Policy

Title**: Succession**

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Translations available on request by phoning 0151 510 5000 or via email at info@haltonhousing.org

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Introduction

The Trust is committed to providing an efficient and effective service to its customers which includes acknowledgement of the rights provided within their tenancy agreement and provision of advice on them, whilst also satisfying housing need and aspiration through offering choice in housing location. This policy covers the way in which tenancies can be 'taken over' via succession, namely:-

- succession on the death of a tenant;
- the Trust does have the opportunity to consider a discretionary succession, subject to meeting the basic requirements

Staff will have due regard to the Trust's Diversity and Customer Care policies when implementing this policy. The Trust refer to our "tenants" as "customers" but during this procedure we may use the legal term of tenant to clarify the policy/legal requirements.

Aims / Objectives

The Trust will deal with all applications for succession sensitively, fairly, promptly and efficiently, and in accordance with relevant legislation. Each application will be considered on an individual basis to take account of the needs and requirements of the customers and the Trust.

The Trust will ensure that the statutory rights of the person qualifying to the tenancy are protected and acted upon. Customers' rights concerning succession are detailed in the Trust's tenancy agreement and these rights will be explained thoroughly when customers sign up for Trust properties.

Scope

All requests for succession under this procedure will be dealt with by Housing Services staff.

Policy Statement

A succession is where a qualifying person takes over the tenancy on the death of the existing tenant including their tenancy agreement and terms of tenancy.

At the point of signing the deed of assignment any tenant who succeeds to a tenancy that commenced prior to 5th December 2005 will have some additional protected rights.

The Trust will respond promptly and sensitively when information is received that a tenant has died and will contact remaining persons at the property and next of kin. Advice and support will be provided to those persons.

In considering applications for succession, the Trust will consider the implications of :-

- under occupation by the statutory successor, where the statutory successor is a member of the family;
- properties converted for tenants with special needs when the successor does not have such requirements;
- persons who are left in possession but not eligible to succeed. Such persons will be provided with advice on other housing options and potential re-housing through the Trust.

The Trust will ensure that the statutory rights of persons qualifying to the tenancy are protected and acted upon.

Where a discretionary succession is to be considered only one would be allowed, and factors to be considered in such cases would include:-

- whether the person satisfied the basic conditions for succession for statutory cases in terms of residence and being a member of the family qualifying to succeed, i.e. the person is the spouse, or a member of the family of the deceased tenant and has lived with them for at least 12 months prior to the tenant's death;
- whether the property was of a type the person would be offered under the Trust's Allocations policy;
- consideration would be given where the person was a carer of the deceased tenant or was cared for by the deceased tenant;
- the length of time that this property has been their permanent home.

Requests for succession should be made by successors within 1 month of the death of the tenant. On the notification of the death of a tenant and the request for succession, an officer from the Trust will interview the prospective successor and make a formal report to the relevant Assistant Area Manager.

The spouse of the tenant (i.e. husband or wife) or common law partner (including same sex partner) if they were living at the property at the time of death will automatically succeed to the tenancy so long as there has been no previous succession with the Trust as the Landlord.

If there is no spouse or common law partner (including same sex partner), family members may also succeed if they can prove that they were living at the property for 12 months prior to the death of the tenant. Family members can include parent, son, daughter, brother, sister, aunt, uncle, grandparent, grandchild, nephew or niece whether by blood, marriage or adoption.

N.B. In exceptional circumstances, this could result in the Trust considering an application for succession from a minor, i.e. from someone who is under the age of 18. This is a complex area of the law and, if successful, would invariably result in some form of equitable tenancy being granted. It is essential that proper legal advice is obtained when dealing with any such application.

If there is more than one person claiming succession and the family cannot reach agreement the Trust will decide who the tenancy should pass to. Only one succession is permitted per tenancy by law and upon the death of a successor or where a non-family member requests a succession, then the Trust will consider such requests under the criteria for discretionary second successions.

When succession to a family member results in significant over-occupation or under-occupation the successor may be offered suitable alternative accommodation.

The following are potential successors :-

- the successor of a transferring tenant (whether they are a spouse, partner or same sex partner);
- any other member of the family of a transferring tenant;
- a spouse, partner or same sex partner of an assured tenant,
- any other member of the family of an assured tenant.

Any issues regarding the preserved right to buy or arrears accrued by the original tenant will be considered on an individual basis, taking into account relevant legislation and case law.

Responsibility

Overall responsibility for the proper implementation of this procedure will lie with the Director of Housing Services, but the operational management will lie with the Assistant Area Managers or the Assistant Area Managers.

Service Standards

On receipt of an application for succession a written acknowledgement will be sent within 3 working days.

An interview will be arranged to discuss the succession request within 10 working days following receipt of the application.

A formal decision will generally be made within 28 days of receipt of the application, subject to all necessary documents being received from the applicant.

Performance Measures / Monitoring

As most applications for succession are considered and processed under statutory requirements, it is not felt necessary to monitor the Trust’s performance in this area. In exceptional circumstances the Trust can grant a discretionary succession.

Consultation arrangements

Succession is a legal right, and this policy has been referred and checked by our legal representatives.

The discretionary succession is an additional right to customers, above the statutory legal rights.

Benchmark Analysis

As the majority of applications for succession are considered and processed under statutory requirements, it is not felt necessary to benchmark the Trust's performance in this area with any other organisation.

Regulatory and/or Legal Compliance

Succession regulations are set out in the Housing Act 1988.

KLOEs affected

There is no impact on the KLOE's as the criteria is set by legislation.

Diversity Considerations

An Equality Impact Assessment was carried out in December 2010, which did not identify any diversity issues.

Links to Strategies, Procedures and Associated Documents

Diversity Policy
Housing Need and Access to Housing Policy
Customer Care Policy
Customer Involvement Policy
Succession Procedures
Customer Handbook

Business Impact

There is no impact on the Trust's business