



Succession policy

1. Purpose and scope

This policy sets out the rights a person has to succeed to a tenancy, i.e. take it over, on the death of a tenant, and the principles under which we will grant discretionary succession rights to a person who has no such rights. It covers successions which are:

- ✚ statutory as set out in legislation
- ✚ contractual where it is a term in a tenancy agreement
- ✚ survivorship where a surviving joint tenant takes over a tenancy
- ✚ discretionary for some persons with no succession rights.

2. Underpinning principles

We must comply with the Regulator of Social Housing Tenancy Standard 2024.

We must also comply with the Right to Rent requirements set out in the Immigration Act 2014 and the Immigration Act 2016.

The Localism Act 2011, s161, amended the Housing Act 1988, s17, to give social landlords the right to include express provisions in their tenancy agreements to grant additional rights for assured tenants should they choose to do so.

3. Policy details

Statutory Succession

A statutory succession overrides any succession by contract (e.g. a tenancy agreement), through a will or intestacy (where there is no will), or as specified in this policy, and is applicable to both assured and assured shorthold tenancies. In other words, succession rights set out in legislation such as the Housing Acts takes precedence over succession rights set out in other documents.

Under s17 of the Housing Act 1988, to succeed to a tenancy three conditions must be satisfied.



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1. The tenancy must have been a sole tenancy.
2. The spouse or civil partner (a person who was living with the tenant as if they were a married couple or civil partners is to be treated as the tenant's spouse or civil partner) must have been occupying the property as their only or principal home immediately before the tenant's death.
3. The deceased tenant must not have been a successor to the tenancy, or have been a sole tenant to whom the tenancy was devolved as a result of survivorship from a joint tenancy.

The successor must also have the Right to Rent.

Where there is no statutory succession, the tenancy does not end automatically but passes with the rest of the tenant's Estate, either under a will or as a result of intestacy. If the inheritor occupies the property as their sole or principle home then the tenancy will still be assured.

Contractual Succession

Some tenancy agreements allow members of the tenant's family to succeed to the tenancy. The Housing Act 1985, s113, defines members of a tenant's family for the purposes of succession. Unless the tenancy agreement states otherwise the existing spouse or civil partner will receive preference, but in their absence we will determine who the successor will be.

Relatives of the tenant can only succeed to the tenancy if:

- i) the tenancy agreement gives them this right
- ii) they were living at the property at the time of the tenant's death and for at least the previous 12 months
- iii) it is their sole or principal home
- iv) they have the Right to Rent.
- v) they meet any restricted lettings criteria set out in any planning conditions associated with s106 Agreements or Rural Exception Sites. Restricted lettings criteria relate to conditions set by a local



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authority as part of the planning permission about who can be allocated a property, e.g. to a person already living in a village or who is working there.

If they do not meet these criteria they are not able to be granted the tenancy of the property, but will instead be charged use and occupation charges until they can be transferred to another suitable property. During this time we will provide appropriate help, support and advice as necessary.

Succession can only happen once, unless the tenancy agreement grants further contractual succession rights or if it occurs as a result of survivorship.

Survivorship – Joint tenants

In the case of joint tenants, when one of them dies the other tenant succeeds to the tenancy through survivorship which is a legal principle associated with joint tenancies. This occurs even if they were not living at the property at the time of the tenant's death and have secure accommodation elsewhere.

Discretionary succession

We will consider requests from persons who have no right to succeed to be granted a tenancy, as long as they were living at the property at the time of the tenant's death. However, this will be at our discretion and the tenancy will not necessarily be for that property. We will need to take into account their personal circumstances and other matters such as vulnerability due to age, health or disability.

The person will also need to be eligible for housing under our lettings policy, have the Right to Rent and meet any restricted lettings criteria that may be applicable.

Divorce and civil proceedings

If a tenancy is transferred to a spouse, civil partner or former spouse on or after divorce or civil proceedings and the tenant was a successor, then they will also become a successor.



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Minors

The proposed successor must be 18 years of age to enable them to hold a tenancy. In the case of minors the tenancy must be held in trust by an adult or the Executor of the Estate until they reach 18 years of age. If there is no such person available then social services will take responsibility for representing the children and for their welfare.

Property Unsuitable

If the property is unsuitable for the successor they will be asked to move to more suitable alternative accommodation. As a guide to determining under occupation the criteria specified in our lettings policy will be used.

4. Signposting

- Civil Partnership Act 2004 (Schedule 8, paragraphs 20 and 27)
- Housing (Preservation of Right to Buy) Regulations 1993
- Housing Act 1988 (s17) (Schedule 2, Ground 7)
- Lettings policy
- Right to Rent guidance
- Succession procedure
- Termination of tenancy procedure

Policy Review Date – 11 March 2028



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Decision-making record

Date	Meeting/Minute Reference	Version /Amendment
30 November 2006	Selwood Board	1
24 May 2013	Adrian Walshe	2
30 October 2013	Adrian Walshe	3
11 November 2013	Adrian Walshe	4
3 May 2016	Executive	5
13 June 2016	Verena Buchanan	6
19 September 2018	Verena Buchanan	7
11 June 2019	Executive	8
3 February 2020	Verena Buchanan	9
7 December 2020	Executive Team Restricted lettings criteria issue added	10
3 May 2022	Executive Team Updated, appendix 1 and appendix 2 removed, some legislation/regulatory standards moved or removed completely and changes made to wording.	11
10 October 2023	Verena Buchanan Minor amendment made to the wording of the persons with no rights to succeed section.	12
16 November 2023	Verena Buchanan Statutory succession section amended to include persons who was living with the tenant as if they were a married couple or civil partners.	13
11 March 2025	Executive Team Updated, some changes made to the wording including some words being simplified, some legal terms explained, and a reordering and renaming of some of the sections to make the document easier to follow.	14



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