



Succession Policy

June 2023



Version control and document governance	
Document Title	Succession Policy
Location	Broadacres House
Version	1
Owner / Position	Jonathan Graham Housing Services Manager
Reviewed By	Anthony Collins Solicitors
Approved By	Head of Customer Experience Housing & Support
Approval Date	June 2023
Review Period	3 years
Next Review	June 2027
Communicated to Team	Housing Services Manager June 2023

Version	Date	Comments
1.0	006/23	New procedure

BROADACRES HOUSING ASSOCIATION

Succession Policy

1.0 Introduction

- 1.1 A succession occurs when a tenant dies, and an eligible person has a right either by law or given in the tenancy agreement to:
 - take over the tenancy; or
 - be granted a new tenancy of the same property; or
 - be granted a new tenancy of another property.
- 1.2 We recognise that following the death of a tenant their family members will be grieving and that any request for succession of a tenancy needs to be handled with sensitivity and care.
- 1.3 Our customers have different succession rights depending on the type of tenancy agreement they hold. Our tenancy agreement terms and conditions do however set out what rights our customers have and in what circumstances they can succeed to a tenancy.

2.0 Policy Purpose

- 2.1 The purpose of this policy is to set out Broadacres approach to dealing with a request for a succession of the tenancy and provides guidance on what happens to a tenancy when a tenant dies.

3.0 Policy Scope

- 3.1 This policy covers the types of succession and where we may use discretion where there is no right to a succession.
- 3.2 The purpose of this policy is to ensure that when we are considering a request for succession we:
 - deal sensitively with customers at a time of grief and loss;
 - make the best and most efficient use of our homes;
 - provide clear guidance to our colleagues to enable them to effectively carry out their tenancy management roles;
 - meet all applicable legal and regulatory requirements; and
 - comply with the terms of tenants' tenancy agreements.
- 3.3 This policy only applies to Broadacres customers with periodic assured tenancies including assured shorthold tenancies. Customers on licences or other forms of tenancy do not have succession rights.

3.4 In addition, this policy does not apply to any requests to transfer the tenancy to another person whilst the tenant is alive. This is known as an assignment of the tenancy. Any assignment of the tenancy will be dealt with in accordance with our Assignment Policy which should be referred to for details.

4.0 Types of Succession

4.1 There are a number of ways a tenancy can be passed on following a death.

4.2 Surviving Joint Tenant

4.2.1 If the tenancy agreement is in joint names and one joint tenant dies, the tenancy will continue with the surviving joint tenant as the sole tenant. This is called the right of survivorship and happens automatically on the date of the death. There is no further right to succession.

4.3 Statutory Succession

4.3.1 If a tenancy agreement is in the name of a sole tenant and they die, then a spouse, partner or civil partner or person who has been living together with the tenant as their spouse, partner or civil partner can succeed to the tenancy as long as immediately before the tenant's death they were living at the property as their only or principal home.

4.3.2 The successor will take over the existing tenancy.

4.3.3 There is only one legal right to a succession.

4.4 Contractual Succession

4.4.1 A contractual succession is where additional succession rights have been included in the tenancy agreement. These are usually only granted to a family member other than a spouse, partner or civil partner who has lived with the tenant for 12 months prior to their death. Family members will normally include parents, grandparents, children, grandchildren, siblings, uncle, aunts, nephews and nieces, including step relations and half relations.

4.4.2 Not all our tenancy agreements include a contractual right of succession.

4.4.3 In some cases a contractual succession cannot take place if there has

already been a statutory succession including a survivorship right.

4.4.4 A new tenancy will be granted and a new tenancy agreement will be signed and issued.

4.5 Inheriting an Assured Tenancy

4.5.1 In addition to the above rights, it is possible for a tenancy under a tenant's will or, if they die without leaving a will, through intestacy rules to be passed on. This is because a tenancy is an interest in land. If the beneficiary (i.e. the person to whom the tenancy passes under the will) lived in the property as their only or principal home at the time of death, they will inherit the assured tenancy. Broadacres will seek possession of such properties where there is no right of succession unless the tenancy agreement states that we will not do so and any conditions in the particular tenancy agreement have been complied with.

4.6 Discretionary Succession

4.6.1 A discretionary succession is where a person is living in a property when the tenant dies but has no rights to succeed to the tenancy. In this case we will consider granting a discretionary tenancy of the property or of another Broadacres property.

5.0 Granting a Discretionary Tenancy

5.1 In deciding whether to exercise the discretionary granting of a tenancy we will consider the following factors:

- any previous succession to the tenancy;
- whether the applicant is a family member of the deceased tenant as defined in paragraph 5.4;
- whether the applicant has lived in the property as their only or principal home in the 12 months prior to the death of the tenant;
- whether the applicant and/or any other household members have caused any noise nuisance and/or anti-social behaviour;
- the current condition and cleanliness of the property;
- whether the applicant has sufficient income to pay the rent;
- whether the applicant has capacity to sign a tenancy agreement;
- that the applicant agrees to pay any arrears that may have accrued since the tenants death;
- whether the applicant (if deemed appropriate) agrees to engage with support;
- whether throughout the tenancy, the property has been kept in a clean and well maintained condition and there were no

complaints of anti-social behaviour or other breaches of the tenancy agreement against the tenant or any member of their household;

- whether the granting of a tenancy to the applicant would align with our allocations criteria and/or our charitable objectives; and
- whether the applicant is aged over 18 or if they are 16 or 17 whether they have an appropriate trustee to hold the legal interest in the property on their behalf and a third party guarantor to guarantee the obligations in the tenancy agreement.

5.2 The following issues will also be taken into account:

- the property type, for example adapted, sheltered housing;
- overcrowding or under occupation;
- medical needs and vulnerabilities of the applicant and intended household members; and
- the demand from other applicants for this property type.

5.3 Where more than one applicant applies for a discretionary tenancy, we will usually allocate the property to the spouse, partner or civil partner.

5.4 Definition of family members

For the purpose of discretionary successions family members are defined as, parents, grandparents, children, grandchildren, siblings, uncle, aunts, nephews and nieces, including step relations and half relations.

5.5 For discretionary offers of a tenancy the tenancy type offered will be in accordance with our Tenancy Policy. There will be no further contractual rights of succession.

5.6 Where the property is too large for the current occupier(s) we may consider granting the applicant a tenancy of another property.

5.7 If the applicant requires support we may also consider offering supported accommodation.

6.0 No Right to Succeed

6.1 We will notify the occupier(s) immediately once we have decided that the remaining occupants have no right:

- to succeed to the tenancy; or
- to be granted a new tenancy; or

- we have decided not to offer a discretionary tenancy.

6.2 The current occupier(s) will be required to pay use and occupation charges once the existing tenancy has ended (i.e. on the expiry of a notice to quit). We will seek to recover the property and offer advice to all occupier(s) on finding suitable alternative accommodation.

7.0 ID and Proof of Residency

7.1 We will require the following proof for all requests to succeed to a tenancy to confirm the identity of the person who is claiming succession:

- their relationship to the deceased;
- the length of residence with the tenant; and
- for non-UK citizens their immigration status and entitlement to social housing.

7.2 The onus is on the potential successor to provide a sufficient level of evidence. Documents should cover the entire qualifying period. They must also provide the death certificate (and, if necessary, an English translation of an overseas death certificate).

7.3 We may also conduct any other checks we consider necessary to ascertain who was residing in the property in the qualifying period prior to the tenant's death.

8.0 Under Occupation

8.1 If a contractual succession would lead to under occupation, we may offer a suitable smaller alternative accommodation. If the tenancy agreement allows, and the successor refuses to move into a suitable smaller property, then we may start legal proceedings to gain possession of the property.

8.2 If the contractual successor remains in the property until a suitable offer can be made, they will be required to pay use and occupation charges once the existing tenancy has ended (i.e. on the expiry of a notice to quit).

8.3 Where there has been a statutory succession, or the right of survivorship has taken effect and the successor is under occupying, we may consider discussing rehousing to a more suitably sized property with the successor. We reserve the right in this circumstance, if deemed appropriate, to seek possession under Ground 9 of Schedule 2 to the Housing Act 1988 if the tenancy agreement permits.

9.0 Multiple Successors

9.1 For all types of succession only one person can succeed to the tenancy. For example, two qualifying family members cannot succeed to a tenancy jointly.

9.2 Where more than one person claims to be eligible to succeed the applicants will need to agree who they would like to succeed to the tenancy. If they are unable to agree it will be determined by:

- For assured tenants whose tenancy commenced prior to 1 April 2012, it depends on the provisions of the tenancy agreement as this will determine who decides. It will usually be Broadacres.
- For assured tenants whose tenancy was granted on or after 1 April 2012, the potential successor must apply to the court for a decision.

10.0 Disputed Succession

10.1 Once we have decided that any remaining occupants have no rights to succeed to the tenancy and there is no agreement to make a discretionary offer of tenancy we will, if necessary, take legal advice and commence legal proceedings to obtain possession of the property. We will offer advice and assistance to the current occupier(s).

10.2 In the interim the current occupier(s) will be required to pay use and occupation charges once the existing tenancy has ended (i.e. on the expiry of a notice to quit).

11.0 Appeals Against the Decision

11.1 If an applicant wishes to appeal a decision on a succession they can do so in writing by email or letter. Any appeal must be made within 14 calendar days of the applicant being notified they are not entitled to succeed to the tenancy. They may seek independent advice or help; Citizens Advice may be able to offer help.

11.2 The appeal must set out why they feel the decision is not right. A manager not involved in the original decision will review the decision and will only uphold the appeal if they find that legal requirements or Broadacres policy criteria are not met. We will aim to respond to appeals within 21 calendar days.

12.0 Vulnerable Customers Statement

12.1 We are committed to developing an equal and diverse culture where

people are valued from all sections of society. We therefore oppose any form of discrimination in service delivery and employment practice. We aim to treat all customers fairly and we will look to tailor our policies, procedures and services to meet the needs of all our customers.

12.2 Where we identify a customer who is vulnerable by reason of age, disability or illness, we will look to make reasonable adjustments to our services accordingly to meet the needs of those individuals. This may include altering the way we communicate with a customer or adjusting the service we offer to that person. Each case will be judged on its individual merits to avoid a one size fits all approach. We will monitor our services regularly to ensure we are meeting all our customers' needs and make any adjustments required to improve and enhance the service we deliver.

13.0 Confidentiality and Data Protection

13.1 We will follow all relevant data protection legislation particularly in relation to requests for information from third parties.

13.2 We are committed to protecting and respecting your privacy. Our privacy policy will inform you as to how we look after your personal data, tell you about your privacy rights and how the law protects you. For a full copy of our privacy statement, please visit our website www.broadacres.org.uk

14.0 Complaints and Reviews

14.1 We will accept complaints by phone, letter, email, in person, via our website and social media.

14.2 Our complaints system provides customers with a fair, consistent, impartial and confidential process through which customers can express dissatisfaction about an element of our service and give us the opportunity to put right what has gone wrong.

14.3 We regard complaints as an opportunity to:

- see things from the customers viewpoint;
- identify weaknesses and put them right;
- identify service improvements; and
- improve customer satisfaction.

15.0 Consultation and Review

15.1 We will consult our customers on this policy. We will undertake a review of this policy whenever there are any relevant changes to legislation or regulatory requirements that would impact on this policy.

16.0 Responsibility

16.1 Overall responsibility for this policy sits with Broadacres Board of Management and our Senior Leadership Team. The Head of Customer Experience Housing and Support is responsible for the implementation, delivery and review of this policy.

17.0 Publicity

17.1 We will publicise this policy in a number of ways including on our website. We will make this policy available in different formats to suit the needs of our customers.

18.0 Legal and Regulatory Framework

18.1 We will ensure that this policy complies with all relevant legislation and takes account of best practice.

18.2 The relevant legislation is primarily:

- Housing Act 1985
- Housing Act 1988
- Localism Act 2011
- Equality Act 2010
- Human Rights Act 1998

18.3 The relevant regulatory position is found in the Tenancy Standard of the Regulator's Regulatory Framework.

19.0 Equality and Diversity

19.1 In order to comply with the Equality Act 2010, an Equality Impact Assessment (EIA) was completed as part of the policy review. Upon completing the EIA, it was found that the implementation of this policy would support and encourage the aims of the public sector duty.

20.0 Related Documents

20.1 The relevant documents are primarily:

- Tenancy Policy
- Allocations Policy
- Assignment Policy
- Succession Procedure

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