

Tenant Succession Policy

Date Reviewed	June 2026	Next Review Date	June 2029
Consultation	Completed	Reviewed By	Jay Gill
EIA	Completed	Responsible Officer	Director of Customer Services
DPIA	Completed	Approval By	Executive Team

1. Purpose

This policy sets our BCHG's approach to succession, ensuring colleagues follow it consistently. We will ensure that succession to tenancy applications is processed in accordance with legal provisions and contractual terms contained within the tenancy agreement.

2. Scope

The policy applies to all tenancies but does not apply to leases. The policy was reviewed by Trowers & Hamlin LLP in May 2026 to ensure it meets the legal guidance.

3. Definitions

Succession	The process whereby a person becomes entitled to have a tenancy transferred into their own name following the death of the tenant of a property
Successor	A person who successfully obtains a tenancy following the death of a tenant of a property.
Spouse	Married persons who have been living together
Civil Partnership	A legally recognised relationship between two people that gives many of the rights of a married couple. A civil partnership only exists once it is registered. Once registered it confers the same rights and responsibilities as marriage. Proof of partnership exists by a civil partnership certificate or a certified copy of an entry in the register of civil partnerships
Cohabitation	Although there is no specific legal definition of living together, it generally means living together as a couple without being in a civil partnership or being married. Living together with someone is sometimes called cohabitation. In different areas of the law, it means different things and gives different rights
Next Of Kin	Closest relative, closest relation, nearest blood relation/relative, closest family member
Probate	Legal process that takes place after a death including establishing the validity of a Will and the process by which a deceased persons estate is administered.

Probate Court	Court having jurisdiction over the probate of wills and the administration of estates
Estate	The whole of a person's possessions, especially property, money and debts
Intestate	Where no Will has been left by the deceased
Executor	A person appointed to administer the estate of person who has passed away and there is a Will
Testate	Where a legally valid Will has been made before death

4. Related Policy / Procedure and other Documents

Death & Succession Procedure Tenancy Policy
 Complaints Policy Health & Safety Policy
 Equality Opportunities Policy Data Protection Policy

5. Roles and Responsibilities

The Director of Customer Services has overall strategic oversight and accountability for the effective implementation of this policy.

The Head of Housing has day-to-day operational responsibility for this policy and for ensuring it is implemented consistently across the service.

The Housing Operations Manager is responsible for ensuring that colleagues are aware of the policy and apply it appropriately in practice.

6. Policy Statement

We will ensure that when a tenant passes away, any person entitled to succeed, applying for succession or family members taking care of the resident's affairs, are made aware of their status promptly and sensitively. The burden of proof to provide the necessary evidence to establish the right to succeed falls on the person claiming the right.

Where we receive notification of the death of a tenant and in all cases, we will:

- require a copy of the death certificate together with an English translation of any overseas death certificate.
- require proof of the identity from any person claiming succession, proof of their relationship to the deceased, the length of residence with the tenant and, for non-EU citizens, proof of their immigration status, Right to Rent and their entitlement to social housing.
- The onus is on the potential successor to provide a sufficient level of evidence to support their application to succeed. Documents should cover the entire qualifying period, if appropriate.
- consider conducting any other checks we consider necessary to ascertain who was residing in the property in the qualifying period prior to the tenants' death

- interview the applicant(s) and carry out checks to verify that the succession criteria is met.
- make sure any application for succession is discussed with and approved by Area Customer Relations Manager or Head of Housing.

To falsely claim succession or to provide misleading information to support a claim is fraud and we will take appropriate enforcement action where we believe a fraudulent claim has been made.

We will ensure that in handling the personal data of our customers we will abide by the UK GDPR data protection rules. The processing of personal data in this policy is included in both BCHG Privacy Notice and the Data Asset Register.

7. Policy Details

Types of Succession

Surviving Joint Tenant – If the tenancy agreement is in joint names and one of the joint tenants dies, the tenancy will continue with the surviving joint tenant as a sole tenant. This is called the right to survivorship and happens automatically on the date of the death of a joint tenant.

Statutory Succession – If an assured tenancy agreement is in the name of a sole tenant and they die, then their spouse/partner/civil partner (or person who has been living together with tenant as their spouse/partner/civil partner) succeeds to the tenancy as long as immediately before the tenant's death the spouse/partner/civil partner was occupying the property as their only or principal home.

There can only be one statutory succession of a tenancy.

Contractual Succession - Where additional succession rights have been included in the tenancy agreement. These are usually only granted to a family member (other than a spouse/partner/civil partner) who lived with the tenant for 12 months prior to the tenant's death.

For the purposes of succession, family members are defined as: spouse, civil partner, parent, grandparent, children, grandchildren, siblings, uncle, aunt, nephew, and niece, including step relations, half-blood relations, as well as people living together as husband and wife or civil partners.

Discretionary Succession - A discretionary succession is where the person requesting to succeed to the tenancy is in occupation of the property on the death of the tenant but has no statutory or contractual right to succeed. The person is asking us to exercise our discretion to let them remain in occupation. We will generally not agree to any discretionary successions unless the tenancy agreement refers to this being an option.

Inheriting an Assured Tenancy – In addition to the above rights, it is possible for an assured tenancy to pass under a tenant's Will or, if they die without leaving a Will, through the intestacy rules. This is because a tenancy is an interest in land.

If the beneficiary (i.e. the person to whom the tenancy passes under the Will) lived in the property as their only or main home at the time of death, they will inherit an assured tenancy. Ground 7 of Schedule 2 of the Housing Act 1988 exists to recover possession in these circumstances.

Discretionary Granting of a New Tenancy

We will be responsive and review each case on its own merits. We will use our discretion in circumstances where it may be appropriate to grant a new tenancy to people who have been living with the deceased tenant and used the property as their main and principal home but who do not have a legal right to succeed. Such circumstances might include (but are not restricted to):

- The applicant has lived with the deceased resident since birth
- The applicant lived with the deceased tenant for at least 12 months before the tenant's death
- The health of the applicant is such that it would be unreasonable for them to be required to find alternative accommodation.
- The applicant had lived with the tenant in order to provide care to the deceased tenant
- The applicant has accepted responsibility for the resident's dependents and needs to live with them to discharge their responsibility (although, consideration should be given to permitting any minor to succeed to the tenancy with a Deed of Trust being created until they reach the age of 18, see below)
- Assignment instead of succession, for example where an elderly resident has moved into a care/sheltered home; the tenancy may pass to their spouse or other qualifying family member through assignment, subject to the terms of the tenancy agreement. This person would count as a successor and there can be no further succession to the tenancy. No new tenancy would be created so the successor would assume responsibility for all tenancy obligations.

When deciding whether it is appropriate to use our discretion to grant a new tenancy, we will consider the following issues:

- the property type e.g., adapted, sheltered accommodation.
- over-crowding or under-occupation, especially adapted or other suitability issues.
- how long the applicant has resided at the property prior to the death of the tenant.
- the social and medical needs of the applicant.
- the demand from other applicants for the type of property.

In the above circumstances, we would look at granting a new tenancy. For more detail refer to the Tenancy Policy. There will be no further contractual rights of succession.

Where a discretionary offer is not made, we will set up a use and occupation account (once the deceased tenancy has been ended by service of a valid Notice to Quit (NTQ)) on the Personal Representatives of the deceased tenant and seek to repossess the property on the basis of trespass and offer advice to the occupier(s) on finding suitable rehousing.

Where all the conditions are met but the property is too large for the current occupier(s), we will make one offer only of suitable alternative (smaller) accommodation, not of the same property.

Under Occupation and/or a property specially adapted

If a contractual succession, statutory succession, or the right of survivorship has taken effect and the successor is under occupying, as determined by our Allocation Policy, we will attempt to discuss rehousing to a more suitably sized property with the successor.

We will make one offer of suitable (smaller) alternative accommodation. If that accommodation is not accepted, we may start legal proceedings to gain possession of the property. The same applies if the property has been adapted for specific needs.

Multiple successors

Where more than one person claims to be eligible to succeed, we will require them to resolve between themselves who will succeed the tenancy. If they are unable to:

For assured tenants whose tenancy was granted prior to 1 April 2012, it depends on the provisions of the tenancy agreement as these determine who decides, it will usually be BCHG.

For assured tenants whose tenancy was granted on or after 1 April 2012, the eligible successors must apply to Court if they cannot agree.

BCHG will not create a joint tenancy on succession.

Disputed Succession

Where in our view there is no right of succession and there is no agreement to make a discretionary offer of tenancy, we will, if necessary, take legal advice and commence legal proceedings to obtain possession.

Whether or not someone is entitled to succeed to a tenancy is a question of fact, ultimately for the Court.

Succession to A minor

A minor (a person aged under 18 years) is legally entitled to succeed to a tenancy, regardless of how young they are, providing they meet the relevant criteria upon a tenant's death. We will always seek to find an adult to be the guarantor/trustee to hold the legal interest in the tenancy until the minor reaches 18 years of age. If the deceased tenant had a Will, then the executor will be the trustee automatically. If there was no Will, we will speak to other adult family members or a social worker to ask one of them to act as the trustee.

Where there is social services involvement, we will work with both the family and social services to try to ensure sufficient support is provided by the family. If no adult will agree to act as trustee, we may not be able to offer the tenancy to the minor.

Unauthorised Occupiers

Once we have decided that a remaining occupant has no right to succeed to the tenancy we will inform the occupants, in writing, of our intention to seek possession of the property and the reasons why the succession application has not been successful. We will ensure they are given appropriate housing advice.

The unsuccessful applicant must be advised of the date by which they are required to vacate the property and given advice on seeking alternative accommodation as soon as possible. We will serve the relevant legal notice to end the deceased tenant's tenancy by serving NTQ upon the Personal Representatives of the deceased tenant.

In the interim we will set up a Use and Occupation account for the occupants to make payments to cover the rent charge once the original tenancy has ended.

Trespass proceedings should be instigated once the NTQ has expired, and Part 3 of the Pre-action Protocol for Possession claims by Social Landlords should be complied with.

7.1 Data Processing

Personal Data: Any personal data will be stored on Open Housing or securely on SharePoint. Data will be deleted in accordance with the Asset Data Retention and Disposal Policy.

Data Protection: BCHG recognises that cases of safeguarding are particularly sensitive and will take extra measures to maintain confidence of information. Where possible we will seek to establish information sharing protocols with relevant external agencies to help in managing the cases.

Data Integrity: Genuine documentation for identification and evidence used to take legal action will be obtained as proof.

7.2 Legal and Regulatory Considerations

[Regulator of Social Housing Consumer Standards](#) – ensures registered providers adhere to all relevant law

[The Localism Act 2011](#) altered the process for contractual succession rights for family of assured tenants if their tenancies started on or after 1st April 2012.

[The Civil partnership Act 2004](#) amended the Civil Partnership Act 2004 itself and it extended statutory succession rights to same-sex couples.

[Housing Act 1985 for Secure Tenants](#) – section 113 of the Act defines members of a tenant's family for the purpose of succession

[Housing Act 1988 for Assured tenants](#) – section 39 of the Act confirms that a person becomes entitled to an assured tenancy of a dwelling house by succession.

[Prevention of Housing Fraud Act 2013](#) – criminalises the authorised subletting of dwelling
[Equality Act 2010](#) – legal protects people from discrimination in the workplace and wider society

[Data Protection Act 2018](#) – identifies the basis under the Data Protection Act 2018 for processing sensitive data for the safeguarding of children and individuals at risk

7.2 Equality, Diversity & Inclusion

BCHG will ensure that we continue to be inclusive and representative when delivering our services. This will be achieved through our Equality and Diversity Policy.

An Equality Impact Assessment was conducted and found that the policy will have a positive impact on all protected characteristic outlined in the Equality Act 2010

7. Compliance, Monitoring & Reporting

We recognise that applicants trust us with personal and sometimes sensitive information. We undertake to treat this with care and respect, and we will keep our records in the strictest of confidence by conforming to the GDPR (General Data Protection Regulations).

Compliance with this policy will be monitored by regular sampling of succession cases.

8. Review

This policy will be reviewed every three years, or sooner if required due to changes in legislation, regulation, guidance, business need, or following a learning review.