

Neighbourhood Services

Policies & Procedures



Succession Policy

1.	Policy objective
1.1	This Policy sets out the circumstances under which a spouse/partner or family member may remain in a WCH property following the death of the tenant. As a community organisation, Watford Community Housing ('WCH') recognises that housing stock is not just home to a tenant but to members of their family also. We will deal with succession enquiries and applications sensitively following any tenant's death.
2.	Legislative & regulatory requirements
2.1	<p><u>Legislative:</u> Rent Act 1977 Housing Act 1985 (section 113) - Housing Act 1988 (section 17 and Schedule 4) - Civil Partnerships Act 2004 – amended the above Housing Acts to extend statutory succession rights to same sex couple. Localism Act 2011 Marriage (Same Sex Couples) Act 2013 Housing & Planning Act 2016</p>
2.2	<p><u>Regulatory:</u> RSH Regulatory Framework Tenancy Standard (April 2012) – Specific Expectations (1.2.1, 1.2.1 & 2.2.1)</p>
2.2.1	<p>“Registered providers shall offer tenancies or terms of occupation which are compatible with the purpose of the accommodation, the needs of individual households, the sustainability of the community, and the efficient use of their housing stock”. “They shall meet all applicable statutory and legal requirements in relation to the form and use of tenancy agreements or terms of occupation.”</p>
2.2.2	<p>“Registered providers shall publish clear and accessible policies which outline their approach to tenancy management, including interventions to sustain tenancies and prevent unnecessary evictions, and tackling tenancy fraud, and set out: (a) The type of tenancies they will grant.</p>
2.2.3	<p>Their policy on taking into account the needs of those households who are vulnerable by reason of age, disability or illness, and households with children, including through the provision of tenancies which provide a reasonable degree of stability. The advice and assistance they will give to tenants on finding alternative accommodation in the event that they decide not to grant another tenancy. (i) Their policy on granting discretionary succession rights, taking account of the needs of vulnerable household members.</p>

2.3	<u>Statutory</u> : As a registered housing provider, WCH must grant successions in accordance with Section 17 of the Housing Act 1988 and The Localism Act 2011.
2.4	<u>Contractual (Tenancies)</u> : According to the tenancies granted by WCH, or transferred from WBC in 2007, there may be permission to succeed as stated in the tenancy agreement. This type of succession will be granted on a case by case basis after review of the said Tenancy Agreement.
3.	Scope & definitions
3.1	Scope
3.1.1	This Policy applies to all WCH assured and fixed term tenants. It excludes shared owners, market rent tenants and leaseholders.
3.1.2	The Policy should be read and applied by all members of staff dealing with succession queries from time to time although the Policy will most commonly be used by Neighbourhood Services team.
3.2	Definitions
3.2.1	<u>Assignment</u> The legal transfer of a tenancy to an eligible person by one (living) person to another, the subsequent person then becoming the tenant and acquiring the benefits and obligations of the original tenant.
3.2.2	<u>Successor</u> A person who 'succeeds' to a tenancy following the death of a spouse, partner or parent or other close family member.
3.2.3	<u>Survivorship</u> Where one tenant in a joint tenancy dies, the tenancy automatically continues in the surviving tenant's name, providing there has been no previous Statutory Succession (as defined at 3.2. below).
3.2.4	<u>Statutory Succession</u> The right granted by legislation for a successor to inherit an existing tenancy, rather than the property. A succession to the tenancy occurs automatically by law and does not require our consent as landlord. Because the successor is technically inheriting the tenancy rather than the property this means that WCH <i>can</i> encourage the tenant to 'rightsize' to a smaller property and where they do not voluntarily do so WCH can take legal action which may lead to the person being evicted.
3.2.5	<u>Discretionary Succession</u> The right granted by a (contractual) Tenancy Agreement for a successor to inherit an existing tenancy, rather than the property. The nature of the right will depend on the specific wording in the relevant Tenancy Agreement and this must be checked in all cases by reference to both the Summary of Tenancy Agreement Succession Rights document at Appendix 1 and the original Tenancy Agreement held by the Neighbourhood Services team. The right to succeed under statute is reflected within some of our Tenancy Agreements.
3.2.6	<u>Tenants on WBC Existing Terms</u> Where a tenant has elected to remain on the original Watford Borough Council terms and conditions as part of the stock transfer, only one Statutory Succession can take place.
3.2.7	<u>WCH Assured Transferred Tenants</u>

Where a tenant agreed to transfer on to WCH terms and conditions as part of the stock transfer, any previous Statutory Succession occurring before the stock transfer date will be disregarded and they will have a new right to Statutory Succession.

4. Eligibility

4.1 Following a tenant’s death, the right to succession is dependent upon several factors:
 Type of Tenancy Agreement (**as per section 3.2.5 the terms of the relevant Tenancy Agreement should be checked in all succession cases**);

- Evidence of the existing tenant’s death;
- Evidence of successor’s required length of residency at property (see section 5);
- Proof of the necessary relationship between the deceased tenant and the successor (see section 5); and
- The successor having no other principle home.

4.2 **Table 1: Eligibility of a Potential Successor based on Tenancy Type**

Potential Successor	Tenancy Type		
	WCH Assured Tenant / Transferred Tenants	Tenants on WBC Existing Terms	Fixed Term Tenants
1. Joint Tenant	Survivorship – automatic succession on (unless pre-2007 tenancy see 3.2.6) Can offer Rightsizing incentive	Survivorship – automatic succession Can offer Rightsizing incentive	Survivorship – automatic succession Can offer Rightsizing incentive
2. Spouse/ Partner	Succeed if eligible and no previous succession/ assignment (unless pre-2007 tenancy see 3.2.6) To move if under-occupying If the deceased has no partner, see section 3	Succeed if eligible and no previous succession/ assignment To move if under-occupying If the deceased has no partner see section 3	Succeed if eligible and no previous succession/ assignment. To move if under-occupying If the deceased has no partner, there would be no right to succession. Discretion may be used where the potential successor has demonstrated vulnerabilities (see section 8.0)
3. Close Family member	Succeed if eligible and no previous succession/ assignment (unless Transferred Tenant - see 3.2.7)	Succeed if eligible and no previous succession/ assignment.	No right to succeed. Discretion may be used where the potential successor has demonstrated

		To move if under-occupying	To move if under-occupying	vulnerabilities (see section 8.0)	
	4. Adapted Property (adaptions no longer required)	Successor to move to a more suitable property	Successor to move to a more suitable property	Successor to move to a more suitable property	
	5. Herts County Council Tenants	Succession will be dealt with by HCC.	Succession will be dealt with by HCC.	Succession will be dealt with by HCC.	
5.	Proof of Relationship and Residency				
5.1	WCH will require evidence for all succession requests to confirm the identity of the person claiming succession. WCH requires evidence to establish:				
5.2	<ul style="list-style-type: none"> • Their relationship to the deceased tenant (i.e. marriage / civil partnership certificate); • That the successor has resided at the home for at least 12 months as their only or principal home (where this is unclear the Neighbourhood Team Leader will consider whether to approve the succession application or obtain further evidence of residency; and • Their 'right to rent' where the successor is a non EU citizen. 				
5.3	Further information on this is provided at section 4 of the Succession Procedure.				
6.	Multiple Successors				
6.1	Where there is more than one eligible successor, a spouse / partner will take precedence over other relatives. If there is more than one family member claiming succession and the family cannot reach agreement as to who will succeed the tenancy, WCH will decide to whom the tenancy will pass, seeking advice in appropriate cases. For more information see section 6 of the Procedure.				
7.	Under-occupation				
7.1	Under-occupation is considered to exist where a property size exceeds the housing need by one or more bedrooms.				
7.2	Where a successor is inheriting a tenancy and property, for example, to a spouse or partner through survivorship, the successor will be able to remain in the same property regardless of size. However, they will be offered and encouraged to consider the Rightsizing incentive of up to £2100 in alliance with the Transfer Incentive Policy.				
7.3	Where a successor is inheriting an existing tenancy, rather than a property, they may be required to move to a smaller, more suitable property if they are under-occupying the current home.				
7.4	The successor would be referred to the WCH Housing Panel and made one reasonable offer of suitable housing under a managed transfer. If the successor does not accept the offer within 6 months of the original tenant's death, a possession notice will be served.				

8.	Vulnerability of Proposed Successor
8.1	Where an individual seeking succession does not meet the Succession Criteria at Table 1, but they or a member of their household (e.g. a child) is considered vulnerable under the Vulnerable Customers Policy & Procedure, consideration of their succession claim will be given on a case by case basis.
8.2	These cases should be referred to the Neighbourhood Services Team Leader for consideration.
9.	Adapted Homes and Older Peoples/Flexicare Housing
9.1	Adapted homes
9.1.1	It should be borne in mind that a successor is technically inheriting a deceased tenant's tenancy rather than their property. Where a home has had substantial adaptations made to accommodate the deceased tenant which would not be required for the prospective successor, they will be encouraged and supported to 'rightsize' to a more suitable property, as stated at Table 1. Adaptations which could benefit future tenants with disabilities will not be removed. Where the successor is unwilling to move, WCH will consider taking possession action.
9.2	Older Peoples/Flexicare Housing
9.2.1	Where the 'inherited' home is Older Persons' or Flexicare housing and the prospective successor does not meet the qualifying criteria for the accommodation, the successor will be encouraged and supported to 'rightsize' to a more suitable property. Again, where the successor is unwilling to move, WCH will consider taking possession action.
10.	Rent Liability – Use and Occupation
10.1	An eligible successor will be required to pay for the use and occupation of the property from the point of the original tenant's death whilst the issue of their succession status is determined. This will be calculated on a weekly basis.
10.2	In a discretionary succession situation, WCH may reject the succession application where there are outstanding charges on the use and occupation account.
10.3	The successor will be liable for rent, service charges and any other charges payable under the tenancy (e.g. recharges) at the date they succeed. However, if succession takes place by way of the grant of a new tenancy consideration will be given as to whether any arrears need to be cleared before granting the new tenancy.
11.	Arrears and Debts in Joint Tenancy
11.1	A Joint Tenant will remain liable for any rent arrears or other debts owed jointly under the tenancy at the time of death of the joint tenant.
11.2	Any rent arrears or debts owed by a sole tenant would form part of their estate although the successor may be willing to settle these on taking over the tenancy.
11.3	The Income team's Rent Arrears Recovery Procedures should be referred to for further information.
12.	Right to Buy and Right to Acquire
12.1	Where the deceased person had the preserved Right to Buy or Right to Acquire, a Statutory Successor may also "inherit" this preserved right. The original Tenancy Agreement should be checked in all cases to confirm the situation. The successor can count their own period of occupation before they succeeded to the tenancy for the purposes of calculating the minimum period for the exercise of the right, and the discount.

13.	Diversity and Inclusion Considerations
13.1	WCH will act fairly and consistently in the application of this Policy and will not discriminate against any person on the grounds of their age, race, ethnicity/nationality, gender, religion, sexual orientation, marital/civil partnership status, pregnancy status or disability.
12.	Related documents
	<ul style="list-style-type: none"> • Access to Housing Policy & Procedure • Mutual Exchange Policy & Procedure • Equality & Diversity Policy • Tenancy Policy • Vulnerable Customers Policy & Procedure • Rent Arrears Recovery Procedures • Service Standards • Termination of Tenancy Procedures
13.	Appendices
	Appendix 1 - Summary of Tenancy Agreement Succession Rights Appendix 2 - Succession Procedure
14.	Approval
	Approved by: GMT 22 Jan 2020 EMT 11 Feb 2020
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	Policy 'owner': Neighbourhood Services Manager