



POLICY DOCUMENT

Group Member: Progress Housing Group

Service Area: Housing Operations (Housing Management)

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Subject Title: Succession Policy

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Document Owner: Head of Housing Operations (Homes and Opportunities)

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1. Introduction

- 1.1 Succession is the transfer of tenancy rights to another person when a tenant dies. This Policy sets out Progress Housing Group's (the Group) policy on applicants who wish to succeed to a tenancy.
- 1.2 The Group will deal with all applications for succession sensitively and efficiently and will grant a succession of tenancy to such a person with a statutory right to succeed to a tenancy.
- 1.3 Where there is a joint tenancy, and one of the joint tenants dies, then the surviving joint tenant succeeds to the tenancy and continues as a sole tenant taking over all the rights and obligations (including any rent arrears) of the tenancy.
- 1.4 The Group's tenancy agreements allow the possibility of succession to a family member to succeed to a tenancy at the discretion of the Group.
- 1.5 The Group will interpret this discretion to consider allowing family members to succeed as if they had a right to succeed under the Housing Act 1985 (ie they must be a member of the deceased tenant's family and they had resided there for at least twelve months immediately before the death of the tenant).
- 1.6 Tenants who have already succeeded to a tenancy before a stock transfer will not be treated as a successor with the Group.

2. Scope of the policy

- 2.1 This procedure covers the methods to be employed in administering succession to tenancies of the Group.
- 2.2 There are separate procedures for administering the assignment of tenancies and other tenancy matters.

3. Responsibility

- 3.1 It is the responsibility of the Service Director (Housing Operations) to approve this policy.
- 3.2 The Heads of Service are responsible for ensuring that this policy is followed effectively within their areas of responsibility.
- 3.3 Operational Managers are responsible for ensuring their teams follow the policy and any related procedures, monitoring performance, and providing any training to support the team.

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3.4 All employees have a responsibility to follow the policy and procedures at all times.

4. Policy

4.1 Aims & Objectives

Assured tenancies

4.1.1 Under the Housing Act 1988, there is a statutory right of succession to a partner living in the property as their only or principal home at the time of the tenant's death. There is no statutory right of succession to family members. However, the Group's Tenancy Agreements give these additional rights in some circumstances, as detailed below.

4.1.2 There can be no succession if the deceased tenant was themselves a successor. However, the Group will allow tenants who were successors before any stock transfer to the Group to have the right to an extra succession.

4.1.3 A tenant is a successor and, therefore, another person normally cannot succeed to the tenancy, if:

- They were a joint tenant and have become the sole tenant
- They gained the tenancy as a result of an exchange of tenancies, and they were a successor under the original tenancy
- They gained the tenancy as a result of a court order relating to matrimonial proceedings, and their spouse was a successor
- They gained the tenancy by a right to succession following the previous tenant's death or under the will of intestacy of the previous tenant.

4.1.4 The following can succeed to the tenancy:

- Any surviving joint tenant if they occupied the home as their only or principal home at the time of the tenant's death
- The tenant's spouse, provided that they occupied the home as their only or principal home at the time of the tenant's death.

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Where there is no surviving spouse, partner, or joint tenant, a member of the family may succeed to the tenancy, as long as:

- They occupied the property as their only or principal home; and
- They lived with the tenant throughout the twelve months immediately before the tenant's death.

4.1.5 A person is a member of the tenant's family if they are the tenant's parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece.

4.1.6 If there is more than one person entitled to succeed and they are unable to agree on a successor, the matter will need to be referred to the County Court for judgement or decided by the Group, as appropriate to the circumstances.

Starter tenancies

4.1.7 A surviving joint tenant of a starter tenant is entitled to take over the tenancy as a sole starter tenant, providing that they occupied the property as their only or principal home at the time of the tenant's death. Other family members are not entitled to succeed.

Assured shorthold tenancies

4.1.8 Assured shorthold tenants do not have the right to succeed to a tenancy.

Provision of alternative accommodation

4.1.9 The Group is responsible for ensuring that it makes the best possible use of its properties. It may, therefore, seek to require a successor, who is not a spouse or a partner, to move to an alternative property where the succession will lead to under-occupation, or the property has been designed or adapted for the needs of a disabled person and the successor has no such requirement.

4.1.10 If the property is solely occupied by a person or persons who are not entitled to succeed to the tenancy, the Group will give careful consideration to the circumstances of the case and the available options. In some situations, offering a new tenancy or alternative accommodation may be possible.

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4.1.11 Where it is not considered possible or appropriate to do so, the occupier/s will be requested to leave the property, and legal action will be taken if necessary.

Notification

4.1.12 The successor or potential successor(s) must notify us in writing within three months of the tenant's death.

4.1.13 Where applicable, this should include details of any agreement reached or ongoing dispute relating to the succession to the property.

Appeals

4.1.14 Any person(s) dissatisfied with how their application for succession has been handled may use the Complaints, Feedback & Redress Policy to escalate their concerns and request that the decision is reviewed.

4.2 Definitions

4.2.1 N/A

4.3 References

4.3.1 **The Housing Act 1988** Section 17 of the Housing Act 1988 allows for ONE succession to a person who had been residing with the deceased tenant (at the time of their death) as husband or wife. There is no requirement for marriage to have taken place merely that they had been residing as "husband and wife" at the time of the tenants death.

4.3.2 **The Civil Partnership Act 2004** Schedule 8 Section 41 of the Civil Partnership Act has amended section 17 of the Housing Act 1988 to allow succession to persons who had been living with the deceased tenant as a Civil Partner (or who had been living together as though they were Civil Partners). Again the effect is the same as section 17 of the Housing Act 1988, there is no requirement for a civil partnership to have taken place, merely that they had been living together at the time of the previous tenant's death as civil partners.

4.3.3 **Joint tenancies** Where there is a joint tenancy, and one of the joint tenants dies, then the surviving joint tenant succeeds to the tenancy and continues as a sole tenant taking over all the rights and obligations (including any rent arrears) of the tenancy.

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4.4 Data Protection

4.4.1 This policy has been written in compliance with the principles and requirements of the current data protection legislation, please refer to the Group GDPR Data Protection Policy for more information.

5. Implementation

5.1 Training

5.1.1 All employees should be made aware of this policy and be provided with training if required.

5.1.2 Our Housing teams will be required to have a detailed understanding of this policy.

6. Consultation

6.1 This policy has been produced in consultation with relevant staff from around the Group.

6.2 There were no significant changes made to the policy when reviewed in 2022 so no further consultation was required

7. Review

7.1 This policy will be reviewed every three years unless changes to legislation, regulation, or Group policy necessitate a sooner review.

8. Equality Impact Assessment

8.1 An Equality Impact Assessment has been carried out, and it has been assessed that this policy will have a low impact on the nine protected characteristics.