



# Succession policy

## 1. Purpose and scope

This policy sets out the rights a person has to succeed to a tenancy 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.

## 2. Underpinning principles

We must comply with the Regulator of Social Housing Tenancy Standard 2012.

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 s17, Housing Act 1988, 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, through will or intestacy, or as specified in this policy, and is applicable to both assured and assured shorthold tenancies.

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

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



# Succession policy

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. If they do not meet these criteria, they will not be granted the tenancy of the property, but instead they will be offered the tenancy of another suitable property.

Succession can only happen once unless the tenancy grants further contractual succession rights or if it occurs as a result of survivorship (4 is the legal limit).

## Joint tenants

In the case of joint tenants, when one of them dies the other tenant



# Succession policy

succeeds to the tenancy through survivorship. This occurs even if they were not living at the property at the time of the tenant's death and have secure accommodation elsewhere.

## 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.

## 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.

## Property Unsuitable

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

## Persons with no rights to succeed

We will consider requests from persons who have no succession rights to be granted a tenancy of the deceased tenant's dwelling, as long as they were living at the dwelling at the time of the tenant's death. However, that tenancy will not necessarily be for that property. However, this will be at our discretion. We will need to take account of their personal circumstances and other matters, such as vulnerability as a result of 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 applicable to the property.

## 4. Signposting

- Civil Partnership Act 2004 (Schedule 8, paragraphs 20 and 27)
- Housing (Preservation of Right to Buy) Regulations 1993
- Housing Act 1985 (s87) (s113) (s171 A-H)



# Succession policy

- Housing Act 1988 (s17) (Schedule 2, Ground 7)
- Housing Act 1996
- Trusts of Land and Appointment of Trustees Act 1996
- Lettings policy
- Right to Rent guidance
- Succession procedure
- Termination of tenancy procedure

**Policy Review Date** – 3 May 2025



# Succession policy

## Decision-making record

<b>Date</b>	<b>Meeting/Minute Reference</b>	<b>Version /Amendment</b>
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