

SUCCESSION POLICY

Succession is a statutory right given under sections 88 and 89 of the Housing Act 1985 for Secure Tenants to pass on their tenancy to qualifying successors following their death. The Housing Act 1996 extended this right to Introductory Tenants.

For tenancies granted before 1 April 2012 Secure and Introductory Tenants have the right to automatically pass on their tenancy to their spouse/civil partner or family member following their death. This is also extended to same sex partners who register their relationship under the Civil Partnership Act 2004.

In the case of family members, where there is no spouse/Civil Partner qualified to succeed to the tenancy, the family member must have been living with the tenant at the property as his/her only or principle home continuously for 12 months prior to the tenants death.

The law defines a 'family member' as:

- Parent
- Grandparent
- Child
- Grandchild
- Sibling
- Uncle or aunt
- Adopted child or stepchild
- Unmarried partners

The applicant making the request will need to provide substantiating evidence and information to prove they qualify. Examples of this might include, benefit records, medical records, tax records etc.

Where one or more family member is eligible they should reach an agreement between themselves as to who inherits the property. If they cannot then we will select a successor to the tenancy. In making this decision we will take into consideration:

- The size of each family member's residual family – *including any access rights to children;*
- The size of the property;
- Whether the family member has a live in carer that requires a bedroom;
- whether the property has any aids or adaptations for the family member;
- the age of each family member;
- the length of time that each family member has resided at the property prior to the claim to statutory succession rights;
- Where relevant, the nature and location of the property against the current and reasonably foreseeable strategic, operational and financial requirements of the Council such as relating to regeneration, site assembly and transport issues; and

- any other relevant information presented to us

For tenancies granted after 1 April 2012 the Localism Act 2011 introduced some changes to the way in which council housing is managed. It amended the legal entitlement to succeed to a tenancy or introductory tenancy for tenants granted a secure tenancy. The legal right to succession can now be limited to spouses, civil partners and couples living together.

If the member of the family succeeding the tenancy is the spouse or civil partner they have the right to remain in the family home. Outside of this the law allows the landlord the right to ask anyone other than the spouse or civil partner to move if the property is larger than they need.

In making this decision we will take into consideration:

- The size of the residual family – *including any access rights to children*
- The size of the property
- Whether the successor has a live in carer that requires a bedroom
- whether the property has any aids or adaptations
- the housing need in the area
- the age of the successor
- the needs and wishes of the successor
- any other relevant information presented to us
- the length of time that the successor has resided at the property prior to the claim to statutory succession rights

Statutory succession can only happen once. There are two main circumstances where a succession occurs and these are detailed below. These are statutory succession rights.

- **Following the death of a sole tenant**

If the tenant dies, provided that they had not inherited the tenancy, it will automatically pass to their husband/wife/civil partner or otherwise onto a family member, in the latter case provided that the family member has lived with the tenant for the past twelve months.

- **Where a joint tenancy changes to a sole tenancy**

Where a tenancy is held in joint names and one of the tenants dies, the surviving tenant succeeds to the tenancy as a sole tenant. There is no further right of succession so the tenancy cannot be passed on again.

Discretionary allocations to non-statutory successors

Where the death of a sole tenant leaves someone in the property without an automatic right to succeed to the tenancy, we will consider granting a new tenancy in certain circumstances at that, or an alternative property (if the current property would be under-occupied by *more than one bedroom* or not be suitable to meet their current need). This accords with principles set out in the Council's Allocations Scheme which was adopted in March 2013.

This could include cases where the person is:

- a non-qualifying member of the tenant's family but has lived at the property for at least a year before the tenant's death
- a family member of a deceased tenant who had previously been a successor at the property
- someone who has cared for the deceased tenant whilst living in the property
- someone who has accepted responsibility for the deceased tenant's dependents.

In deciding whether to offer a discretionary allocation we will take into account the following:

- The size of the residual family – *including any access rights to children*
- The size of the property
- Whether the successor has a live in carer that requires a bedroom
- whether the property has any aids or adaptations
- the housing need in the area
- the age of the proposed tenant
- the needs and wishes of the proposed tenant
- any other relevant information presented to us
- the length of time that the proposed tenant has resided at the property prior to the death of the tenant

Discretionary allocations will allow for under occupancy where occupation/household criteria is met and the under occupation does not exceed one bedroom.

In adopting this approach to considering discretionary allocations, the Council will give due consideration to the needs of the individual and their family whilst at the same time adopting a balanced and proportionate approach to the statutory function of ensuring the best use of social housing resources in the city.