



	Somer Community Housing Trust	Version: 2
Policy	Succession Policy	Effective Date: June 07
Ref	SCHT/HS/POL/SUCC/02	Review Date: June 09
Staff affected	Housing Services staff	
Approved by	SCHT Board	
Lead Officer	Julie Evans – Divisional Director Housing Services	

Policy Statement

The Trust is aware of the need to be sensitive when dealing with succession claims following the bereavement of a tenant. This policy describes how the Trust will respond to succession claims ensuring that tenants' statutory and contractual rights to succession are enforced according to legislative requirements and to the terms of their tenancy.

1. Scope

- 1.1 This policy and its accompanying procedures are actioned within the Housing Services division of the Trust by Neighbourhood Services Team Managers and officers.
- 1.2 The aim of the policy is to outline the responsibilities and actions required of the Trust upon receipt of a succession claim to ensure that it complies with the requirements of the Housing Act 1985 Section 87 and the Housing Act 1988, Section 17 and with the terms of the Trust's tenancy conditions.

2. Responsibilities

- 2.1 The Divisional Director Housing Services has overarching responsibility for the policy and its related procedures.
- 2.2 The Team Managers (Neighbourhood Services) have operational responsibility for ensuring adherence to the policy and procedures and for approving a succession claim.
- 2.3 The Housing Officers (Neighbourhood Services) are responsible for the succession process, from receipt of a succession claim, investigation and succession decision.

3. Definitions

- 3.1 **Succession** - means by which an assured tenancy passes, on the death of the original tenant, to someone else who is entitled, either statutorily or contractually, to succeed to the tenancy, provided that the tenant did not acquire the tenancy through succession.
- 3.2 **Family member** - someone who is member of the tenant's family includes their husband, wife or partner (including same sex partner), parent, grandparent, child stepchild, grandchild, brother, sister, uncle, aunt, nephew or niece whether by blood or marriage.

4. Principles

- 4.1 In applying the Succession Policy the Trust will adhere to the following principles:
 - To respond to all succession claims sensitively and promptly, providing advice and support to claimants and family members regarding succession rights and qualification.
 - To ensure that those entitled to succeed are enabled to do so in a quick and efficient manner and with minimum personal disruption.
 - To ensure that applicants who do not qualify to succeed are treated sympathetically and provided with comprehensive housing advice to enable them to source suitable alternative accommodation.
 - Where it is necessary to enforce legal action to remove unauthorised occupiers from properties following the death of a tenant and an unsuccessful claim, the Trust will ensure that tenancies are ended using the correct legal remedies.

5. Application

5.1 Eligibility to Succeed

5.1.1 Assured tenants of the Trust have the right to pass on their tenancy to the following persons who have the statutory right to succeed, under Section 17 of the Housing Act 1988, providing that the tenant is not themselves a successor and that the following criteria can be met:

- (i) The surviving joint tenant upon the death of a joint tenant (a joint to sole tenancy).
- (ii) A person who lived with the tenant as his or her husband, wife or partner at the time of his or her death. (This includes married or cohabiting, heterosexual, gay and lesbian couples).

5.1.2 There is only one statutory right of succession under assured tenancies which is to a spouse or partner, but the Trust wishes to grant the same rights as contained within Section 87 of the 1985 Housing Act and will grant these as additional contractual rights through the tenancy agreement. However, because the succession right in this case is contractual and not statutory, there can be no succession to the existing tenant agreement. The Trust will therefore grant a new tenancy, of either the property that the deceased tenant lived in or an alternative property which is suitable for their needs to a close member of the tenant's family, exercising a contractual right to succeed providing the following criteria can be met:

- i) the family member lived at the property during the 12 months prior to the previous tenant's death;

and

- (ii) it was their only principle home during this time;

and

- (iii) the previous tenant did not become tenant by succession;

5.1.3 Only one succession to a tenancy will be permitted. In the event of the death of a tenant who has succeeded to a tenancy, the Trust may exercise discretion in allowing other family members living at the property to remain. If this is the case, they will not succeed to the tenancy but will be granted a new tenancy.

5.1.4 If, in the event of the death of a tenant, more than one person is eligible to succeed to the tenancy, the Trust will advise the family to make a decision as to which person will succeed. If they are unable to make that decision, the Trust should make the decision using its discretion. In making such a decision, the Trust will consider mitigating factors such as relationship to the deceased tenant, length of residency, age etc.

5.2 Succession Resulting in Under Occupancy

5.2.1 In cases of statutory succession to a spouse or partner which results in the under occupation of the property, the Trust cannot make an offer of alternative accommodation and must allow the successor to continue in under occupation.

5.2.2 In cases of contractual succession to a family member other than a spouse or partner, where the granting a tenancy of the existing home results in under occupation, or the property has been adapted for a person with special needs or was specifically built for elderly or disabled people (and the potential tenant is neither) then the potential tenant will in normal circumstances be asked to move to more suitable, smaller alternative accommodation. Where subsequent suitable offers (a maximum of three), are unreasonably refused Somer will take action to repossess the property either by issuing a Ground 7 Notice of Seeking Possession or a Notice to Quit depending upon whether the deceased tenant left a will or died intestate and if so, whether a family member has applied for letters of administration.

5.2.3 If a Ground 7 Notice of Seeking Possession is used, this must be served no earlier than 6 months and no later than 12 months following the tenant's death, providing two months' notice. There is no statutory requirement that a Notice to Quit must be served within 12 months of the tenant's death.

5.3 No Right of Succession

5.3.1 Where there is no right of succession because the applicant is not an eligible person as defined in the Tenancy Agreement, or in 3.2 of this policy the Trust will, at its discretion, consider applications for new tenancies from individuals to remain in the property. Such circumstances may include the following:

(i) where the applicant has resided with the deceased tenant since birth;

or

(ii) where the applicant has been living with the deceased tenant in the capacity of carer and the property is their only or principle home;

or

- (iii) where the health of the applicant is such that it would be unreasonable for them to find alternative accommodation.

and

- (iv) where the applicant is registered on the Council's Homesearchers Register.

5.3.2 Each application will be taken on its merit and the examples above do not imply that a tenancy will automatically be granted. The Trust may also require the applicant to move to alternative accommodation.

5.3.3 Where a person remains in a property but there is no right of succession, the Trust will provide them with advice on alternative housing options and allow them three months to find alternative accommodation before taking possession action against them by serving a Notice to Quit. During this period, the person will be classed as a Licensee and charged for use and occupation of the property, which should not be referred to as rent.

6. Procedures

6.1 A comprehensive set of procedures accompany this policy; these detail the processes that the housing management staff need to follow in implementing the policy.

Equal Opportunities Assessment	No individual or group of individuals are knowingly disadvantaged by the adoption of this policy.
Legal/Regulatory Framework	Housing Act 1985 Section 87 Housing Act 1988 Section 17 Regulatory Code
Performance & Quality Framework	KLOE 7
Associated Policies & Procedures	Allocations Policy Tenancy Agreement Tenant Handbook Customer Care Charter Succession Procedure
Policy Category	Housing Management
Responsibility	Divisional Director Housing Services
Consultation	SRC - Staff - TMT - GX -

Board Approval	
Review Date	June 2009