

<b>KNOWES HOUSING ASSOCIATION LTD</b>	
<b>Policy Name</b>	Succession Policy
<b>Policy Category</b>	Housing Management
<b>Policy Number</b>	HM07
<b>Date to Housing Services Sub-Committee</b>	October 2022
<b>Previous Review</b>	November 2019
<b>Next Review Date</b>	October 2025
<b>Links to other Policies</b>	Allocations Policy Death of a Tenant Policy Void Management Policy
<b>Consultation</b>	Internal

## **1. AIMS & OBJECTIVES**

- 1.1 Succession is where on the death of the tenant, a partner, family member or carer, would have the right to inherit the tenancy if they were resident in the house and it was their only or principal home at that time.
- 1.2 This policy outlines the rights of succession granted to Scottish Secure tenants. Section 13 of the Housing (Scotland) Act 2014 amended Schedule 3 to the Housing (Scotland) Act 2001 which introduced a new 12 month qualifying period and notification requirement before certain categories of persons can become 'qualified persons' and have the right to succeed to a Scottish Secure Tenancy (SST) on the death of a tenant (previously the only qualifying period was a 6 month qualifying period in case of partners). The main aim of this Policy is to clarify to tenants and applicants how this legislation is carried out in practice.
- 1.3 The Succession procedure, which is a separate document, details how an Application for Succession to Tenancy will be dealt with internally by officers of the Association. Every Application for Succession to Tenancy received, regardless of the outcome, is recorded on the Associations IT system, QL

- 1.4 An Application for Succession to Tenancy should be made to the Association as soon as possible after the tenant's death. The Association will respond to the applicant, in writing, with its decision within 28 days.

## **2. RISK MANAGEMENT**

- 2.1 By having a written detailed Succession Policy & Procedure the Association is able to ensure that a uniform and professional approach is adopted throughout the organisation and the service delivered is compliant with law, best practice and internal policy.
- 2.2 The risk of not having this Policy in place is an absence of the above, poor record keeping regarding tenancy information and a poor reputation.

## **3. QUALIFYING PRIORITIES**

- 3.1 The Act provides for 2 rounds of succession and at 3 qualifying levels, these are contained within Section 7 of the SST. Whilst the Act allows for 2 rounds of succession, the Association will continue to allow succession to occur where there remains a qualifying resident and the house is their only and principal home. The 2<sup>nd</sup> round is therefore, an academic exercise.
- 3.2 Under the new provisions, to have a right to succeed to a tenancy after living in the house for 12 months, the 'qualified person' or the tenant must also have notified the Association that the person wishing to succeed to the tenancy is living in the house and that the house is that person's only or principal home. The 12 month qualifying period does not start until that notice has been given in writing. The tenant (or any one of the joint tenants) or the person who has moved into the property are responsible for notifying the Association that the person has moved in.
- 3.3 Schedule 3 of the 2001 Act sets out who is a qualified person. Each qualifying group must meet the criteria that is covered in the Housing (Scotland) Act 2014, the 12 month occupancy as well as notification. If this has not been met then, regardless of the proof that the person requesting the succession provides, we will not consider the succession request. There continues to be no qualifying period under the new provisions for the tenant's spouse, civil partner or joint tenant, provided (in all three cases) that the person's only or principal home was the house in question at the time of the tenant's death.

## 4.0 ORDER OF QUALIFYING OCCUPIERS

### 4.1 Level 1

#### **Succession passes in the first instance to:**

- Tenant's spouse
- Tenants partner, (2001 Act states that the partner should have resided in the house for 12 months prior the tenant's death).
- Joint Tenant

(This is the greatest priority to succeed to a tenancy, and there is no qualifying period for this category)

In the case of a co-habitee/partner (and any other relationship which is not bonafide), he or she must have lived at the property as their only or principle home for the 12 months before they apply

### 4.2 Level 2

#### **If there is no one who meets the criteria at Level 1 or the tenancy is declined by the qualifying person then the tenancy passes to:**

- A member of the tenant's family aged at least 16 years (at date of death) where the house was the persons only or principle home 12 months immediately prior of the tenant's death.

### 4.3 Level 3

#### **If there is no one who meets the criteria at Level 2 or the tenancy is declined by the qualifying person then the tenancy passes to:**

- A carer providing, or who has provided care for the tenant or a member of the tenant's family (includes all registered members of the household)
- Where the carer is aged at least 16 years (at date of death)  
**and**
- The house was the carers only or principle home 12 months immediately prior of the tenant's death
- The carer should have given up their previous only or principle home prior to the death of the deceased tenant.

4.4 If no one qualifies at Level 3, the tenancy will be terminated.

## 5. MORE THAN ONE QUALIFYING PERSON

5.1 In the event of there being more than one qualifying person at any level the family will be given the opportunity to decide amongst themselves who should succeed. If they are unable to decide the Association will determine who will succeed to the tenancy.

## **6. HOUSES DESIGNED OR SPECIFICALLY ADAPTED FOR TENANTS WITH SPECIAL NEEDS**

- 6.1 Under Section 17 of the Housing (Scotland) Act 2001, where the house has been designed or significantly adapted for someone with special needs, succession will only be granted to qualifying persons with a requirement for this type of accommodation. Only qualifying persons at Level 1, without a requirement for this type of accommodation, can qualify for succession to that specific property. Persons with a requirement for this type of accommodation, at Levels 1, 2 or 3 can be considered for succession.
- 6.2 Where a qualifying person at any level of succession has been refused succession to the specific property as a result of not having a requirement for that type of accommodation, the Association will offer suitable alternative accommodation within a reasonable time period. The successor can remain in the property until such times as the Association has identified appropriate accommodation. In this situation a charge equivalent to the monthly rental charge will be levied and any monies received will be placed in an Unallocated Account and not the original rent account – it is of paramount importance that a new tenancy is not created at this stage.
- 6.2.1 If the Qualifying Successor refuses to succeed to the tenancy, or indeed there are occupants in the property, none of which qualify for succession, then all occupants will be advised to vacate the property at the earliest possible date. In cases such as this the occupants will be encouraged to vacate within 7 days, however cognisance will be taken of Schedule 3, Section 11 of the Housing (Scotland) Act 2001, and legal advice will be taken.

## **7. EXCEPTIONAL CIRCUMSTANCES**

- 7.1 When considering all applications for succession, at what will be a difficult time for applicants coping with bereavement, we will ensure that we do so sensitively and quickly. We will consider all the circumstances of the individual case and ensure that appropriate checks are made to determine whether the applicant meets the succession criteria.
- 7.2 Where an applicant does not have the right to succeed, we have no discretion to grant a succession of tenancy. Whilst there is no statutory period of time that a person can remain in the home where there is nobody qualified to succeed, we will (as is currently the case) be expected to show some sensitivity in these situations.

- 7.3 Depending on the individual circumstances there will sometimes be cases where we will consider it appropriate to allocate a tenancy, for example, the existing tenancy or the tenancy of another property, to the applicant. In these cases, the local authority will be requested to assist with facilitating the allocation via a Section 5 (homeless) Referral and a new tenancy will be granted – this will not be a succession

## **8. FALSE INFORMATION**

- 8.1 Anyone applying for succession will have to sign the form thereby certifying that the information is correct and no false or misleading information has been given in order to get the tenancy, or relevant information withheld. Should the Association discover that an application has been falsified then the Association may commence legal action with a view to repossessing the tenancy.

## **8. APPEALS**

- 8.1 Any tenant who feels aggrieved by their treatment under this Policy can ask for a copy of the Association's Complaints Policy which is available at the Associations Office. You also have a right to complain to the Public Services Ombudsman. The Complaints Policy details the way in which you can complain and the timescales for responding.

## **9. POLICY REPORTING**

- 9.1 Successions to tenancy stats will be included in the letting's reports submitted each year as part of our ARC returns which are also reported to the Housing subcommittee.

## **10. EQUALITIES COMMITMENT**

- 10.1 Knowes Housing Association Ltd is committed to tackling discrimination on the grounds of sex or marital status, racial grounds, or grounds of disability, age, sexual orientation, language, social origin, or of other personal attributes, including beliefs or opinions, such as religious beliefs or political opinions.
- 10.2 Knowes' seek to embrace diversity, promote equal opportunities for all and eliminate any unlawful discrimination in all areas of our work.