



Succession Policy

If you have difficulty with reading this policy, including any difficulties with sight or hearing, or if you require this document translated into another language, please contact us and we will be happy to provide this information in a format that suits your needs.

Our Vision, Our Mission, Our Values

Our Vision

Elderpark Housing will lead the way in delivering outstanding customer services and great places to live.

Our Mission

To provide quality, affordable homes and excellent services which place a focus on our customers and enhancing our communities.

Our Values



Equality and Diversity Statement

Elderpark Housing are committed to ensuring people or communities do not face discrimination or social exclusion due to any of the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex or sexual orientation.

This document complies with our Equality and Diversity Policy.

We will regularly review this Policy and consider any equalities implications taking the necessary action to address any inequalities (either directly or indirectly) that result from the implementation of this Policy.

Executive Summary

Policy Author

The Housing Manager has developed this policy on behalf of the organisation. It applies to all tenancies where succession can be granted.

Purpose of the Policy

The Succession Policy aims to ensure that we have an accountable process to identify, record and put in place procedures to deal with a succession of tenancy, in accordance with legal provisions and contractual terms contained within the tenancy agreement.

Aims and Objectives of the Policy

This policy is a key document within the Association. Its underlying objectives are to:

- To give clear guidance on the process for dealing with succession requests
- To ensure that all succession requests are dealt with in line with and in accordance with legal provisions and contractual terms contained within the tenancy agreement
- To ensure that any successions are dealt with in accordance with our equality and diversity policy
- To advise customers of the complaints process

Legislative and Regulatory Compliance

We will seek to meet all of our legal obligations as set out in the following legislation:

- Housing (Scotland) Act 2001, Section 22 and Schedule 3
- Housing (Scotland) Act 2014 Section 13
- Equality Act 2010
- General Data Protection Regulations 2018

In addition, we will meet the outcomes and standards contained within the Scottish Housing Regulator's Regulation Framework.

- Outcome 1 Equalities - Social landlords perform all aspects of their housing services so that every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services.

- Outcome 2 Communication - Social landlords manage their businesses so that tenants and other customers find it easy to communicate with their landlord and get the information they need about their landlord, how and why it makes decisions and the services it provides.
- Standard 2 -The landlord is open about and accountable for what it does. It understands and takes account of the needs and priorities of its tenants, service users and stakeholders. In addition, its primary focus is the sustainable achievement of these priorities.
- Standard 5 - The RSL conducts its affairs with honesty and integrity

Equalities

We will ensure there is a consistent approach in promoting equality and diversity across all areas and this policy will be administered in accordance with this policy.

Privacy

This document fully complies with General Data Protection Regulations (2018) and once approved will be published on our website to ensure transparency of how Elderpark Housing will seek to ensure Equality and Diversity across everything we do.

Related Policies

| Policy Title | Location |
|-------------------------------|---|
| Allocations Policy | V:\Elderpark Policy Suite\Housing Management Policies\H2 Allocations Policy.pdf |
| Equality and Diversity Policy | V:\Elderpark Policy Suite\Governance Policies\G13 Equality and Diversity Policy.pdf |
| Ending a Joint Tenancy Policy | V:\Elderpark Policy Suite\Housing Management Policies\H11 Ending a Joint Tenancy Policy.pdf |
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1 Introduction

- 1.1 Elderpark Housing Association (EHA) is a registered social landlord, established in 1975. We have strived to improve the lives of our residents, create opportunities and build a safe and secure environment. The Association is a 'not for profit' organisation, registered and regulated by the Scottish Housing Regulator and is governed by a voluntary Management Committee of up to 15 people who employ a team of staff to manage the Association on a day-to-day basis.
- 1.2 The Management Committee is responsible for approving this Policy, and for overseeing its implementation. The Chief Executive and Management Team have operational responsibility for policy implementation, and for reporting to the Management Committee on areas relevant to succession requests.

2 Purpose of Policy

- 2.1 The Succession Policy aims to ensure that we have an accountable process to identify, record and put in place procedures to deal with a succession of tenancy, in accordance with legal provisions and contractual terms contained within the tenancy agreement.
- 2.2 This policy is written in accordance our Equality and Diversity Policy to ensure that tenants and residents in our community do not face discrimination, victimisation, harassment or social exclusion due to any of the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex or sexual orientation.

3 Aims and Objectives

- 3.1 This policy is a key document within the Association. Its underlying objectives are to:
 - To give clear guidance on the process for dealing with succession requests
 - To ensure that all succession requests are dealt with in line with in accordance with legal provisions and contractual terms contained within the tenancy agreement
 - To ensure that any successions are dealt with in accordance with our equality and diversity policy
 - To advise customers of the complaints process

4 Legal and Regulatory Framework

- 4.1 Legal provisions that exist that govern the right to Succession of a Scottish Secure Tenancy are Housing (Scotland) Act 2001, Section 22 and Schedule 3 as amended by Section 13 of the Housing (Scotland) Act 2014

5 When Succession Can Arise

5.1 Succession can arise only on the death of the tenant and where there is a relevant qualifying person. The Act also provides for two rounds of succession. The rounds of succession are as follows:

- On the death of Scottish Secure Tenant, the tenancy passes to a qualifying person
- On the death of a qualifying person who succeeded to the tenancy after the first death, the tenancy passes to another qualifying person

6 Qualifying Period for Succession

6.1 Section 13 of the Housing (Scotland) Act 2014 amends schedule 3 of the Housing (Scotland) Act 2001. It introduces a new 12 month qualifying period and notification requirement before certain “qualifying persons” have the right to succeed to a Scottish Secure Tenancy. For the tenant’s spouse, civil partner or joint tenant there continues to be no qualifying period provided the house was their only or principal home at the time of death.

Under the new rules the following “qualifying persons” must have resided in the property throughout the period of 12 months from the date that the landlord was notified that they were residing there as their only or principal home, and immediately preceding the date of death of the tenant.

- Partners (cohabitees of either sex and same sex cohabitees)
- Members of the tenant’s family aged 16 years or over
- Carers aged 16 years or over

The new qualifying criteria will help ensure that succession is only given to those who are entitled to it.

7 Qualifying Persons

7.1 For each separate round of succession, there are three levels of priority of a qualifying person. These are detailed below.

Qualifying Person: First Priority

First priority is given to the tenant’s spouse, civil partner, cohabitee of the same or different sexes, or the surviving joint tenant. In the case of the spouse, civil partner or joint tenant, the house must have been the person’s only or principal home at the time of the tenant’s death.

The spouse or joint tenant will be requested to produce evidence that they have been staying in the house as their only or principal home. A list of acceptable documentary evidence is detailed below. Housing staff will ensure that evidence is gathered as effortlessly as possible to minimise potential stress, for example, using existing tenancy file information as much as possible.

In the case of cohabittees only, it is also a requirement that the house must have been the person's only or principal home for a full 12 month period preceding the tenant's death. The 12 month period will only start from the date that the landlord was notified that the person was residing in the house as his /her only or principal home.

Qualifying Person: Second Priority

If no one qualifies or chooses to succeed from the first priority group, then a member of the tenant's family aged at least 16 years will succeed where the house was the person's only or principal home at the date of the tenant's death. Again, they must have resided in the tenancy as their only or principal home for a 12 month period prior to the tenant's death.

The 12 month period will only start from the date that and the landlord was notified that the person was residing in the house as their only or principal home.

A member of family is defined by the legislation, the Housing (Scotland) Act 2001, section 108. The list of possible family members is long and includes the following:

- Spouse of cohabitee (of either sex)
- Grandparent
- Children and grandchildren (including stepchildren)
- Sister and brother
- Aunt, Uncle, Niece or nephew

Qualifying Person: Third Priority

If no one qualifies or chooses to succeed from either of the above groups, then a carer aged 16 or over may succeed. Again, they must have resided in the tenancy as their only or principal home for a 12 month period prior to the tenant's death. The 12 month period will only start from the date that the landlord was notified that the person was residing in the house as his /her only or principal home.

It is emphasised that there is no definition of carer within the Act. This is intentional to cover a broad range of caring arrangements, including both formal and informal arrangements. The key test for us is not the level of care provided, but whether or not the individual has given up their only or principal home to care and has resided in the property throughout the 12 months immediately prior to the tenant's death. This legal provision is aimed at protecting individuals who give up

their homes to care, either for a tenant or a member of the tenant's family, from becoming homeless.

8 Succession and Tenancy Debt

- 8.1 When succession takes place, the successor takes on the terms and conditions of the original tenancy. It is not a new tenancy.
- 8.2 The successor is not held liable for outstanding tenancy debt or liabilities prior to the date of succession.
- 8.3 Where feasible we will recover any outstanding tenancy debts from the deceased's estate.

9 Succession and Fair/Secure Rents

- 9.1 A secure rent will continue from the date of succession where the successor is a level one successor, a spouse, partner, civil partner or joint tenant.
- 9.2 If they are not a level one successor, the secure rent will be ended from the date of death.

10 No Right to Succession

- 10.1 Where the applicant has no rights to succession we have no discretion to grant a succession of tenancy. However, discretion can be applied through the "exceptional circumstances" clause in the Allocations Policy. Under this clause an alternative, new tenancy can be allocated to the applicant. This allows us flexibility in granting a tenancy where they believe that the circumstances justify allocating a tenancy to that person.

11 Termination of Tenancy

- 11.1 The tenancy ends on the death of a Scottish Secure Tenant either:
 - when there is no qualifying person
 - each qualifying person declines the tenancy

12 Right to Remain in the Tenancy after Termination

- 12.1 Where a successor has declined the tenancy they are legally entitled to remain in the house for 3-months. The person is required to pay full rent during the period they occupy the house. This tenancy is neither a Scottish Secure Tenancy nor a Short Scottish Secure Tenancy. This provision enables the person concerned to find other

suitable accommodation. They must advise the Association within 4 weeks if they intend to succeed the tenancy.

- 12.2 Where the tenancy is terminated as a result of the death of the second successor, any other qualifying person is legally entitled to remain in the house for 3 months. This tenancy is neither a Scottish Secure Tenancy nor a short Scottish Secure Tenancy. This provision enables the person concerned to find other suitable accommodation.

13 Joint Tenancies and Termination of Tenancy

- 13.1 Where the second succession involves joint tenancies, the tenancy is not terminated when one of the tenants dies as long as the joint tenant continues to use the house as their only or principal home.

14 Specific Rules in relation to adapted properties

- 14.1 Where a house has been designed or substantially adapted for occupation by a person whose particular needs require such accommodation, for example, a house designed for wheelchair users, a person will only qualify to succeed as follows:

First Succession

Right to succeed without such needs only applies where the qualifying person is a spouse, cohabitee or joint tenant, or where members of family or carer has special needs requiring accommodation provided by the house.

Second Succession

All qualifying persons have to have special needs requiring accommodation provided by the house.

Where the person does not require this accommodation, but would otherwise have qualified to succeed. The Association must make other suitable accommodation available to the person. Suitable accommodation is defined by the Act (Housing (Scotland) Act 2001, Schedule 1, part 2).

Where the Association has recovered possession of the property as a result of court action and tenants have been required to move to other suitable accommodation, Housing (Scotland) Act 2001, Schedule 2, Part 1, grounds 8-14, both tenancies are to be treated as being the same tenancy for the purposes of succession. This prevents succession rights beginning afresh for the new tenancy

15 Implementation of the Policy

- 15.1 This policy will be implemented in line with our succession procedures. Staff will be fully conversant and trained to carry out all aspects of the policy and procedures in a fair and equal manner.

16 Monitoring of the Policy

- 16.1 We will periodically carry out checks to ensure that the procedure in relation to successions is being followed.

17 Complaints and Appeals

- 17.1 The law does not provide for an appeal to the Sheriff Court in cases of dispute. However, we have a formal complaints procedure to enable applicants to dispute a decision. Any complaints will be recorded and responded to in line with the Model Complaints procedure and reported in the annual ARC return.

18 Review

- 18.1 This policy will be reviewed every three years or as legislative changes and best practice dictate.

Equality Impact Assessment

| | | | |
|---|--|--|-----------------------------|
| Name of Policy to be assessed | Succession | New policy or revision of existing? | Revision of existing policy |
| Person(s) responsible for assessment | Elaine Somerville | | |
| Briefly describe the aims, objectives and purpose of the policy. | <p>The aims, objectives and purpose of this policy are to:</p> <ul style="list-style-type: none"> • Give clear guidance on the process for dealing with succession requests • To ensure that all succession requests are dealt with in line with in accordance with legal provisions and contractual terms contained within the tenancy agreement • To ensure that any successions are dealt with in accordance with our equality and diversity policy • To advise customers of the complaints process | | |
| Who is intended to benefit from the policy? (e.g. applicants, tenants, staff, contractors) | Tenants will benefit from this policy | | |
| What outcomes are wanted from this policy? (e.g. the measurable changes or benefits to members/ tenants / staff) | To ensure that all succession requests are dealt with in accordance with legal provisions and the contractual terms within the tenancy agreement. | | |
| Which groups could be affected by the policy? (note all that apply) | | | |
| Age | | Disability | |
| Gender reassignment | | Marriage and Civil Partnership | |
| Pregnancy and Maternity | | Race | |
| Religion or Belief | | Sex | |
| Sexual Orientation | | | |
| If the policy is not relevant to any of the equality groups listed above, state why and end the process here. | | | |
| Succession requests pertain to everyone | | | |
| Have those affected by the policy / decision been involved? | | | |
| Tenants were notified of the policy in newsletters, via letter and through the website. | | | |

| Describe the likely positive or negative impact(s) that the policy could have on the groups identified above. | Positive Impact(s) | Negative Impact(s) |
|---|--|--------------------|
| | N/A | N/A |
| What actions are required to address the impacts arising from this assessment? (This might include: additional data, putting monitoring in place, making adjustments, taking specific action to mitigate any potentially negative impacts) | The Association monitors any complaints in relation to Succession requests and will make service adjustments where required. | |

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| Signed: | <i>Elaine Somerville</i> |
| Dated: | 10/8/21 |

GDPR Impact Assessment

| | | | |
|---|---|--|-----------------------------|
| Name of Policy to be assessed | Succession | New policy or revision of existing? | Revision of existing policy |
| Person(s) responsible for assessment | Elaine Somerville | | |
| Briefly describe the aims, objectives and purpose of the policy. | <p>This aims, objectives and purpose of the policy are to:</p> <ul style="list-style-type: none"> • To give clear guidance on the process for dealing with succession requests • To ensure that all succession requests are dealt with in line with in accordance with legal provisions and contractual terms contained within the tenancy agreement • To ensure that any successions are dealt with in accordance with our equality and diversity policy • To advise customers of the complaints process | | |
| Which type of data will be used by implementation of this policy? (e.g. personal, sensitive or special category) | Personal data will be used to implement this policy | | |
| What outcomes are wanted from this policy? (e.g. necessary to meet legal obligations) | To ensure that all succession requests are dealt with in line with in accordance with legal provisions and contractual terms contained within the tenancy agreement | | |
| Which groups could be affected by the policy? (note all that apply) | | | |
| Tenants | X | Committee | |
| Employees | | Contractors | |
| If the policy is not relevant to any of the data groups listed above, state why and end the process here. | | | |
| | | | |
| Have those affected by the policy / decision been involved? | | | |
| Tenants were previously lettered regarding the policy change, information was included in newsletters and on our website. | | | |
| Describe the likely positive or negative impact(s) that the policy could have on the groups identified above. | Positive Impact(s) | Negative Impact(s) | |
| | | | |

| | | |
|---|--|--|
| | | |
| What actions are required to address the impacts arising from this assessment? (This might include: additional data, putting monitoring in place, making adjustments, taking specific action to mitigate any potentially negative impacts) | The Association has systems and checks in place to ensure that personal data remains confidential. | |

| | |
|---------|-------------------|
| Signed: | Elaine Somerville |
| Dated: | 10/8/21 |