



Dunbritton Housing Association Limited

Name of Policy	Succession Policy
Responsible Officer	Housing Services Manager
Date approved by Board	20 April 2022
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Section	Housing Services
Reference	HS18

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Contents.

Section		Page
1.	Introduction	3
2.	Aims and Objectives	3
3.	Risk Management	4
4.	Qualifying Priorities	4
5.	Order of Qualifying Occupiers	4
6.	More than one Qualifying Person	5
7.	Adapted Properties	5
8.	Exceptional Circumstances	6
9.	False Information	6
10.	Appeals – Complaints procedure	7
11.	Policy Reporting	7
12.	Customer Services	7
13.	Equality & Diversity	7
14.	Links to other Policies	7

Appendices N/A

1. INTRODUCTION

- 1.1 Dunbritton Housing Association is a registered social landlord established in 1992 to provide housing for social rent and services to owners through factoring.
- 1.2 We are governed by our Board, which is supported by a number of Committees. Our governance arrangements set out clearly the roles and responsibilities of our Board and Committee members and our members of staff.
- 1.3 Operational services are delivered through our office based at 1 Hatters Lane, Dumbarton G82 1AW.
- 1.4 As a landlord, Dunbritton Housing Association aims to promote the health and wellbeing of our customers by providing quality homes, located in estates that are safe, environmentally clean and well managed.

2. AIMS & OBJECTIVES

- 2.1 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.
- 2.2 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. It 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.

- 2.3 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.
- 2.4 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.

3. RISK MANAGEMENT

- 3.1 By having a written detailed Succession Policy and 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.
- 3.2 The risk of not having this Policy in place is an absence of the above, poor record keeping regarding tenancy information and reputational risk.
- 3.3 Having a Policy and Procedure in place shall also ensure that all requests for succession are addressed in the same manner and all applicants are treated the same. This will ensure that we meet our duties under equalities and human rights legislation.

4. QUALIFYING PRIORITIES

- 4.1 The Act provides for 2 rounds of succession and 3 qualifying levels, these are contained within Section 7 of the SST. Whilst the Act allows for 2 rounds of succession, the Association has a duty to avoid creating homelessness, as well as a responsibility to act reasonably. Where there occurs a request for succession after 2 rounds, the Association may choose to exercise discretion and grant further succession requests, this will take into account the circumstances inclusive of the needs of the remaining household.
- 4.2 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.
- 4.3 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.
- 4.4 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.
- 4.5 There may occur a request for succession, where the applicant has not met the requirements set at 4.3 and 4.4, but where the applicant has specific

requirements linked to that property, for example where the property has had considerable adaptations to meet the applicant's medical needs. In such circumstances, the Association may exercise discretion with regard to the request. This discretion shall take into account the medical needs, the level of adaptation, the possibility of alternative comparative rehousing, and reputational risk.

5. ORDER OF QUALIFYING OCCUPIERS

5.1 Level 1

Succession passes in the first instance to:

- Tenant's spouse or civil partner.
- Tenants partner, (2014 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.

5.2 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 to the tenant's death.

5.3 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.
- If no one qualifies at Level 3, the tenancy will be terminated.

6. MORE THAN ONE QUALIFYING PERSON

- 6.1 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.
- 6.2 Where the Association is required to make this decision it will consider first, any medical requirements of the applicants and how the property meets these needs. The potential impact on each party of not being able to succeed. Any relationship, including past tenancies, anti-social behaviour, and arrears between the parties and the Association.
- 6.3 Where the Association is required to decide between two parties to succession, we shall provide support and assistance to the unsuccessful party in their search for re-housing.

7. ADAPTED PROPERTIES

- 7.1 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.
- 7.2 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.
- 7.3 Should suitable alternative accommodation be offered, but refused. The Association shall take steps to recover the tenancy.

- 7.4 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.

8. EXCEPTIONAL CIRCUMSTANCES

- 8.1 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.
- 8.2 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.
- 8.3 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 may 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.

9. FALSE INFORMATION

- 9.1 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.

10. APPEALS / COMPLAINTS PROCEDURE

- 10.1 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.

11. POLICY REPORTING

- 11.1 Every Succession application will be logged and its progress recorded on the Housing Management Register (Succession).

12. CUSTOMER SERVICES

- 12.1 All Succession applications received will be carried out in line with our Customer Service Standards.
- 12.2 Complaints in relation to service failures in our obligations for Successions will be dealt with in line with our Complaint Handling Policy.

13. EQUALITY & DIVERSITY

- 13.1 As a service provider and employer we recognise the requirements of the Equality Act 2010, oppose any form of discrimination and will treat all customers, internal and external, with dignity and respect. We recognise diversity and will ensure that all of our actions ensure accessibility and reduce barriers to employment and the services we provide.

14. LINKS TO OTHER POLICIES

- 14.1 The following Policies relate to and should be referred to in respect of the Succession Policy;
- Allocations Policy
 - Void Management Policy
 - Rent Management policy
 - Death of a Tenant policy