

SUCCESSION POLICY

1 STATEMENT ON POLICY

- 1.1 Succession is the legal right of a qualifying person to take over the tenancy on the death of the current tenant. The City Council will allow one succession in the lifetime of a secure tenancy, as laid out in the Housing Act 1985.
- 1.2 Any secure successions that took place prior to 03/10/1980 are exempt from this ruling and will not be counted.

2 KEY ISSUES FOR POLICY IMPLEMENTATION

- 2.1 Under the section 17 of the Housing Act (1985) and section 160 of the Localism Act (2011) spouses or civil partners have the automatic right to succeed provided that they are living with the deceased tenant prior to the death.
- 2.2 Only one succession per tenancy is allowed. Therefore if a tenant is already a successor the tenancy cannot be passed on again.
- 2.3 Secure tenancies cannot be 'gifted' in a will.
- 2.4 With effect from 1 April 2012 a new ground for possession (15A) has been introduced into Schedule 2 to the Housing Act 1985 by Section 162 of the Localism Act 2011. A landlord wishing to use this ground against a successor must serve Notice of Seeking Possession or begin proceedings no sooner than six months after the death of the previous tenant and not later than 12 months after the death.

Succession rights for a person cohabiting with a secure tenant

- 2.5 For the purposes of this policy a cohabitee is defined a person who was living with the tenant as if they were a married couple or civil partner¹ before the tenant's death.
- 2.6 For tenancies that started on or after 1 April 2012; the remaining tenant can inherit the tenancy as long as it was their home when the cohabitee died.
- 2.7 For tenancies that started before 1 April 2012; the remaining tenant can inherit the tenancy as long as it was their home at the time the cohabitee died, they were living together for at least 12 months before the secure tenant died.

Succession rights of relatives of a secure tenant

- 2.8 For tenancies that started on or after 1 April 2012; the remaining tenant can only inherit a relative's tenancy that started on or after 1 April 2012 if the tenancy agreement says this is allowed. Section 8.2 of the CCC Tenancy Agreement states that it is at the discretion of CCC to decide if a relative (as listed in section 2.8 of this policy) can succeed.
- 2.9 Tenancies that started before 1 April 2012; the remaining tenant can inherit a relative's tenancy that started before 1 April 2012 if:
- the tenancy was their home when the tenant died
 - the tenant did not have a spouse or civil partner who can inherit the tenancy
 - they were living with tenant for at least 12 months before they died. Time spent living elsewhere counts.

¹ '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' (S86A of the Housing Act (85))

Relatives who can inherit a council tenancy

2.10 These include:

- parents or grandparents
- child or grandchild
- brother or sister
- uncle, aunt, nephew or niece

2.11 Step-relations, half-relations and in-laws are also included, but not foster children.

Disputes about who can inherit the tenancy

2.12 The husband, wife or civil partner will always take priority over anyone else, unless it is a joint tenancy when the tenancy continues in the name of the other joint tenant.

2.13 If there is a choice between qualifying relatives, they can decide among themselves who inherits the tenancy. Two or more relatives cannot succeed together as joint tenants.

2.14 If they cannot agree, the Council will make the decision.

If an inherited home is too large

2.15 The Council will ask the successor to move (with the exception of a surviving spouse/civil partnership or joint tenancy) and provide suitable alternative accommodation, if the property is larger than is reasonably needed by the successor and their family. Eviction can only take place if the Council takes the successor to court and the judge agrees that it is reasonable to evict them under Grounds 15A, Schedule 2 of the Housing Act 1985.

2.16 The Council must give notice to leave between 6 and 12 months after the tenant's death or the date it became aware of the tenant's death if this is later.

Succession rights if the council tenancy is not a secure tenancy

- 2.17 The rights to inherit a flexible tenancy are the same as those for secure council tenancies that started on or after 1 April 2012.
- 2.18 The rights to inherit an introductory tenancy are the same as those for secure council tenancies that started before 1 April 2012.
- 2.19 Husbands, wives, civil partners, cohabitees and close family members can inherit a tenancy demoted for antisocial behaviour if they lived with the tenant for at least 12 months before they died.
- 2.20 There are no rights to inherit a family intervention tenancy or temporary accommodation granted after a homelessness application made by the person who died.

If you don't have the right to inherit the tenancy

- 2.21 The Council will ask any remaining occupant to leave following the tenant's death if the remaining occupant does not have the right to inherit the Council tenancy they are living in.
- 2.22 In cases where the joint tenant is not occupying the property at the time of the deceased tenant's death then a Notice to Quit (NTQ) will be served on the joint tenant on the grounds of non-occupancy.
- 2.22 The Council will take action to evict the remaining occupant if they continue to live in the property after the death of the tenant and they do not have the right to do so.

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