

Succession Policy

1. Summary

- 1.1. Succession is the transfer of a tenancy to another person when a tenant dies. This document sets out SHAL's policy on applicants who wish to succeed a tenancy.

2. Objectives

- 2.1. SHAL tenants will have different succession rights depending on the terms and conditions of tenancy and type of tenancy they have, but SHAL aims to provide a fair and efficient service when processing succession requests.
- 2.2. This policy aims to ensure that in considering requests for succession we:
 - 2.2.1. Respond sensitively with residents at a time of grief and loss
 - 2.2.2. Minimise periods of uncertainty for remaining household members
 - 2.2.3. Meet our statutory and contractual obligations
 - 2.2.4. Make the best and most efficient use of our housing stock
 - 2.2.5. Weigh up the demand for the property and the housing needs of the potential successor and other housing needs where there is no automatic right of succession.

3. Details

- 3.1. SHAL will manage all applications for succession sensitively and efficiently and will grant succession to a person with a statutory right to succeed a tenancy.
- 3.2. Where there is a joint tenancy and one of the joint tenants dies, the surviving joint tenant will automatically succeed the tenancy (this is called Survivorship). The joint tenant continues as the sole tenant and takes over all rights and obligations (including any rent arrears) of the tenancy.
- 3.3. SHAL tenancy agreements allow, at our discretion, the possibility of succession for a family member to succeed the tenancy.

- 3.4. SHAL will interpret this discretion to consider allowing a family member to succeed, as if they had a right to succeed a tenancy under The Housing Act 1985 i.e. they must be a member of the deceased tenant's household and resided there for 12 consecutive months prior to the death of the tenant.
- 3.5. Any request to succeed to a tenancy must be made in writing within one month of the death of the tenant.
- 3.6. If SHAL receive a request to Succeed a tenancy from a family member or other relative, we will ask that this person completes our Verification document. This is in line with a standard allocation or mutual exchange process, and will be completed during our investigation process.
- 3.7. Tenants who have already succeeded to a tenancy will have no legal right for any further successions.
- 3.8. For the purposes of succession, family members can be defined as:
 - 3.8.1. Spouse
 - 3.8.2. Civil partner
 - 3.8.3. Parent
 - 3.8.4. Grandparent
 - 3.8.5. Children
 - 3.8.6. Grandchildren
 - 3.8.7. Siblings
 - 3.8.8. Uncle and aunt
 - 3.8.9. Niece and nephew
- 3.9. Assured Tenancies
 - 3.9.1. Under the terms of The Housing Act 1985, there is one statutory right of succession to a surviving spouse or civil partner, living in the property as their main or principle home at the time of the tenant's death. The definition of spouse in this context includes persons who have been living together as husband and wife or civil partners. There can be no further succession if the deceased tenant was a successor themselves.

3.9.2. There is no statutory right of succession to family members, however, SHAL will, under certain circumstances allow a family member to succeed at our discretion.

3.9.3. If there is more than one person entitled to succeed a tenancy and they are unable to agree a successor, SHAL will either identify the person who will succeed, or advise that the matter should be referred to the County Court to make a decision.

3.10. Starter Tenancies

3.10.1. A surviving joint tenant of a Starter Tenant is entitled to succeed the Starter Tenancy as a sole tenant, providing they occupied the property as their main and principle home at the time of the tenants death and for the 12 consecutive months prior.

3.11. Discretion to offer a tenancy

3.11.1. If a spouse or civil partner cannot succeed the tenancy because there has been a previous succession i.e. to a former spouse, then a discretionary granting of tenancy can be considered as long as:

3.11.2. The would-be successor has lived in the property with the tenant for 12 months prior to their death as their principle home

3.11.3. The property is not too large or too small for the remaining occupants in accordance with SHAL's allocations policy at the time of the request

3.11.4. The applicant has sufficient income to pay the rent

3.11.5. The applicant agrees to pay any rent arrears which have accrued since the tenants death

3.12. For other remaining household members who do not qualify to succeed the tenancy, a discretionary granting of tenancy can be considered as long as all of the following conditions are met:

3.12.1. The applicant has always lived at the property since the tenancy start date or their date of birth, whichever is more recent

3.12.2. The would-be successor is at least 18 years old

- 3.12.3. The property is not too large or too small for the remaining occupants in accordance with SHAL's allocations policy at the time of the request
- 3.12.4. The would-be successor has sufficient income to pay the rent
- 3.12.5. The deceased tenant had managed the property well, had no rent arrears at the time of their death, had no ASB complaints against them or any members of their household, had kept the property in a clean and well maintained condition and had not breached the terms of the tenancy agreement
- 3.12.6. For discretionary offers of tenancy, a Starter 12-month probationary tenancy will be offered.
- 3.13. In cases where the spouse/ partner/ household member is being considered for a discretionary offer of tenancy and is particularly vulnerable, we will give special consideration to the circumstances of the case and the individual's vulnerability so that reasonable steps can be taken to manage their circumstances.
- 3.14. Where there is a need for additional support in order to ensure appropriate safeguarding of the vulnerable person and their interests, appropriate referrals will be made.
- 3.15. In some cases it may be suitable to consider the offer of discretionary tenancy at the original or another address, however vulnerability will not be a passport to override policy, procedure, related law, regulations or rights set out in the tenancy agreement
- 3.16. ID and proof of residency
 - 3.16.1. SHAL will require evidence for all succession requests to confirm the identity of the person claiming succession, their relationship to the deceased tenant, the length of residence with the tenant and for non-EU citizens, their immigration status and entitlement to social housing
 - 3.16.2. It is the responsibility of the potential successor to provide a sufficient level of evidence. Documents should cover the entire qualifying period.
They must also provide the death certificate.

- 3.17. SHAL may also conduct other checks to ascertain who was residing at the property in the qualifying period prior to the tenant's death.
- 3.18. Mutual Exchanges
- 3.18.1. Under a Mutual Exchange, tenants retain their own rights of succession. This means that if the tenant had the tenancy assigned to them via Mutual Exchange and had not already used their right of succession on their original tenancy, they would be able to pass on their tenancy through succession regardless of whether the tenant they exchanged with was a successor.
- 3.19. Under occupation
- 3.19.1. If a succession would lead to under occupation as determined by SHAL's allocations policy, we will work alongside the successor and identify reasonable alternative accommodation in our own available housing stock, or by working with the District Council and the Homefinder Choice Based Lettings system.
- 3.19.2. If the successor remains in the property until a suitable offer of alternative accommodation can be made, the arrangements during that time will depend on whether a new tenancy has to be granted (in which case a Use & Occupation account may be required) or the tenancy automatically passes to the successor, in which case, the successor will be required to pay rent.
- 3.20. Where it is a statutory succession i.e. joint tenant or spouse, we will still discuss rehousing to a more suitable sized property with the successor as part of SHAL's efforts to make best use of our homes.
- 3.21. Disputed succession
- 3.21.1. Where we believe there is no right of succession and there is no agreement to make a discretionary offer of tenancy i.e. where an adult child of the deceased tenant is claiming to have lived at the property

despite evidence to the contrary, SHAL Housing will, if necessary commence legal action to obtain possession.

3.21.2. Whether or not someone is entitled to succeed to a tenancy is a question of fact, ultimately for the Court. Someone may still succeed even if there is substantial evidence suggesting that he/ she was not living at the property.

3.22. Unauthorised occupants

3.22.1. Once it has been decided that any remaining occupants have no right to succeed the tenancy, we will inform the occupants and the deceased’s representatives of our intention to seek possession of the property and serve a Notice to Quit (NTQ).

3.22.2. In the interim we will set up a Use & Occupation account for the occupants to make payments to cover the rent charges once the original tenancy has ended.

3.23. Appeals

3.23.1. If the applicant wishes to challenge the decision on succession, they can do so in writing by email or letter. Where necessary, we will refer the tenant for support from an external agency to produce the appeal in writing.

3.23.2. The appeal must set out why they feel the decision is not justified. A relevant Manager not involved in the original decision will review the decision and will only uphold the appeal if they find that legal requirements or SHAL’s policy criteria have not been met.

3.24. Key Legislation:

3.24.1. Localism Act 2011 – amended succession rights for new tenancies to give the same statutory rights of succession to a married, civil or ‘common law partner’ (including same sex partners) for both Secure and Assured tenancies starting on or after 1 April 2012

3.24.2. Housing Act 1985 for Secure tenants

3.24.3. Housing Act 1988 for Assured tenants

3.24.4. Both Housing Acts were amended by the Civil Partnerships Act 2004 to extend statutory rights to same sex couples

4. Outcomes

4.1. Tenants will have the correct tenancy which meets their needs and terms of occupation which are compatible with the purpose of the accommodation, the needs of individual households, the sustainability of the community, and the efficient use of SHAL's homes.

4.2. Tenants will clearly understand their Succession rights and responsibilities under their tenancy agreement and SHAL will be satisfied that its homes are occupied in accordance with tenancy conditions.

5. Consultation

5.1. A draft copy of this policy will be available on our website to allow members of the public an opportunity to comment on its contents prior to being submitted for approval by SHAL's board.

5.2. All tenants will be contacted by text to advise of its availability online and a draft copy will also be made available on request.

5.3. SHAL's tenant scrutiny panel will also be invited to review the policy and suggest any comments and amendments prior to the policy being approved by the board.

6. Equality and Diversity

6.1. We will apply our Succession policy in a fair and consistent manner and will not discriminate against anyone based on their age, gender, nationality, race, religion, sexual orientation, disability or any other matter that may cause a person to be treated with injustice.

6.2. The needs of vulnerable residents will be considered in accordance with the pre-action protocol for possession based on rent arrears and the Equality Act 2010.

7. Value for Money

7.1. We will regularly review our processes to ensure resources and services are providing best value for money to our residents.

8. Owner

8.1. Housing Manager

9. Version and Revisions

9.1. This policy will be reviewed every 2 year(s)

9.2. Revisions

New version	Date	Revision details
2.0	2023-06	Paragraph 3.5 – any request to Succeed to a tenancy must be made in writing within one month of the death of the tenant.