



Policy on :	Succession Policy
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Compliant with Charter Outcomes and Standards:	Equalities; Communication; Participation; Quality of Housing; Repairs, maintenance and improvements; and tenancy disputes.
Compliant with Tenant Participation Strategy :	Yes
Compliant with Equality & Diversity:	Yes
Compliant with Business Plan :	Yes

Approved at Meeting on:	December 2018
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Responsible Officer :	Director of Customer Services
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1. INTRODUCTION

The purpose of this policy is to set out how we will manage succession rights to Barrhead Housing Association tenancies as set out in the by the Housing (Scotland) Act 2001 as amended by the Housing (Scotland) Act 2014 and the Association's Scottish Secure Tenancy Agreement. The main objective of the policy is to ensure that qualifying partners or other people living with the tenant prior to their death are able to continue living in the property as the tenant.

2. BACKGROUND

Succession to a tenancy occurs following the death of a tenant when someone already living in the property wishes to become the new tenant and they are entitled to do so. Only "qualifying persons" who have lived in the property can succeed to the tenancy.

There are conditions and qualifying time periods required before a succession can be approved.

3. REGULATORY STANDARDS, LEGAL FRAMEWORK & GUIDANCE

Provision for a qualifying person to succeed a Scottish Secure Tenancy is outlined in

- The Housing (Scotland) Act 2001, Schedule 3
- Section 13 of the Housing (Scotland) Act 2014 which amends schedule 3 to the Housing (Scotland) Act 2001. It introduces a new 12 month qualifying period.
- Matrimonial Homes (Family Protection)(Scotland) Act 1981
- Scottish Social Housing Charter
Outcome 7, 8 & 9 Housing Options
Outcome 13 Tenancy Sustainment

4. QUALIFYING PERIOD

There is no qualifying period for the tenant's spouse, civil partner or joint tenant provided (in all cases) that the person's only or principal home was the house in question at the time of the tenant's death.

A person falling within the following categories are qualified persons where the house has been their only principal home throughout the 12 months ending in the tenant's death:

- Partners (cohabitants of either sex and including same sex cohabitants);
- Members of the tenants family aged 16 or over; and
- Carers aged 16 or over who have given up a previous only or principal home.

To have the right to succeed to a tenancy after living in the house for 12 months, the "qualifying person" or the tenant must also have notified the Association that the person wishing to succeed to the tenancy is living in the house and that the house is that person's only or principal home.

The 12 month qualifying period does not start until that notice has been given. The tenant (or any one of joint tenants) or the person who has moved into the house are responsible for notifying the Association that the person has moved in.

Tenants can notify the Association in writing by letter or e-mail and should receive written confirmation back. Without our written confirmation that we have received and approved or rejected your request, a succession will not proceed, especially as someone moving into the property may result in overcrowding where permission may be refused.

Should exceptional circumstances become apparent, then these will be considered under other provisions of the Associations Allocations Policy.

It should be noted that succession as described above does not apply where the tenancy is a Short Scottish Secure Tenancy (SSST).

5. ELEGIBILITY CRITERIA - TERMS ON WHICH SUCCESSION CAN OCCUR

There are 3 levels of priority for qualifying successors.

5.1 Level One Successors

The highest priority to succeed to a tenancy attaches to any person who is:

- The tenant's spouse or registered civil partner who was living with the tenant when they died
- The tenant's partner (including same sex) where the house was their only home for 12 months before the tenant died.
- Any surviving joint tenant, if the house was their only or principal home at the time of the tenant's death.

In the case of a partner or cohabitee, they must have occupied the house as their only or principal home for at least 12 months immediately prior to the tenant's death.

The Association must have been notified of, and have given consent to the proposed successor's residency in the property.

If more than one person qualifies for the tenancy as a Level One successor, they should, in the first instance, decide among themselves who will become the tenant. If they cannot agree, the Association will decide who will become the tenant.

5.2 Level Two Successors

If a person is qualified to succeed to the tenancy as a Level One successor and that person wants to succeed to the tenancy, no-one who is qualified to succeed as a Level Two successor may succeed to the tenancy. Level Two successors can only succeed to the tenancy if there are no Level One successors or there are Level One successors, but they do not want to succeed to the tenancy.

Level Two successors are persons who are members of the tenant's family and:

- are aged at least 16 at the date of death and
- The house was their only or principal home at the date of death of the tenant and had been so for a period of not less than 12 months prior to the date of death of the tenant and
- The Association had been notified of, and had given consent to, the proposed successor's residency in the property

If more than one person qualifies to succeed to the tenancy at Level Two, they should, in the first instance, decide among themselves who will become the tenant. If they cannot agree, the Association will decide who will become the tenant.

5.3 Level Three Successors (Carers)

If no-one qualifies at Level One or Level Two, or a qualified person at Level One or Level Two does not want to succeed to the tenancy, it may be inherited by a Level Three Successor (a carer) if:

- they are aged at least 16 at the date of death and
- the house was their only or principal home at the date of death of the tenant and for a period of at least 12 months prior to the date of death of the tenant and
- they gave up another only or principal home before the death of the tenant and
- they are providing, or has provided, care for the tenant or a member of the tenant's family.
- The Association had been notified of and had given consent to the proposed successor's residency in the property

If more than one person qualifies for the tenancy under Level Three, they should, in the first instance, decide among themselves who will become the tenant. If they cannot agree, the Association will decide who will become the tenant.

5.4 Carers

It is essential to recognise the important role of carers, the valuable contribution they make and to ensure that they are not disadvantaged by the new 12 month qualifying period.

We recognise that some of the most common reasons for moving in are to provide care to a parent or other older relative with dementia or illness or frailty associated with old age or to care for someone who has terminal of life limiting illness, with many carers giving up their home, career and financial security to provide care.

As with all applications for succession Barrhead Housing Association will ensure that we consider applications quickly and sensitively. Furthermore, we will recognise that the uncertainty over a carers housing situation and the process of applying for succession is likely to cause additional stress for carers during a time of bereavement and upheaval as their caring role ends.

There will be some cases when an individual has given up their main residence to care for a Barrhead Housing Association tenant but have not informed us they have moved in, and the tenant dies before the 12-month qualifying period has been met. We recognised that there may be genuine reasons why a carer or tenant has not told the landlord of the changes to the household composition. This could include where the carer moved in following a medical emergency or where they were providing a high level of care which left them with little time for seeking out information or support, or informing the landlord they have moved in.

Where an applicant does not meet the criteria for succession, Barrhead Housing Association will consider carefully all of the circumstances of the individual case and consider whether it is appropriate to allocate a new tenancy for the same or another property, to them.

5.5 Definition of a Family Member

A family or household member can include:

- A spouse/wife or civil partner or partner whom the tenant has lived with as husband or wife
- Tenants parents, grandparents, grandchild, brother, sister, uncle, aunt, nephew or niece
- Children (including foster children, step children, and any other children treated by you as your own)

5.6 Adapted or specially designed properties

Where the person with a particular need is not the tenant or joint tenant (e.g. a child) the death of that person will not affect the right of the tenant to continue to hold a tenancy with us, although in order to make best use of stock we may offer suitable alternative accommodation. It should be noted however that there is no requirement for the tenant to accept that offer.

Where the person with particular needs is the tenant or joint tenant, on the death of that tenant the remaining household members may hold succession rights as qualifying occupants, and therefore seek to the tenancy. We may seek to encourage the qualifying occupants to consider a suitable offer of alternative accommodation in such cases.

Family members and carers do not have the right to succeed to the tenancy of a property that has been designed or adapted for someone with particular needs, but they are entitlement to be rehoused elsewhere by the Association.

6 PERSONS WHO ARE ENTITLED TO SUCCEED BUT DO NOT WISH TO DO SO

If someone qualifies at any level to succeed to the tenancy but does not wish to become the tenant and they confirm this in writing within four weeks of the death of the tenant and leave the house within three months, then rent will be charged only for the actual period of occupation after the tenant's death.

7. TENANCY AGREEMENT

The successor (including Joint Tenants) will not sign a new tenancy agreement, as this would create new tenancy and further rights of succession. The successor should be issued with a copy of the existing signed tenancy agreement.

8. SHORT SCOTTISH SECURE TENANCIES (SSST)

This type of tenancy is different from a standard SST, in that there is no statutory right of succession. Where a Short SST is in place and the sole tenant dies, the tenancy is terminated. Any remaining household members may be authorised to remain the property, and any request for a tenancy with us will be reasonably considered e.g where the deceased tenant leaves a qualifying spouse/child in the property and the SSST was in place due to conduct issues of the deceased tenant. Each case will be considered individually by the Director of Customer Services.

Where a SSST is in place in joint names and one tenant dies, the tenancy will remain with the surviving joint tenant(s)

9. LIMITS ON SUCCESSION

The Association will permit a tenancy to be inherited on a maximum of two occasions (subject to the criteria set out above) under the provisions of our Scottish Secure Tenancy Agreement. If a tenancy has already been inherited twice, the third death will normally end the tenancy. The tenancy will not end, however if there is a surviving joint tenant whose Scottish Secure Tenancy will continue.

However, if there is still a person in the house who would otherwise qualify to inherit the tenancy under the tenancy agreement if it had not been previously succeeded to on two occasions, the tenancy will continue for up to 6 months after the last death. The resident will be given a Short Scottish Secure Tenancy to occupy the accommodation while alternative accommodation is secured.

Whilst there is no statutory obligation to permit a third tenancy, in certain circumstances the Director of Customer Services may grant a new tenancy to a person who would meet the qualifying criteria. Each case will be considered on its own merits.

10. REPAIRS & MAINTENANCE RESPONSIBILITIES

When a Barrhead Housing Association tenancy has been succeeded the Association will not be responsible for carrying out any repairs that were the previous tenant's responsibility nor the decoration of the property. Similarly, the re-let standard will not apply.

Once the new tenant has formally become the new tenant, the Association will carry out responsive repairs that are the landlord's responsibility in the normal way.

11. REASONS WHY CONSENT MAY BE WITHHELD

When considering all applications for succession at a very difficult time for individuals, Barrhead Housing Association will ensure that they are treated sensitively and quickly. We will consider all the circumstances of the individual case and ensure that appropriate checks are made to determine whether the applicant meets the succession criteria.

Applications for succession will only be refused where the applicant cannot demonstrate to the satisfaction of the Association that they are a qualified person as defined within this policy for the duration of the qualification period of 12 months, where applicable.

Where an application is unsuccessful, we will write to both applicant and deceased tenants next of kin (where applicable) stating the reason for refusing the application.

12. COMPLAINTS AND APPEALS

Persons, who are dissatisfied by the operation of this Policy or a decision made by staff of the Association in terms of this Policy or related procedures, will be informed of their right to Complain within the Association's Complaints Policy.

13. SUCCESSORS AND RENT ARREARS, RECHARGEABLE REPAIRS

Only successors who were joint tenants prior to the death of the tenant shall have responsibility for rent arrears and rechargeable repair accounts that are outstanding at the death of the tenant.

14. EQUALITY & DIVERSITY

Barrhead Housing Association is committed to providing fair and equal treatment to all our customers and to comply with the Equality Act 2010. The Act established 9 protected characteristics (the grounds on which discrimination is unlawful). These cover age, race, sex, religion/belief, sexual orientation, pregnancy/maternity, gender reassignment, disability and marriage/civil partnership.

We will offer customers a range of options for communicating with us, since requiring to contact us may have to be in writing and this may be a deterrent, for example for people with poor literacy skills, visual impairment, or where first language is not English. We will monitor use of our Estate Management policy and procedure for ethnic origin and disability to ensure that our procedures deliver fair outcomes for different groups of customers.

15. GENERAL DATA PROTECTION REGULATIONS

The Association will treat all personal data in line with our obligations under the current General Data Protection Regulations and our own Data Protection Policy Statement, Privacy Policy and Data Retention Policy.

Information regarding how your data will be used and the basis for processing your data is provided within our employee and resident Fair Processing Notices.

16. REVIEW OF THIS POLICY

This policy will be reviewed at least every three years.