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| Policy: | Succession Policy |
| Legal Requirements: | Housing (Scotland) Act 2001 Housing (Scotland) Act 2014 |
| Regulatory Standards: | <p>The Scottish Housing Regulator has set out Regulatory Standards for all Registered Social Landlords (RSLs) to ensure that RSLs deliver good outcomes and services for its tenants and service users through good governance and financial management.</p> <p>This policy evidences that the following Regulatory Standards are being met:</p> <p>Standard 2. The RSL 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. And its primary focus is the sustainable achievement of these priorities.</p> <p>Standard 5. The RSL conducts its affairs with honesty and integrity.</p> |
| Notifiable Events Guidance: | In compiling this policy, consideration has been given to the Notifiable Events Guidance issued by the Scottish Housing Regulator and the impact of that guidance on the policy. |
| Equality and Diversity: | <p>The Association is committed to Equal Opportunities and will endeavour to ensure that all services are carried out in an undiscriminating manner in line with the Association's Equality and Diversity Policy.</p> <p>In particular, the Association will not discriminate on the grounds of age, disability, marriage and civil partnership, pregnancy and maternity, race, religion or belief, gender, gender reassignment or sexual orientation.</p> |
| Human Rights | <p>In compiling this policy, consideration has been given to "The Right to Adequate Housing" (Fact Sheet No. 21/Rev.1) published by the Office of the United Nations High Commissioner for Human Rights and the impact of that guidance on the policy.</p> <p>In particular, the Association is satisfied that this policy promotes the key aspects of the right to adequate housing – that it contains freedoms; entitlements; provides more than four walls and a roof; and protects against forced evictions.</p> |
| Complaints: | Although the Association is committed to providing high levels of service, we accept that there may be occasions where customers may not be satisfied with the service they have received. The Association values all complaints and uses this information to improve the services that it provides. The Association's Complaints Policy describes our complaints handling procedure and how to make a complaint. |
| General Data Protection Regulation (GDPR): | The Association will treat all customers' personal data in line with its obligations under the current data protection regulations and our Privacy Policy. Information regarding how data will be used and the basis for processing data is provided in the Association's Fair Processing Notice. |
| Policy Author: | Kevin Freeman |
| Policy Review: | In order to ensure that any change in circumstances is accommodated this policy will be subject to review every three years in the month of October. |



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| Policy Approval: | This policy was last reviewed / approved by the Management Committee of Yoker Housing Association Limited at its meeting held on Thursday the 27th of October 2022. |
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Statement of Policy Aims/Principles

The aim of this policy is to ensure that succession to tenancy applications are processed in accordance with legislation and the contractual terms contained within the Scottish Secure Tenancy Agreement (SST).

Legal Requirements

The legal provisions that govern the right to succession of a Scottish Secure Tenancy (SST) are contained within the Housing (Scotland) Act 2001 and the Housing (Scotland) Act 2014.

Policy Details

When Succession Arises

Succession can only arise following the death of a tenant and where there is a relevant qualifying person.

The Housing (Scotland) Act 2001 as amended by the Housing (Scotland) Act 2014 provides the following two rounds of succession:

- On the death of a 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.

Termination of Tenancy

The tenancy ends following the death of a Scottish Secure tenant when, either:

- There is no qualifying person; or
- Each qualifying person declines the tenancy.

The tenancy is also ended following the death of a qualified person who succeeded the tenancy on the second occasion. However, where the second succession involves joint tenancies the tenancy is not terminated when one of the tenants dies providing that the surviving joint tenant continues to use the house as their only or principal home.

Right to Remain in the Tenancy after Termination

Where the tenancy is terminated as a result of the death of the second successor, any other qualifying person is legally entitled to remain as a tenant in the house for six 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.

Qualifying Persons

The Housing (Scotland) Act 2001 as amended by the Housing (Scotland) Act 2014 provides for two rounds of succession and for each separate round of succession there can be three qualifying levels as detailed below:

Qualifying Person: Level 1

First priority is given to the tenant's spouse, civil partner, partner (cohabitants of either sex and including same sex cohabitants), 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.

In the case of cohabitants, it is also a requirement that the house must have been the person's only or principal home throughout the twelve months prior to the tenant's death.

In order for a cohabitant to have the right to succeed to a tenancy after living in the house for twelve months, the 'qualifying person' or the tenant must have notified the Association that the person wishing to succeed to the tenancy is living in the house and the house is that person's only or principal home. The twelve month qualifying period does not commence until this notice has been received. The tenant, any joint tenant or the person who has moved into the property is responsible for notifying the Association that the person has moved in.



Policy Details (Continued)

Qualifying Persons (Continued)

5 *Qualifying Person: Level 2*

If no one qualifies or the qualifying person from the first priority group declines their right to succeed, then a member of the tenant's family aged at least sixteen will succeed where the house was the person's only or principal home throughout the twelve months prior to the tenant's death.

10 The list of possible family members includes grandparent, children (including step children), grandchildren, sister, brother, aunt, uncle, niece and nephew.

15 In order for a member of the tenant's family to have the right to succeed to a tenancy after living in the house for twelve months, the 'qualifying person' or the tenant must have notified the Association that the person wishing to succeed to the tenancy is living in the house and the house is that persons only or principal home. The twelve month qualifying period does not commence until this notice has been received. The tenant, any joint tenant or the person who has moved into the property is responsible for notifying the Association that the person has moved in.

20 *Qualifying Person: Level 3*

If no one qualifies or the qualifying person from either the first or second priority groups declines their right to succeed then a carer may succeed.

25 A carer can succeed the tenancy provided the following conditions are met:

- The carer is at least sixteen years of age;
- The house was the carer's only or principal home throughout the twelve months ending in the tenant's death; and
- The carer has given up his / her only or principal home to care for the tenant, or a member of the tenant's household, for example a child with learning difficulties.

35 There is no definition of carer within the legislation. This is intentional to cover a broad range of caring arrangements, including both formal and informal arrangements. The legal position is aimed at protecting individuals who give up their homes to care, either for the tenant or a member of the tenant's family, from becoming homeless.

40 In order for a carer to have the right to succeed to a tenancy after living in the house for twelve months, the 'qualifying person' or the tenant must have notified the Association that the person wishing to succeed to the tenancy is living in the house and the house is that persons only or principal home. The twelve month qualifying period does not commence until this notice has been received. The tenant, any joint tenant or the person who has moved into the property is responsible for notifying the Association that the person has moved in.

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

45 More than One Qualifying Person

In the event that there is more than one qualifying person at any level, the qualifying persons will be given the opportunity to decide amongst themselves who should succeed. If the qualifying persons are unable to decide, the Association will determine who will succeed the tenancy.

50 Creation of a New Tenancy

Any right to a registered rent will end on the death of the tenant unless the tenancy is succeeded by a level 1 successor. A Level 1 successor will retain these rights and the original date of tenancy will apply.

55 Where the tenancy is succeeded by Level 2 or 3 successors a new date of tenancy will be issued with the tenancy date being the day after the original tenant's date of death. Level 2 or 3 successors will not retain any rights to a registered rent.



Policy Details (Continued)

Houses Designed or Specifically Adapted for Tenants with Particular Needs

5 Where a house has been designed or significantly adapted for someone with particular needs, succession will only be granted to qualifying persons with a requirement for this type of accommodation.

10 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 level 1, 2 or 3 can be considered for succession.

15 Where a qualifying person at any level of succession is not entitled to succession to the specific property as a result of not having a requirement for that type of accommodation, the Association must offer alternative accommodation within a reasonable time period. The successor can remain in the property until such times as the Association has identified appropriate accommodation. A new tenancy must not be created until appropriate alternative accommodation is found.

Declining a Tenancy

20 A qualifying person who is entitled to succeed a tenancy may decline the tenancy. Where a qualifying person wishes to decline a tenancy, they should do so by providing written notice to the Association within four weeks of the tenants death.

A qualifying person who declines a tenancy must vacate the property within three months of the date of their notice declining the tenancy. They will also be liable for rent which becomes due after the tenants death due for any period the qualifying person occupies the property following the tenant's death.

Exceptional Circumstances

25 Where an applicant does not have the right to succeed a tenancy, the Association has no discretion to grant a tenancy. However, we recognise that owing to individual circumstances there may sometimes be cases where the Association considers it appropriate to allocate a tenancy. Where the Association allocates a tenancy, this may be for the existing property or for an alternative property. Where a tenancy is granted by the Association this will be considered a new tenancy and not a succession. The Association's Letting Policy allows the Association to make an allocation out with the normal rules in exceptional circumstances. Exceptional circumstances relating to the succession of a tenancy in which the Association may allocate a new tenancy include:

- 35 • An applicant does not qualify to succeed a tenancy because the tenancy has been succeeded twice;
- An applicant does not qualify because they did not occupy the property as their only or principal home throughout the twelve months prior to the tenant's death;
- The property has been designed or adapted for those with particular needs and the applicant does not require this type of accommodation.

Appeals

40 Applicants wishing a review of the decision made to their request should write to the Association's Housing Services Department within fourteen days giving their reasons for appeal. The application will then be reviewed and a written response will be provided within five working days outlining any new decision. If the applicant is still dissatisfied then they should write to the Association's Director who will investigate all circumstances and will respond to the applicant in writing within five working days. If the applicant remains dissatisfied then the Association's complaints procedures will apply.

Risk Management

50 By having a written policy and procedures on succession, 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.

Without a Succession policy, the Association is at risk of acting unlawfully and unprofessionally.

Policy Reporting

55 A report on the number of applications to succeed received by the Association as well as outcomes will be submitted on an annual basis and contained within the Tenancy Management Report.