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SUCCESSION PROCEDURE

PLACES FOR PEOPLE SCOTLAND

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INTRODUCTION

Succession to a Scottish Secure Tenancy happens when the tenant dies, and a "qualifying person" inherits the tenancy. A Scottish Secure Tenancy can only be succeeded to twice, on the third occasion; the tenancy will normally be brought to an end. This procedure explains what we will do in the event of the death of a tenant where a potential successor exists.

ELIGIBILITY

Section 13 of the Housing (Scotland) Act 2014 amends schedule 3 to the Housing (Scotland) Act 2001. It introduces a new 12 month qualifying period and notification requirement before certain categories of persons become ‘qualified persons’ and have the right to succeed to a Scottish secure tenancy on the death of the tenant (previously the only qualifying period was a 6 month qualifying period in the case of partners).

Level 1

There continues to be no qualifying period under the new provisions for the tenant’s spouse, civil partner or joint tenant, provided (in all 3 cases) that the person’s only or principal home was the house in question at the time of the tenant’s death.

Level 2

A person falling within the following categories are qualified persons where the house has been their only or principal home throughout the 12 months ending in the tenant’s death:

• partners (cohabitants of either sex and including same sex cohabitants);

• members of the tenant’s family aged 16 or over; and

• carers aged 16 or over who have given up a previous only or principal home.

Under the new provisions, to have a right to succeed to a tenancy after living in the house for 12 months, the ‘qualifying person’ or the tenant must also have notified their landlord 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. The tenant (or any one of joint tenants) or the person who has moved into the house are responsible for notifying the landlord that the person has moved in. If more than one person qualifies to succeed at this level, they must decide among themselves. Qualifying persons have 28 days to decide. If no decision can be made, we will decide. Refer to Application Stage for full details.

Special Adapted Property:

If the house is designed or adapted for a person with special needs, no one will qualify at level 2 or 3 unless they need the design features or adaptations. If a person would have qualified at level 2 or 3, we will make other suitable accommodation available. Housing Officer should refer to the Housing Management Team Leader to discuss next steps.

QUALIFYING PERSONS DECLINING A TENANCY:

Where a qualifying person who is eligible to succeed the tenancy chooses to decline the tenancy, the qualifying person must provide written notice within 4 weeks of the tenant’s death advising they do not accept the offer of the tenancy.

The qualifying person must vacate the house within 3 months of being advised they qualify to succeed the tenancy. The qualifying person is liable to pay rent during the period from the tenant’s death until keys for the house are returned. Refer to End of Tenancy Procedures to complete action.

COMPLETING THE SUCCESSION

1. Notification of Death

At the point of notification of a tenant’s death, the Housing Officer should make enquiries if there is anyone else living in the property. The Housing Officer should check Northgate and Objective to identify if there is anyone registered as living in the property. Housing Officer should also check what type of tenancy the tenant has and whether the tenancy is Fair rent. Fair rent will only apply for Level 1 successions only.

Housing Officer has 5 working days to identify any qualifying persons and confirm whether they want to succeed the tenancy.

Housing Officer must check if there have been any successions previously to the tenancy. If it is a third succession, there is no legal right to succeed including spouses and partners. Where the tenant dies who has previously succeeded into their tenancy, any qualifying person apart from joint tenants can remain in the property for up to 6 months on a SSST. Please liaise with Housing Management Team Leader before proceeding any further. Or, we can at our discretion offer the tenancy to someone who has occupied the property as their only or principle home. This would not be a succession but a new tenancy. A new tenancy agreement would be signed from the date after the date of death of the previous tenant. This must be approved by a Housing Management Team Leader and only in exceptional circumstances.

A joint tenant will automatically succeed the tenancy regardless of how many successions to the tenancy there have been. The joint tenant must be able to prove that the property has been their principle home.

If no qualifying persons to succeed to the tenancy, refer to End of Tenancy procedure to end the tenancy.

1. Application Stage

Housing Officer has 5 working days to identify any qualifying persons and confirm whether they want to succeed the tenancy. Detailed below are the possible outcomes and what action should be taken to complete the succession:

Eligible Persons Wanting to Succeed:

Persons wishing to succeed the tenancy need to put their request in writing within 28 days of tenant’s death. For automatic right to succeed persons there is no legal requirement to put request in writing but it is good practice. On receipt of this letter, the Housing Officer should send out the Succession application form.

Internal Reporting Requirement (IRR): Create High Risk business action on Northgate for the reason 28 day legal request. Ensure all contact with proposed successor is recorded here.

If there is more than one family member with the same level of succession rights and want to inherit the tenancy, the family members have 28 days to decide who will succeed and to inform the Housing Officer in writing of their decision. If no agreement is made after 28 days it will be up to the Housing Officer to decide who will inherit the tenancy. All parties must complete the succession application form.

IRR: create a Customer Contact to note that more than one family member wishes to succeed the tenancy and they have 28 days to make their decision and to put it in writing to the Housing Officer .

Set a 28 day diary reminder to ensure that Housing Officer chases decision from family.

Eligible Persons Not Wanting to Succeed:

Written notice should be given to us within 28 days of the death of the tenant. The qualified person can continue to occupy the property for a maximum of three months after the date of notice. This allows them to find alternative accommodation but they will be liable for rent from the day after death of the tenant until the keys are returned to us. Refer to the End of Tenancy Procedure.

Requests to Succeed:

When a person approaches us to request that they should succeed the tenancy, who we do not have listed as living in the property, we must seek proof that they lived in the property at the time of death. The onus is on the person to prove their occupancy. The person has 28 days from date of death to do so. Succession application form must be completed.

Examples of proof are: named claimant on Housing Benefit claim, medical registration card or utility bills.

Fair Rents:

If the tenancy is subject to fair rent; this will transfer for Level 1 successions only. In all other circumstances the right to a fair rent will not transfer. The property needs to be removed from the fair rent spread sheet and Income advised.

Housing Officer must check the rent spread sheet to identify the new rent; contact the income collection officer to update rent amount. New rent will start from the day after the tenant’s death.

Rent Arrears:

In the case of joint tenants they may be “jointly and severally” liable for payment of rent, which means that both tenants are individually responsible for the whole sum due. If a joint tenant passes away while there are rent arrears, the whole debt is still payable – whether by the remaining tenant or the deceased tenant’s estate. The surviving tenant can be pursued as an individual for the whole outstanding amount. If the tenancy passes by succession the arrears do not pass to the successor. However, the arrears can be claimed against any estate of the deceased tenant. In practical terms it is most likely the arrears will require to be written off.

**Items left in the house**

Assuming there is no joint tenant or successor, you will want to recover possession of the house. Any items left in the house become assets of the deceased tenant’s estate. You will need to liaise with their executor, preferably in writing, regarding your intentions. Additionally, you should allow reasonable time for the belongings to be removed and make it clear what you intend to do if they are not removed. There are statutory provisions to deal with items which appear to be lost or abandoned.

DECISION

Housing Officer needs ensure that the succession criterion is met before communicating their decision in writing.

[Approval](#Success_Approval): if the qualifying meets the criteria, we must approve the succession request and arrange a home visit to sign succession paperwork. This must be confirmed in writing.

[Refusal](#Success_Refusal): if the person does not qualify to succeed the tenancy, the application needs to be refused. Housing Officer must refuse the succession request in writing explaining why they are not a qualifying person. Housing Officer should advise if no other qualifying persons that the tenancy will be ended.

SUCCESSION VISIT

Succession **does not** require a new tenancy agreement.

To complete the succession, the Housing Officer needs to arrange a home visit to complete the [legal Succession paperwork](#Legal_Success_Doc). Two copies of the legal succession paperwork are required to be signed; one is for the new tenant and one for the tenancy file. The new tenant must be given a copy of the existing SST.

Housing Officer needs to make arrangements for rent to be collected. If self-funding, a direct debit form should be completed at home visit. If on housing benefit a change of circumstances needs to complete; this can be completed at home visit.

**IF THERE IS NO ONE TO SUCEED THE TENANCY**

**Items left in the house**

Assuming there is no joint tenant or successor, you will want to recover possession of the house. Any items left in the house become assets of the deceased tenant’s estate. You will need to liaise with their executor, preferably in writing, regarding your intentions. Additionally, you should allow reasonable time for the belongings to be removed and make it clear what you intend to do if they are not removed. There are statutory provisions to deal with items which appear to be lost or abandoned.

INTERNAL REPORTING REQUIREMENTS

The Housing Officer must update our systems to ensure we have recorded that a succession has taken place.

Northgate: Add new tenant onto tenancy using the day after death as tenancy start date. Add new tenants contact details (telephone/email). Complete a new household composition form and update Northgate. Update the Rent account with details of succession including new method of payment. Housing Officer should also email the Income Collection Officer to advise that a succession has taken place, and if necessary, arrange for any arrears to be removed from the account.

End the tenant that has died with the date of death as their end date. Create a Customer Contact to record the home visit.

Please ensure that both the tenants name and correspondence name are correctly updated. Please refer to the Northgate User Guide for full details. This can be access via the Library.

Sharepoint: Scan all documents into tenancy file.

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SUCCESSION APPLICATION FORM: REQUEST TO TAKE ON TENANCY

|  |  |
| --- | --- |
| **Applicant Details** | |
| Name |  |
| Date of Birth |  |
| National Insurance |  |
| Contact Details  Phone:  Email: |  |
| Current Address |  |
| Relationship to Tenant: |  |

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| --- | --- | --- | --- | --- | --- |
| **Household Details – Who will be living in the property if you became tenant** | | | | | |
| Name | | Date of Birth | | Relationship to Applicant | |
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| **Children seen on access – Please attach evidence** | | | | | |
| Name | Date of Birth | | Relationship to Applicant | | Frequency of Access |
|  |  | |  | |  |
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| --- | --- | --- | --- | --- |
| **Current Circumstances** | | | | |
| Do you currently live at the same address as the Tenant? YES/NO | | | | |
| If yes, how long have you lived there? | | | | |
| (Please attach proof that you have lived as the Tenants address) | | | | |
| Do you own, rent or live in another property? YES/NO | | | | |
| If yes, please state which: | | | | |
| Dates of occupancy: | | | | |
| If renting, please state name of Landlord: | | | | |
| **Address History – last three years** | | | | | |
| Address | Period  (Start & End Date) | Owner  Tenant  Lodger | Landlord Name & Address | Reason for Leaving | |
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| **Specially Adapted Property – Only Completed if the Property is Adapted** |
| Is the property wheel chair adapted? YES/NO  Please state the adaptations made to the property:  Please state why you or household member needs the adaptations or design features provided in this property: |

I declare that the information given by me in this application form is correct. I understand that any false or misleading information given, or deliberately withheld, will result in the cancellation of this application. I also understand that action could be taken to terminate a tenancy that was granted on false or misleading information.

I also understand that Places for People Scotland may approach my present of former landlord (if relevant) to obtain a report on my tenancy and by signing this form, I give my permission to my current or former landlord to disclose this information.

Applicant Signature:

Date:

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| --- | --- | --- | --- | --- | --- |
| Our Ref: | |  |  |  | |
|  | |  |  |  | |
| Date: | | 30 November 2021 |  |  | |
|  | |  |  |  | |
|  | |  |  |  | |
|  | | (Address 1)  (Address 2)  (Address 3)  (Address 4)  (Postcode) | **Housing Management** | | |
|  | | 1 Hay Avenue | | |
|  | | Edinburgh | | |
|  | | EH1fmonth 4RW | | |
|  | |  |  | |
|  | | Telephone: | 0131 657 0600 | |
|  | | Fax: | 0131 657 0700 | |
|  | |  |  |  | |
|  | |  |  |  | |
| Dear | | | |
|  | | | |
| **Succession Request** | | | |
|  | | | |

I am writing to confirm that on this occasion, I have refused your succession request.

Your application has been refused because INSERT REASON.

The tenancy at INSERT ADDRESS will now be brought to an end. Please ensure that you remove all your personal items in the property by INSERT DATE.

Our next step

Please contact me on 0131 657 0600 if you have any further questions.

Yours sincerely

**Name**

**Housing Officer**

Telephone: 0131 657 0600

Email:CREHousing@placesforpeople.co.uk

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Our Ref: | |  |  |  | |
|  | |  |  |  | |
| Date: | | [Publish Date] |  |  | |
|  | |  |  |  | |
|  | |  |  |  | |
|  | | (Address 1)  (Address 2)  (Address 3)  (Address 4)  (Postcode) | **Housing Management** | | |
|  | | 1 Hay Avenue | | |
|  | | Edinburgh | | |
|  | | EH16 4RW | | |
|  | |  |  | |
|  | | Telephone: | 0131 657 0600 | |
|  | | Fax: | 0131 657 0700 | |
|  | |  |  |  | |
|  | |  |  |  | |
| Dear | | | |
|  | | | |
| **Succession Approval** | | | |
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I am pleased to inform you that I have approved your succession request.

I would like to visit you at home on DAY, DATE, TIME to complete the succession documents.

Please contact me on 0131 657 ???? if you have any further questions.

Yours sincerely

**Name**

**Housing Officer**

Direct Dial: 0131 657

Email: @placesforpeople.co.uk

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**Succession of Tenancy**

I **INSERT NAME** succeeding to the tenancy at:

**INSERT ADDRESS**

I agree to pay the monthly rent plus service charge of £(**insert amount**) from **DATE AFTER DEATH**

I understand and agree to take on all the responsibility and obligations of the tenancy. I have received a copy of the Summary Scottish Secure Tenancy agreement.

|  |  |
| --- | --- |
| **Signed for landlord** |  |
| **Name** |  |
| **Witness name** |  |
| **Witness signature** |  |
| **Witness address** |  |
| **Date** |  |

|  |  |
| --- | --- |
| **Signed by Tenant** |  |
| **Witness name** |  |
| **Witness signature** |  |
| **Witness address** |  |
| **Date** |  |

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|  |  |  |  |
| --- | --- | --- | --- |
| Tenant Name |  | | |
| Date of Birth |  | N.I Number |  |
| Contact Details  Phone:  Email:  Allows Texts?: | Y / N | | |
| Joint Tenant’s Name |  | | |
| Date of Birth |  | N.I Number |  |
| Contact Details  Phone:  Email:  Allows Texts?: | Y / N | | |
| Address: |  | | |

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| --- | --- | --- | --- |
| **HOUSEHOLD DETAILS** | | | |
| **Name** | **Date of Birth** | **Sex (M/F)** | **Relationship** |
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| **EMERGENCY CONTACT** | |
| Name of next of kin/emergency contact |  |
| Address: |  |
| Contact Details  Phone: |  |

|  |  |
| --- | --- |
| **DISABILITY (Indicate below)** | |
| Vision |  |
| Physical |  |
| Hearing |  |
| Learning |  |
| Mental Health |  |
| Other, Please State: |  |
| Comments: | |

I/we agree to inform Places for People Scotland immediately if the composition of my/our household changes.

Tenant Signature:

Joint Tenant Signature:

Date: