



ORE VALLEY HOUSING ASSOCIATION

SUCCESSION POLICY

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Succession Policy

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1. Purpose

The aim of this Policy is to clarify the Association's position when there is a right of succession to a tenancy following the death of a tenant.

2. Levels of Succession

The legislation makes provision for three levels of succession to a tenancy, outlined below in order of priority:

- I. The tenant's spouse or co-habitee (including same sex couples) or a joint tenant where the house was that person's only or principal home at the time of the tenant's death.

The legislation indicates that in the case of a co-habitee the house must have been the person's only or principal home throughout the period of 6 months ending with the tenant's death, however the Association will treat such cases in the same way as married couples provided they can prove that the house was their only or principal home at the time of the tenant's death.

- II. A member of the tenant's family who is aged 16 or over and where the house was that person's only or principal home at the time of the tenant's death.

The Association will seek confirmation that any person claiming the tenancy was occupying it as their only or principal home. All Association tenants are made aware of the requirement to notify changes in household and our own records will provide the most direct evidence of this. If the person claiming the tenancy is not listed on our records, acceptable proof will include: benefit claimed from the address; official letter addressed to the person at the address; Council Tax or other official records that identify the person as living at the address. Where there is evidence that the person was not occupying the house as their only or principal home, he or she will not be entitled to succeed to the tenancy.

- III. A carer providing or who has provided care for the tenant or a member of the tenant's family where the carer is aged 16 or over, gave up another only or principal home prior to the tenant's death and where the house was that person's only or principal home at the time of the tenant's death.

The Association will seek confirmation that a carer seeking to claim a tenancy was occupying the house as their only or principal home as above, however the Association will also seek information about their previous accommodation and the type/level of care provided. Investigations will also include consideration of benefits claimed either by the carer or the deceased tenant.

3. Accommodation Adapted or Designed for Specific Needs

First Succession

Where the house has been designed or substantially adapted for a person with special needs, a person qualifying at Level 1 (spouse, co-habitee or joint tenant) will have the right to succeed to the tenancy.

A qualifying person at Level 2 or Level 3 who does not have special needs does not have the right to succeed to that tenancy. In these circumstances, the tenancy will be terminated and the qualifying person will be offered suitable alternative accommodation.

Second Succession

Where the house has been designed or substantially adapted for a person with special needs, a person qualifying at any level does not have the right to succeed to that tenancy. In these circumstances, the tenancy will be terminated and the qualifying person will be offered suitable alternative accommodation.

Suitability of Accommodation - Schedule 2, Part 2 of the Housing (Scotland) Act 2001 Accommodation is suitable if:

**It consists of premises which are to be let as a separate dwelling under a Scottish Secure Tenancy, and
It is reasonably suitable to the needs of the tenant and the tenant's family.**

In determining whether accommodation is reasonably suitable to the needs of the tenant and the tenant's family, regard is to be had to:

- 1. Its proximity to the place of work (including attendance at an educational institution) of**
- 2. The tenant and of members of the tenant's family, compared with the tenant's existing house,**
- 3. The extent of the accommodation required by the tenant and the tenant's family,**
- 4. The character of the accommodation offered compared to the tenant's existing house,**
- 5. The terms on which the accommodation is offered to the tenant compared with the terms of the tenant's existing tenancy,**
- 6. If any furniture was provided by the landlord for use under the existing tenancy, whether furniture is to be provided for use under the new tenancy which is of a comparable nature in relation to the needs of the tenant and the tenant's family,**
- 7. Any special needs of the tenant or the tenant's family.**

4. More Than One Qualifying Person

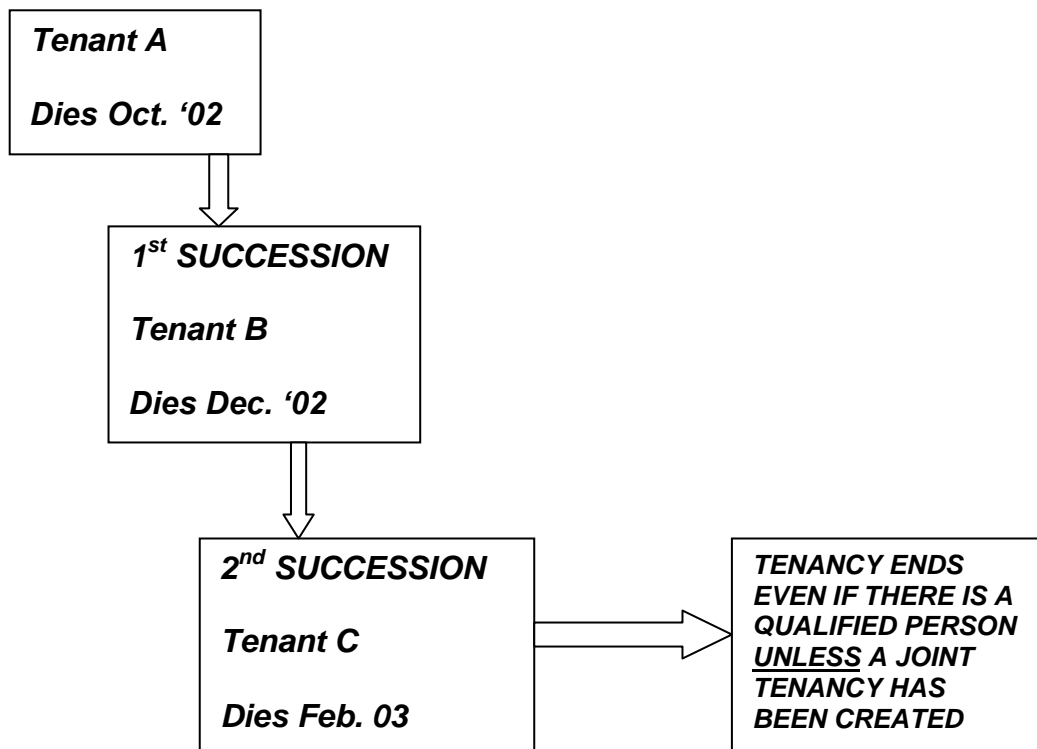
If, within any level, there is more than one qualified person entitled to succeed to the tenancy they must decide among themselves who should get the tenancy. If they cannot agree, the Association will decide.

Where the Association is required to decide which of the qualified persons should succeed to the tenancy, the Association will take into account:

1. the length of time each has occupied the property as their only or principal home,
2. the impact on each qualified person if they are not awarded the tenancy,
3. whether any of the qualified persons has been involved in anti-social behaviour,
4. whether it would be appropriate to offer a joint tenancy to all qualified persons.

5. Number of Tenancy Successions

Any tenancy can only be succeeded to on two occasions, as illustrated below.



Where a tenancy has been succeeded to twice previously and there is still a person in the house who would otherwise qualify to inherit the tenancy, the tenancy will continue for up to six months after the last death.

6. Equal Opportunities

The Association is committed to equality of opportunity in all aspects of its work. No person seeking to succeed to a tenancy will be discriminated against on the grounds of age, race, sexual orientation, religion, ethnic or national origin, disability, marital status, economic status or gender.

7. References

Housing (Scotland) Act 2001

S.22 Succession to Scottish Secure Tenancy

Sch.2 Part 2 Suitability of Accommodation

Sch.3 Succession to Scottish Secure Tenancy: Qualified Persons

Scottish Secure Tenancy Agreement (Section 7)

Note

^{Note} Throughout this policy reference is made to the property being the “only or principal home” of the person wishing to succeed to the tenancy. Examples of circumstances that would come into the category of “principal home” would be where the person is away from home in order to work, study, is in hospital or in custody but where the property in question is still considered to be their “home”.

Case law will develop on this issue and further amendment to this policy may be required to reflect this.