

Governance: Housing Management

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Start of Tenancy Procedures HM 19

FORTH HOUSING ASSOCIATION LIMITED

SUCCESSION POLICY

1.0 Introduction

- 1.1 Succession describes the situation when a tenant dies and another person is entitled to take over the tenancy of the property. This Succession Policy sets out the guidelines and procedures to be followed in the event of the death of a tenant.
- 1.2 The legal rules governing succession for secure tenants are set out in Section 22 *and schedule 3* of the Housing (Scotland) Act 2001. The Association has granted secure tenants additional contractual rights relating to succession.

2.0 General Principles

- 2.1 The contractual rights relating to succession to the Association's secure tenancy are contained in the Association's *Scottish* Secure Tenancy Agreement.

3.0 Eligibility Criteria

- 3.1 A tenancy will pass to a qualified person on the death of the Association tenant. The tenancy may be inherited by one of the following people in the following way:

- 3.2 Level One

- your husband or wife or co-habitee *or in a same sex relationship* if the house was their only or principal home on your death; **OR**
- a joint tenant, if the house was his or her only or principal home on your death.

In the case of a co-habitee *of either sex*, he or she must also have occupied the house as his/her only or principal home for at least 6 months immediately before your death. If more than one person qualifies for the tenancy under Level One, they must decide among themselves who should get the tenancy. If they cannot agree, we will decide.

- 3.3 Level Two

If no-one qualifies at Level One, or a qualified person does not want the tenancy, it may be inherited by a member of your family as long as:

- he or she is aged at least 16 at the date of death;
- the house was his or her only or principal home at the date of death.

If more than one person qualifies for the tenancy under Level Two, they must decide among themselves who should get the tenancy. If they cannot agree, we will decide.

3.4 Level Three

If no-one qualifies at Level One or Level Two, or a qualified person does not want the tenancy, it will be inherited by a carer as long as:

- he or she is aged at least 16 at the date of death;
- the house was his or her only or principal home at the date of death;
- he or she gave up another only or principal home before the death of the tenant.

If more than one person qualifies for the tenancy under Level Three, they must decide among themselves who should get the tenancy. If they cannot agree, we will decide.

3.5 Succession will be limited to the first level (i.e. spouses, partners, co-habitees, joint tenants) in the case of houses designed or substantially adapted for people with special needs. *Other categories of qualifying persons must also have a special need requiring that accommodation to succeed*

3.6 If someone qualifies for the tenancy but does not want it, they should tell us in writing within four weeks of the death and leave the house within three months. Rent will be charged only for the actual period of occupation.

3.7 The tenancy can only be inherited twice under the provisions noted above. If the tenancy has already been inherited twice, the third death will normally end the tenancy. This will not happen 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 above paragraphs, the tenancy will continue for up to 6 months after the last death. The tenancy will not be a Scottish Secure Tenancy for that period.

3.8 *Where no one qualifies to succeed the tenancy the Association will regard the tenancy as terminated as at the time of the death of the tenant and deal with the property in accordance with policies and procedures relating to voids.*

4.0 Succession Procedure

4.1 A person who wishes to succeed to a tenancy should notify the Association's office within four weeks of the death of the original tenant.

4.2 The relevant Housing Officer or equivalent staff member will visit the person within five working days of notification, to advise if they are considered to be eligible to succeed the tenancy. Details will be obtained concerning the eligibility of others.

4.3 When it is confirmed that the person is entitled to succeed to the tenancy, then a new tenancy will be entered into according to the *Start of Tenancy Procedures*. *A new tenancy agreement should be issued to the successor and recorded on the tenancy records and SDM to show it is a succession and how many successions have taken place.*

4.4 If more than one person is eligible to succeed to the tenancy, then the succession should be agreed between them and notified to the Association in writing within four weeks of the death of the tenant.

- 4.5 If the eligible persons cannot agree on succession within four weeks of the death of the tenant, then we will determine the succession and notify each eligible person in writing.
- 4.6 If a qualified person does not wish to succeed to a tenancy, then written notice should be given to the Association within four weeks of the death of the tenant. The qualified person may continue to occupy the property for no more than three months after the date of the notice, but will be liable for the rent for his/her period of occupation following the death of the tenant.

5.0 Policy Availability

- 5.1 Additional copies of this Succession Policy are available on request and free of charge from the Association's office. A summary of the Succession Policy can be made available in a number of other languages and on tape, if required.

6.0 Data Protection

- 6.1 When implementing the policies and procedures of Forth Housing Association all staff and committee members must adhere to and be aware of the requirements of the Association's approved Confidentiality Policy and the Data Protection Act 1998. In situations where there may be any doubt about the requirements of the Data Protection Act 1998 it is recommended that the Association seeks the views of its legal advisors.

7.0 Equal Opportunities

- 7.1 Forth Housing Association believes that certain sectors of the population are disadvantaged by individual and group values, as well as by organisational structures. Forth Housing Association seeks to avoid all such forms of discrimination by ensuring that there will be no discrimination on the grounds of race, colour, nationality (including citizenship), ethnic or national origins, religion, social background, disability, marital status, responsibility for children or dependants, gender, age or sexual orientation.

8.0 Appeals Procedure

- 8.1 Any appeal on a decision where consent had been refused should be made initially to the Housing Manager. Where the Housing Manager upholds the original decision, the tenant can pursue any further grievance through the Association's Complaints Procedure. This does not prejudice the tenant's right to raise a Court Action under Schedule 5 Part 2 of the Housing (Scotland) Act 2001.

9.0 Policy Review and Period

- 9.1 This Policy/Procedure will be reviewed no later than five years from the date of approval.
- 9.2 Consideration will be given to any changes in legislation, good practice or operational changes which may affect the content.

Management Committee Approval 3/96
Reviewed 6/99
Review 6/02
Review 5/07