and Compliance Officer to provide second-line assurance. These check whether whg is compliant with the Tenancy Standard and all applicable legislation in carrying out successions.
3.2.	There are no key performance indicators associated with this policy.
<b>4.0</b>	<b>EQUALITY AND DIVERSITY</b>
4.1.	Through use of discretionary succession rights, this Policy ensures decisions are made with due regard to the individual circumstances of the case, in particular where customers may be at greater disadvantage due to a protected characteristic.
<b>5.0</b>	<b>TRAINING AND DISSEMINATION</b>
5.1.	Colleagues responsible for assessing and completing succession claims will receive training on the policy and all associated procedures and guidance notes.
<b>6.0</b>	<b>MONITOR AND REVIEW</b>
6.1	This Policy will be monitored by the Director of Housing and reviewed every three years by the Policy Group.
<b>7.0</b>	<b>ASSOCIATED DOCUMENTS, POLICIES AND PROCEDURES</b>
7.1	Documents, policies and procedures associated with this policy are: <ul style="list-style-type: none"> <li>• whg tenancy agreements</li> <li>• whg Succession Procedure</li> <li>• whg Allocations Policy and Procedure</li> <li>• whg Lodgers, Subletting and Tenancy Fraud Policy and Procedure</li> <li>• whg Unauthorised Occupiers Policy and Procedure</li> </ul>

## APPENDIX 1

### Rights of Succession

4.16 On your death the following people have a right to succeed to this tenancy:

- a) Any surviving joint tenant(s) if they occupied your home as their only or principal home at the time of your death. This will apply even if you are already a successor;
- b) If there are no surviving joint tenants, your spouse, civil partner or a person living with you as your husband or wife provided that they occupied your home as his or her only or principal home at the time of your death and as long as you are not a successor (as defined in Condition 4.17); and
- c) If there are no joint tenants or surviving spouse, civil partner or partner who succeeds to the tenancy, a member of your family (as defined in Section 113 Housing Act 1985) may succeed as long as:
  - i. they occupied your home as their only or principal home throughout the period of 12 months ending with your death;
  - ii. they notify us in writing of their claim to succeed within six months of your death (at our discretion we may allow a longer period);
  - iii. you were not a successor; and
  - iv. that your home is not larger than their needs and has not been provided or adapted for an elderly or disabled person and the successor is not elderly or disabled, or if there is a policy which restricts the age of occupants allowed to stay in your home. In these cases (subject to the other conditions), we will offer the family member a new tenancy of suitable alternative accommodation. The tenancy terms and conditions will be the current terms and conditions that we use at that time.

If there is more than one member of your family qualified to succeed under this Condition 4.16(c), they should agree which of them will claim the benefit. If more than one claim is received and the claimants cannot resolve the dispute within a reasonable time, a Court may decide.

4.17 You are a "successor" for the purposes of this agreement if you:

- a) are a person who was a joint tenant and have become a sole tenant;
- b) are a spouse in whom the tenancy has vested under Section 17 Housing Act 1988;
- c) fall within the definition of successor set out in Section 17 of the Housing Act 1988;
- d) became the tenant under the will or on the intestacy of a former tenant of your home;
- e) were granted this tenancy under a right of succession which we granted under any tenancy agreement containing provisions similar to Conditions 4.16 of this Agreement;
- f) you became the tenant as a result of an assignment other than in the circumstances set out in Conditions 3.81(a);
- g) you became the tenant as a result of a court order under Section 24 Matrimonial Causes Act 1973 and the other party to the marriage was a successor; or
- h) you became the tenant under the right to exchange (see Condition 4.15) and you were a successor under your previous tenancy.

<b>Document author</b>	Anna Paterson
<b>Document owner</b>	Gary Brookes
<b>Legal advice</b>	Richard Dewsbery
<b>Consultation</b>	Community Housing; Tenancy Sustainability; Allocations
<b>Approved by</b>	Policy Group
<b>Review Date</b>	October 2024
<b>Corporate Plan aim</b>	<ul style="list-style-type: none"><li>• Strategic Aim 1: Deliver high quality homes and services for our customers</li><li>• Strategic Aim 4: Promote health and prosperity where we can make a difference</li></ul>
<b>Equality Assessment</b>	Not required
<b>Key changes made</b>	Inclusion of discretionary succession