

Succession Policy

The Succession policy sets out the Council's policy as to who may succeed to a property upon the death of a tenant.

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1. Purpose

- 1.1. This policy outlines Croydon Council's approach to tenancy succession. The purpose of this policy is to clarify the circumstances which entitles a qualifying applicant to take over the tenancy of a deceased tenant.

2. Statement of Intent

- 2.1. The policy ensures that Croydon Council will meet its legal and regulatory responsibilities towards succession applications as set out in the [tenancy agreement](#) and [Housing Allocation Scheme](#).
- 2.2. When considering applications for a discretionary succession we will take full and fair consideration of the residents' or person in occupation's circumstances before making decisions having due regard to the Public Sector Equality duty.
- 2.3. We will signpost a resident to independent legal advice where necessary and ensure residents are given up-to-date information about their application.
- 2.4. We will be pro-active in identifying suspected fraud and acting upon this when proven.
- 2.5. Appropriate right of appeal procedures are in place

3. Scope

- 3.1. This policy applies to those who live in secure and introductory tenancies.
- 3.2. This policy sets out the circumstances in which occupants of a Council dwelling.
 - can succeed to a tenancy upon the death of a secure tenant.
 - meet the criteria to apply to succeed in a secure or introductory tenancy.
 - will be refused a succession application.
 - Will be considered for a discretionary succession.
- 3.3. The policy clarifies the circumstances in which a successor must move to smaller accommodation due to:
 - under-occupation of a property
 - the existing property has adaptations designed for specific allocation to disabled people

4. Legal Framework

- Housing Act 1985 - Section 86A and (the former) Section 87, Part IV of this legislation sets out the basis on which a secure tenancy can be succeeded by another eligible person.

- Localism Act - Amendments made to the Housing Act 1985 by the Localism Act 2011 removed the entitlement to succeed to tenancies created on or after 1 April 2012 from family members other than spouse/civil partner or partner.
- 4.1. The Act gave the councils the power to extend succession rights by making provision for this in their secure tenancy agreement. The Council policy on Discretionary successions is set out in the Housing Allocation Scheme 2019
 - 4.2. **Succession** is a legal term used to describe the passing of a secure tenancy to another person on the death of the tenant. The person who takes on the tenancy is called a 'successor'.
 - 4.3. **Discretionary Succession offer** - where there has already been a succession of the secure tenancy no further right exists. The discretionary succession allows the Council to consider offering a new tenancy in circumstances of housing need that are set out in the Council's Allocation Scheme.
 - 4.4. **Survivorship** - Upon the death of a joint tenant, the tenancy will transfer to the surviving tenant. This is a statutory succession with no further rights to succeed on the death of the remaining sole tenant.

5. Associated Policies

- Assignment policy
- Housing Allocations Scheme
- Mutual Exchange Policy

6. Qualifying Criteria for Succession

- 6.1. Following changes in the Localism Act 2011 that amended the 1985 Housing Act, a Council's succession policy will differ depending on when the tenancy was granted.
- 6.2. **Successions when tenancies began before 1st April 2012** - The rules describing who is qualified to succeed to a tenancy on the death of a tenant are set out in the former section 87 and in s113, part 4 of the Housing Act 1985 as amended. The persons entitled are:
 - Spouse, Civil Partner, or Person living with the tenant as if husband or wife or civil partner (i.e. including same-sex couples).
 - A family member who has been resident with the deceased secure tenant at the premises throughout the 12 months before their death. This may be a parent, grandparent, child (including those who have been legally adopted and stepchildren), grandchild, brother, sister, uncle, aunt, nephew, or niece; It should be noted that a foster child is not counted as a child for the purposes of succession.
- 6.3. **Successions when tenancies began after 1st April 2012** - Following the implementation of the Localism Act 2011, the policy was amended to restrict the rights of succession to a Spouse, Civil Partner, or Person living with the tenant as if husband or wife or civil partner (i.e. including same-sex couples).

In all successions, if the deceased tenant was a successor or the surviving party of a joint tenancy, or if there has been a previous assignment of the tenancy (other than a mutual exchange) then there can be no further right of succession.

- 6.4. **Multiple eligible succession** - As Joint succession is not permitted, in cases where several possible successors are eligible for a statutory right to succeed, and an agreement cannot be reached between the parties as to which household member should inherit the tenancy then the Council will use its discretion to select a successor to the tenancy.

Amongst the factors that will be considered are length of occupation, age, capacity to sustain a tenancy, and relationship to the original tenant.

- 6.5. **Succession by a Minor** – Under the Housing Act 1985, a child or minor can qualify for succession on tenancies that began before 1st April 2012.

However, a 'minor' (person under the age of 18) is not capable of entering into a legal contract such as a tenancy agreement, and therefore will be held in trust by the Council until the successor reaches 18.

In applications where the original tenancy began after 1st April 2012, succession would not be considered for Minors. The Council would consider the Minor for a discretionary tenancy award which if granted would also be held in trust.

- 6.6. **Survivorship - Joint tenancies** - Where there is a joint tenancy, held by two persons, and one of the joint tenants dies, the tenancy passes automatically to the remaining joint tenant (this is known as survivorship). The tenant cannot 'succeed' on the tenancy, as they are already a tenant.
- 6.7. If the deceased tenant was a successor or there has been a previous assignment of the tenancy (other than a Mutual Exchange) then there can be no further succession.

7. Discretionary Tenancy Award/Discretionary Succession

- 7.1. In cases where there are no statutory rights to succeed, individuals remaining in a property will be deemed unauthorised occupants. Any payments made to the Council will be deemed to be made for the 'use and occupation' of a property.
- 7.2. The Council may exercise discretion where a successor tenant dies by considering granting a further tenancy to those in use and occupation. This may include an offer of the current property or giving priority for a move under the allocations scheme to a close member of the deceased successor tenant's family. This is set out in Section 10 of the Council's Allocation Scheme and describes the circumstances where a further successor might be considered which are as follows.
- 7.3. **Family Member** - If a close member of the successor tenant's family has lived at the property as their only or principal home for at least one year before the successor tenant's death.

- 7.4. **Full time carer** - If the successor tenant's full-time, live in, non-paid carer has lived in the property we will take into account their age, the period during which they occupied the property as their only or principal home, and any financial or other support they had given to the deceased successor tenant.
- 7.5. We will only make one offer of social housing to a close family member or carer applying for discretionary tenancy award. All those granted a discretionary award will be rehoused under a Band One rating.
- 7.6. Should the surviving occupant not be awarded a new tenancy, the Council will pursue legal action to repossess this property. Advice and assistance will be arranged to assist the resident in finding new accommodation.

8. Under-occupation-offers of Alternative Accommodation

- 8.1. Ground 15A of the Housing Act 1988 is available to a landlord when a successor to a secure or flexible tenancy under-occupies the property. For example, where the property has three bedrooms, but the successor only needs one.
- 8.2. The landlord cannot use this ground if the successor is the tenant's spouse or civil partner, or where the tenant is the survivor to a joint tenancy.
- 8.3. The ground is discretionary. The court must be satisfied that suitably sized alternative accommodation that meets the needs of the Occupant is available and it is reasonable to order possession.
- 8.4. The landlord must serve notice, or start possession proceedings where no notice is served, more than six months but less than 12 months after
 - the date of the tenant's death, or
 - the date on which the court decides the landlord became aware of the tenant's death.
- 8.5. Those who have successfully applied for a discretionary tenancy award will also be subject to Ground 15A action should they be under-occupying their property.
- 8.6. In exceptional circumstances we will consider making an offer of a tenancy of the successor tenants' property in cases where an insistence on moving to alternative accommodation would cause unreasonable hardship to the deceased successor tenant's carer or family member.
- 8.7. **Properties with adaptations** that have been allocated based on the Tenant's disability and health requirements will also be subject to Ground 15A proceedings. As stated above, the landlord cannot use this ground if the successor is the tenant's spouse or civil partner, or where the tenant is the survivor to a joint tenancy. The Council has a scarcity of adapted properties and will not consent to an application for succession to be granted in these circumstances.
- 8.8. **Mutual Exchange**- The right to succession is personal to the individual tenant(s) and this right transfers to the tenant(s) when they move in a mutual exchange. If

the incoming tenant has previously succeeded to a tenancy no further successions would be permitted even though it is a different property.

9. Inherited Debt and Credit

Outstanding debt and credits
Tenancy credits or arrears succeeded to through a Statutory succession become a debt owed by the deceased tenants estate
No arrears or credit will be passed on to the new tenant when a discretionary tenancy has been granted
If the successor is a remaining joint tenant (i.e. Survivorship) they will remain responsible for any debt.

10. Summary of Responsibilities

- 10.1. Applications for succession and discretionary succession (or discretionary tenancy award) will be collated by the Tenancy Officer.
- 10.2. Applications will be reviewed and signed by the Tenancy Officer's Manager, who will ask the Head of Tenancy to review and authorise or deny the succession.
- 10.3. The Director of Housing will consider Appeals.
- 10.4. Legal services will provide advice on succession or applications for new tenancy awards upon request.

11. Performance Management and Standards

- 11.1. Tenancy/ Housing Officer will seek to deal with all requests for succession within 7 working days of receipt of an application
- 11.2. The Tenancy/ Housing Officer will forward the application (with all the relevant information) to their manager for decision, then to the Head of Service for final authorisation.
- 11.3. Applicants will be written to with a decision within 14 days of the receipt of a completed application.
- 11.4. Any appeal of a decision will be responded to within 14 days

12. Complaints and Appeal

- 12.1. Where the Council does not agree to a succession or a discretionary tenancy award taking place, an occupant can request a review of that decision through the Director of Housing within 14 days of being notified that their appeal has not been successful.
- 12.2. Additionally, the occupant has the right to make a complaint through the Council's Formal Complaints process.

13. Reasonable Adjustments

- 13.1. Croydon Council will make reasonable adjustments to support our residents' needs when they access our services. The term 'reasonable' refers to what we can do without compromising our resources, efficiency, or ability to practically fulfil requests. This does not include [Aids and Adaptations](#) to our properties and common parts of a building.
- 13.2. No resident should be at a disadvantage when accessing our services. The following statements offer a general overview to ensure that our services are adjusted to meet the needs of our residents where possible. This list is not exhaustive, and we will adapt our approach based on individual resident needs.
- 13.3. We aim to provide services that are accessible to all who require them. As a result of this, we will:
- Ensure our officers get to know our residents and their individual needs
 - Provide a range of ways for residents to contact our officers including phone, mail, email and via [Housing Online](#)
 - Provide alternative communication methods on request, such as Braille, foreign language interpreter, large print etc.
 - Ensure residents are always able to select their preferred method of contact.
 - Ensure our offices are fully accessible to visitors
- 13.4. We will continue to diversify our services to meet residents' needs where possible.

14. Equalities Statement

- 14.1. The Council is committed to promoting fair and equal access to services, equal opportunities in employment, and equitable procurement of goods. As a community leader, the Council has established policies, procedures, and daily practices that promote an environment free from unlawful and unfair discrimination while valuing the diversity of all individuals.
- 14.2. Discrimination on the grounds of race, nationality, ethnic origin, religion or belief, gender, marital status, sexuality, disability and age is not acceptable: the Council will take action to ensure no person using the Council's premises or services receives less favourable treatment or is disadvantaged by requirements or conditions that cannot be justified. The Council will tackle inequality, treat all people with dignity and respect and continue to work to improve services for all service users.
- 14.3. The legal framework for the Council's approach is provided by the Equality Act 2010 and specifically by the Public Sector Equality Duty, under which a public authority must work consciously to eliminate discrimination, harassment, victimisation and to advance equality of opportunity and foster good relations between people with differing characteristics.

14.4. Further detail on the Duty, and the Council's approach to fulfilling its requirements, can be found on our website [Equality and diversity](#)

15. GDPR and Data Protection Act 2018

15.1. Housing Management recognise the commitment to ensure that all data is:

- Processed lawfully, fairly and in a transparent manner.
- Collected for a specific and legitimate purpose and not used for anything other than this stated purpose, or as provided for in our privacy and fair processing notices.
- Relevant and limited to whatever the requirements are for which the data is processed.
- Accurate, and where necessary, kept up to date. Any identified inaccuracies will be amended or removed without undue delay.
- Stored for as long as required, as specified within Housing Management's Records Retention policy.
- Secured with appropriate solutions, which protect the data against unauthorised or unlawful processing and accidental loss, destruction or damage.

Further information about the Council's commitment to the General Data Protection Regulations. Further Information on Data protection and GDPR can be found on the Council's website [General Data Protection Regulation \(GDPR\) guidance | Croydon Council](#)

16. Monitoring and Review

16.1. This policy will be reviewed every 3 years, or sooner if required by statutory, regulatory, best practice, emerging developments, or circumstances arising from reviews of other Council-wide policies.

16.2. Arrangement for a full internal audit of the Void process to be undertaken by Croydon Council's Internal Auditors. The full scope of the audit will be agreed upon with the Internal Auditors, Director of Housing Management, and Heads of Service.

17. Document Control

17.1. This is a controlled document and should not be changed unless by authorisation of the policy owner.

Monitoring	
Approved Date:	16 September 2024
Next Review Date:	1 April 2027
Effective date:	23 September 2024

Consultation Review		
Stakeholders review:	13.03.2024	
Legal review date:	22.03.2024	
Residents reading group:	April 2024	
Policy owner:	Director of Housing Management	
Ratified by:	Housing DMT on 16 September 2024	
Equality impact assessment:	The impact of this policy will be measured as it is implemented and used as part of a scheduled 1-year implementation compliance review.	
Version History		
Version Number	Summary of change	Author and Approver
1.0	New Policy	Developed and reviewed with subject matter experts in Housing and the Resident's Reading Group