



Tenancy Succession

A guide for Council tenants and their families



This leaflet gives advice about who can succeed to a tenancy upon the death of a Council tenant. It explains the process that the Council and Ascham Homes follow when dealing with a request to succeed to a tenancy.

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What is tenancy succession?

When a Council tenant dies, it may be possible for a husband/wife/civil partner, or other family member to take over the tenancy.

This is known as **succession**. A person who has succeeded to a tenancy is called a **successor**.

Succession can only occur following the death of the tenant. If the deceased person was a joint tenant, the only person who may be able to succeed the tenancy would be the remaining joint tenant.

A succession can only happen once. This means that if the deceased person was a successor (including a previous joint tenant), there cannot be a succession by another family member.

The Council's policy on succession reflects the legal position and the rights of successors as laid out in the Housing Act 1985.

Which family members are eligible to succeed to a tenancy?

The following family members may succeed to a tenancy:

Husband	Uncle
Wife	Aunt
Civil partner (civil partners are same-sex couples who have formally registered their relationship under the Civil Partnership Act 2004)	Nephew
Unmarried heterosexual partners	Niece
Same-sex partners	Son
Grandfather	Daughter
Grandmother	Stepson
Father	Stepdaughter
Mother	Adopted child
Brother	Grandson
Sister	Granddaughter

A family member under the age of 18 can also succeed to a tenancy, subject to the usual conditions of succession being met. In such cases, a trustee would need to be agreed to hold the tenancy in trust for the child. This could be a family member or the local authority. As well as the person being a family member, there are other conditions that must be met to allow a succession to take place.

What conditions must be met to allow a succession to take place?

1. The deceased tenant must have been using the property as their only home before their death.
2. The person wishing to succeed to the tenancy must be a partner or one of the family members outlined on page 5.
3. The person wishing to succeed must have lived with the deceased tenant for a minimum of the 12 consecutive months before the date of death.
4. If a husband/wife or civil partner wishes to succeed, they must have been living with the deceased tenant at the date of the death. The 12-month residence period will not apply in this case.

When dealing with a succession request, the successor may be asked to provide evidence of any relationship to the deceased and also the length of residency at the property.

If the deceased tenant was in rent arrears, the successor is required to accept responsibility for all outstanding rent arrears for the property. Also, if the tenancy was subject to any Court Orders, these will continue to apply to the tenancy and equally be enforceable against the successor.

Once approved, a succession will be backdated to the date immediately after the tenant's death.



Can more than one person ask for succession to the same tenancy?

The law does not allow for two or more people to succeed to a tenancy. Only one person can be granted succession.

In the case of an existing joint tenancy, the successor may be the remaining joint tenant.

Where more than one person applies for succession and there is no remaining joint tenant, the law gives preference to the tenant's spouse or civil partner, above any other family member.

Where more than one person applies for succession and there is no spouse or civil partner eligible to qualify, the family members must decide between them who will succeed. If they are unable to agree, the Council will make the decision. The Council's decision is final.

When will a succession not be allowed?

A person cannot succeed to a tenancy if any of the following apply:

1. The deceased tenant had previously succeeded to the tenancy (including a person who was joint tenant and later became a sole tenant after the other joint tenant died).
2. There had previously been an assignment of the tenancy or property adjustment order under the Family Law Act.
3. The deceased person had been living alone.
4. The deceased tenant had left the property and was not using it as their only home.
5. The deceased tenant had left the property and been admitted to hospital or a residential home for long-term care or treatment.
6. Where court proceedings had previously been commenced for possession of the property and a possession order had been granted which ended the tenancy.
7. The applicant asking for succession is unable to prove their relationship to the deceased tenant, or their period of residence at the address.



Once a family member has succeeded to a tenancy, can they continue to live at the property permanently?

If a husband/wife or civil partner has succeeded to a tenancy, they will be allowed to stay in the property on a permanent basis, subject to the terms and conditions of the tenancy.

However, if the successor is another family member (including unmarried partners and unregistered same-sex partners) the Council can legally move them to smaller accommodation if the property is larger than they need.

Due to the severe housing crisis and high demand for family-sized accommodation, the Council requires successors to move to smaller housing if they have more bedrooms than they need.

When deciding housing need, the Council is unable to consider other people or children who may visit or stay temporarily.

More information about this is provided on page 16.

What will happen if I have applied for succession but do not meet the necessary legal criteria?

If a person has been living at the property but does not meet the succession criteria following the death of the tenant, it is likely that they may have to move out and find their own accommodation.

There are limited circumstances where the person may qualify for alternative housing assistance. Examples are as follows:

1. If the applicant has lived with the deceased person for at least the five consecutive years prior to the death of the tenant and provided them with a high level of personal care.

Full details of the care provided would have to be supplied as well as evidence of any formal Carer Allowance and/or Attendance Allowance benefits that may have been received. Any possible consideration as a former carer will be in line with the Council's Carer Policy.

2. If the applicant will be considered to be a vulnerable homeless person, and in priority need, if they were forced to leave the property. Any consideration as a homeless applicant will be in line with the homeless legislation.

How do I apply for succession and what will happen next?

If you already have this leaflet, you may have already applied for succession.

If you want to apply, contact Ascham Homes and speak to the Tenancy Services Officer responsible for the tenancy that you would like to succeed to. If the officer is not available, please see a duty officer who will arrange for the Tenancy Services Officer to contact you.

We understand this may be a very distressing time for you, following the sad loss of a family member. In addition to applying for a succession, it may be the first time that the Council has been notified about the death of the tenant.

To apply for succession, you need to complete and sign a 'Request for Succession' application form which is available from Ascham Homes. The Tenancy Services Officer can help you complete the form.

You will need to provide evidence to confirm any information supplied. The Tenancy Services Officer will explain what documents are needed.

Once you have provided the necessary information and documents, Ascham Homes will refer your application to the Council for a formal decision.

What will happen when the Council has received my application from Ascham Homes?

Once the Council has received your application from Ascham Homes, a senior officer will look into the case and make a decision.

The Council may contact other organisations and agencies to confirm any of the information provided by you. This may include The Department of Work and Pensions, Social Security, Housing Benefits and the Crime and Anti Fraud Team.

In some cases, it may be necessary for you to provide more information or to attend the office for an interview. If there is a delay in the Council receiving this information or you do not attend the interview, the case may be put on hold.

What will happen if I am allowed to succeed to the tenancy?

If the Council is able to approve your request to succeed you will be sent a letter of confirmation.

The Council will then arrange the following:

1. The Tenancy Services Officer will contact you within seven days to sign the necessary tenancy paperwork.
2. You will need to sign an 'Acknowledgement of Succession' agreement. This finalises the succession and formally recognises you as the successor. It is not a new tenancy agreement.
3. The existing rent account will be transferred into your name and you will be provided with a rent payment card.
4. If you are on a low income, you may need to apply for Housing Benefit and Council Tax Benefit.
5. If you are in a property larger than you need, you may be transferred to alternative smaller accommodation. For more information about this, please see page 16



What will happen if I am not allowed to succeed to the tenancy?

If the Council is unable to approve your request, you will be sent a letter with full details of the decision. The following will take place:

1. Ascham Homes and their Legal Services Team will commence proceedings to recover vacant possession of the property.
2. You, and any other occupants of the property, will need to make arrangements to leave the accommodation as soon as possible, and will be referred to the Council's Housing Advice and Homeless Person's Unit.
3. In the case of a long-term carer, the case may be assessed in line with the Council's Carer Policy.
4. You will be expected to make payments for the use and occupation of the property, during the time that you have occupied the accommodation. In addition, you may also have to pay Council Tax.

I am allowed to succeed to the tenancy, but why do I have to move to smaller accommodation?

The Council understands that the sad loss of a family member can be distressing and will take this into account when dealing with your case.

In addition, the Council also understands that if a succession is approved, there may be an emotional attachment to the accommodation and that you would like to remain in the property.

However, the severe housing shortage has left the Council with many thousands of people living in overcrowded conditions and in desperate need of family-sized homes. This means if the property does have more bedrooms than you need, you will have to move to a smaller property.

Will I be able to choose where I live?

You may want to live in a particular area or in a similar location to your present home. In view of this, the Council will endeavour to give you as much choice as possible, subject to available accommodation.

What is the process for moving to smaller accommodation?

During the succession assessment process, the Council and/or Ascham Homes will tell you whether or not you may have to move. However, the Council will first need to decide whether you are legally entitled to succeed to the tenancy.

If the succession is approved, the tenancy will be transferred into your name. Once this is done, the Council will start to re-house you.

This may involve the Council and/or Ascham Homes serving you with a formal Notice of Seeking Possession. This may be served between six and 12 months following the date of the tenant's death.

In some cases, a Notice of Seeking Possession may be served while a succession request is being assessed. In such circumstances, this will be served on a 'Without Prejudice' basis.

Initially, a Notice of Seeking Possession is only served to protect the Council's interest. You should not worry unnecessarily at this stage, as the Council will only take further legal action (apply to the County Court for vacant possession of your property) if you fail to accept an offer of accommodation made to you.

Ordinarily, applicants can apply for vacant properties advertised through the Council's Choice Homes Scheme. High priority will be awarded for a fixed period of three months and full details of the scheme will be given to you.

You should carefully consider what properties you apply for as you will only be made one offer of alternative accommodation. If you do not choose a property or are unsuccessful, the Council will make you one direct offer of alternative accommodation only.

Please note that to make best use of the available housing stock, the Council reserves the right to intercept and end the three-month high priority bidding period at any time with one direct offer of alternative accommodation only.

Whatever happens, you will only receive one offer.

If you accept an offer, the process will end once you formally vacate your current home and move into your new property.

As a successor moving to smaller accommodation, you will qualify for a Useful Transfer Payment. This is a fixed sum of money for each additional bedroom that you do not need. Ordinarily, this payment will be available to you within two to four weeks after you have moved.

If you have rent arrears, the Useful Transfer Payment will be paid into your rent account to be offset against any rent that you owe to the Council. You will receive a refund of any credit balance that may remain after this.

If you need help with removals, the Council can arrange this for you.

Please note: a Useful Transfer Payment will not be paid to applicants who receive assistance under the Council's Carer Policy or through the Homeless Person's Unit.

What will happen if I refuse an offer of alternative accommodation?

In most cases, applicants understand that the Council needs them to move to more appropriate smaller accommodation.

However, occasionally the Council does have to resolve a case where an offer has been refused. In this case, the Council and/or Ascham Homes will start legal action and apply to the County Court for a date for the possession proceedings to be heard. The Council and the tenant will be expected to attend Court and give evidence as directed by the judge.

Experience has shown that most people want to avoid a formal Court hearing. However, the cases that have proceeded to court have resulted in the Council being granted vacant possession of the properties involved.





Additional information

Additional information

1. The Council will process all requests for succession as soon as possible. Any decision may be delayed if more information is needed from you or other departments and official agencies.
2. The Council will deal with your request in a sensitive manner and will ensure that you are provided with written confirmation of all decisions relating to your case.
3. All decisions will be made by a senior Council officer
4. You will be interviewed by an officer from Ascham Homes when you make a request for succession. The Council may also wish to carry out a further interview with you if additional information is required.
5. You may ask to discuss your case and check on the progress of your succession request during any part of the process. You may also request an interview if you wish.
6. You have the right to seek your own independent advice if you would like further information regarding the process, your rights, or the Council's obligations to you.
7. We are committed to ensure that you receive a high quality service and are treated fairly and with respect by our staff. If you are unhappy about any aspect of the service provided to you, please let us know. You can email **hsg.complaints@walthamforest.gov.uk**, telephone **020 8496 3000** or visit **www.walthamforest.gov.uk/how-to-complain**

This leaflet tells you about the Council's Tenancy Succession policy. If you would like a translation of this leaflet, please tick the language you want, complete your name and address and return the whole form to the address below:

This document can also be made available in audio tape Braille large print

<p>கவனசிலகளுடைய வாடகை வீடுகள் வழியுரிமைக் கொள்கை பற்றிய பிரகரம் இது. இந்த பிரகரத்தின் மொழிபெயர்ப்பு ஒன்று உங்களுக்கு தேவையென்றால், எந்த மொழியில் வேண்டும் என்பதை கட்டத்தில் குறியிட்டு தெரியப்படுத்தவும். கூடவே உங்களுக்கு பெயரையும் முகவரியையும் உரிய இடத்தில் நிரப்பி கீழ் காணப்படும் முகவரிக்கு திருப்பியனுப்பவும்.</p> <p style="text-align: right;">TAMIL <input type="checkbox"/></p>	<p>Ce feuillet vous informe sur la politique de succession des locations du Conseil municipal. Si vous souhaitez recevoir une traduction de ce feuillet, veuillez cocher la langue choisie, compléter votre nom et adresse et renvoyer le formulaire complet à l'adresse ci-dessous.</p> <p style="text-align: right;">FRENCH <input type="checkbox"/></p>
<p>Niniejsza ulotka zawiera informacje na temat polityki Rady Miejskiej (Council) dotyczącej dziedziczenia umowy najmu. Jeżeli chcesz otrzymać tą ulotkę w innym języku, zaznacz wybrany język, podaj swoje imię, nazwisko i adres i odeślij formularz na poniższy adres.</p> <p style="text-align: right;">POLISH <input type="checkbox"/></p>	<p>Warqaddan daabacan waxay wax kaaga sheegaysaa xeerarka Maamulka Degmada (Council) ee la xidhiidha Kala Wareegidda Kiraysiga. Hadii aad jeclaan lahayd in warqaddan daabacan turjumaad laguugu sameeyo, fadlan sax luuqadda aad doonayso, ku qor magacaaga iyo cinwaankaaga oo markaa foomka oo dhan dib ugu celi cinwaanka hoos ku qoran.</p> <p style="text-align: right;">SOMALI <input type="checkbox"/></p>
<p>Bu yaprakçık size Belediye'nin Kiracılığın Vâris Konumundaki Bir Kişi Üzerine Geçmesi politikası hakkında bilgi vermektedir. Eğer bu yaprakçığın bir çevirisini arzu ediyorsanız, lütfen istediğiniz lisanın yanındaki kutuyu işaretleyin, adınızı ve adresinizi yazın ve de formun tamamını aşağıda verilmiş olan adrese geri gönderin.</p> <p style="text-align: right;">TURKISH <input type="checkbox"/></p>	<p>یہ لیف لیٹ آپکو کازنسل کی کرایہ داری کی سبسٹیشن پالیسی کے بارے میں بتاتا ہے۔ اگر آپ کو اس لیف لیٹ کا ترجمہ چاہیے تو براہ مہربانی مطلوبہ زبان پر نشان لگائیں، اپنا نام اور پتہ لکھیں اور سارے فارم کو نیچے دیے گئے پتہ پر بھیج دیں</p> <p style="text-align: right;">URDU <input type="checkbox"/></p>
<p>Name _____ _____ Address _____ _____ _____ Telephone No _____ _____</p>	<p>Return to: Allocations, Choice and Mobility Cedar Wood House 2D Fulbourne Rd Walthamstow E17 4GG</p>

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