



Tendring
District Council

HOUSING SUCCESSION & ASSIGNMENT POLICY

September 2026



Purpose of this Policy

This policy outlines Tendring District Council's (the Council) approach to managing tenancy succession and assignment requests for secure tenancies.

Policy aims

This policy:

- Ensures tenancy succession and assignment applications are dealt with in accordance with legislation and statutory guidance,
- Promotes sustainable tenancies,
- Treats all applicants fairly and sensitively,
- Aligns with the [Housing Allocation Policy](#) and makes best use of the Council's housing stock.
- Provides a clear and understandable service to applicants and helps them understand the operation of the Succession and Assignment Policy.

Scope of Policy

This policy applies to the Council's secure tenancies.

Succession

Succession relates to the statutory right of certain people to succeed to a tenancy following the death of a tenant. The person who inherits a tenancy is called the 'successor'.

Who can succeed a tenancy?

If the tenancy started before 1st April 2012 succession rights apply to:

- **A civil partner or spouse of the tenant** if they are living in the property as their only or principal home and with the deceased at the time of the tenant's death.
- **A civil partner who has signed a civil partnership document** or persons living as though they are civil partners and they were living in the property with the deceased at the time of death. There is no requirement for a civil partnership to have taken place but if they are not a civil partner by law, they must have occupied the property as their only or principal home for at least 12 months before the tenant's death.
- **A member of the tenant's family** (where the tenant had no partner or spouse living at the home) may succeed provided they lived with the tenant as their main or principle home for at least 12 months before the tenant's death. Family members include parents, grandparents, children, grandchildren, brothers, sisters, uncles, aunts, nephews and nieces. We call these people 'eligible successors.'

If the tenancy started after the 1st of April 2012: succession rights are more limited:

- Succession rights are limited to only **spouses and civil partners**, or someone living as such (cohabitee) immediately prior to the tenant's death and:
- They must have been living in the property as their only and principal home, immediately prior to the tenant's death. There is no minimum 12-month requirement for legal spouses, legal civil partners or cohabitees under this rule.

Joint Tenancy (Survivorship)

Where in a joint tenancy one tenant dies, the remaining tenant automatically becomes the sole tenant and this counts as succession. A successor who is the joint tenant, spouse or civil partner of the deceased tenant, will not be requested to move to a different property.

Spouse/civil partnership

The Council considers this as:

- A marriage ceremony that took place in the UK that has been entered in the marriage register for the district in which it took place.
- A civil partnership must also similarly be registered.

Living together/ partner

The Council considers this as someone who was living with the tenant as though they were a married or in a civil partnership at the time of the tenant's death and the property was their only or principal home. The Council will:

- Seek the facts of each case and use various sources to verify the situation.

Other Members of the Family

Other members of the family are considered to be the deceased tenant's parent(s), grandparent(s), children/stepchild, grandchildren, brothers, sisters, uncles, aunts, nephews and nieces. Foster children or other members of the extended family are not recognised. Other members of the family must have been living with the tenant for at least 12 months.

Where more than one family member has succession rights, it is expected that the family will decide who should request to succeed to the tenancy. Where family members are unable to agree, the Council will make the decision.

Only one succession of a secure tenancy is permitted

- Only one succession is permitted for each secure tenancy. This means that if the deceased tenant was themselves a successor, for example: they were previously a joint tenant and later became a sole tenant, then this would count as a succession and no further lawful succession rights can be granted.
- The deceased tenant must be living in the property as their sole and principal home at the time of their death. If, for example, the tenant permanently moves to a care home, they no longer meet the 'tenant condition' under Section 81 Housing Act 1985.

Property size and suitability

The successor succeeds to the tenancy, not to the property:

- If the successor is a joint tenant, spouse, partner or civil partner of the deceased tenant, they will not be requested to move to a different property. They can remain in the property even if it is larger than they need.
- If the successor is not a spouse or civil partner and the property is larger than their housing need or contains adaptations they do not require, or is a property where the Council specifies the minimum age of the person that can live in it and the successor is younger than that age, the eligible successor is required to move to a more suitable property.

Ground 15A of Schedule 2 of Housing Act 1985 provides a ground for possession that can be used where there is a statutory right to succeed, but where the property is considered too large for the successor's needs. If the Council wishes to use Ground 15A it must serve a notice of seeking possession no sooner than 6 months but no later than 12 months from the date of death of the deceased tenant (or the date on which we are informed of the death).

If the eligible successor is required to move to a smaller property:

- They will not qualify for a payment via the 'Under Occupation Transfer Incentive Policy'.
- They will be required to complete an application to join the Council's Housing Register, and they will be awarded additional priority.

A successor moving to a different property

The decision to request a successor to move to a different property will be made by the Council on a case-by-case basis. The decision will usually be because (but is not limited to):

- A property will be under occupied by the successor by more than one bedroom.
- The property is designated for older people.
- The property is adapted for a person with a disability.

The following factors will be considered:

- Whether a suitable alternative property is available.
- Whether the successor meets the requirements for an older person or adapted property.
- Whether the successor has a health or disability concern which would make a move to an alternative property undesirable.

Succession after a possession order

If a possession order has already been granted on the property by the Court, it significantly affects the possibility of succeeding to a social housing tenancy. It is unlikely that someone can succeed a tenancy after a possession order is granted enforcing that the tenancy is ending or has ended. However this will depend on the type of order awarded to the Council by the Court:

- Outright Possession Order – this sets a date that the Council can take possession of the property. After this date, the Council can apply for a bailiff's warrant. Succession is usually not possible after this point unless the Court order is overturned or delayed.
- Suspended Possession Order – this allows the tenant to stay in the property if they meet certain conditions. If the tenant dies while the order is suspended, succession might still be possible depending on the tenancy type and who is living in the property.
- If the tenant dies before the possession order is enforced, and a qualified successor is living in the property, they may still have a statutory right to succeed under Section 87 of the Housing Act 1985.

How to request a succession

There is no fixed statutory deadline for submitting a tenancy succession request, however it is strongly recommended that the request is made promptly after the tenant's death. Requests should be made by completing the Succession Request form available via the Council's website, email or post. The form should include a copy of the tenants' death certificate and be returned via:

- Email to: housingallocations@tendringdc.gov.uk
- Post to: Tendring District Council Office, 88-90 Pier Avenue, Clacton on Sea, Essex, CO15 1NJ.

What happens if a succession is granted?

Succession does not involve the creation of a new tenancy, instead the statutory successor takes over the existing tenancy and immediately succeeds to all the responsibilities, liabilities and duties of the tenancy including but not exclusive to:

- The obligation to pay rent.
- Any rent arrears.
- Any legal notices applying to the tenancy still take effect i.e.: any notice seeking possession.

What happens if a succession is not granted?

Where there is no eligible successor, the tenancy ceases to be a secure tenancy. There may be circumstances whereby the persons living with the deceased tenant at the time of death may qualify for alternative housing assistance and in these situations the person can make a homeless application in line with the homelessness legislation.

Appeals

Appeals against a succession decision must be received in writing within 28 days of the date on the decision letter and must clearly set out the grounds for the appeal including which aspect(s) of the policy the appeal is based on.

Assignment

An assignment is the legal transfer of a tenancy from one person to another person whilst the tenant is alive. If an assignment is granted the tenant transfers their legal rights and responsibilities to another person. Assignments may be permitted in specific circumstances, such as:

- Mutual Exchange with another secure tenant
- Court order (for example: divorce or separation settlements)
- Transfer to a qualifying successor

Assignment conditions

The Council may refuse an assignment if it would result in under or over-occupation of the property, if the assignee does not meet eligibility criteria or if the tenant/s lack capacity. All assignments require written permission from the Council and must comply with legal requirements.

Service Standards

Tendring District Council will acknowledge succession and assignment requests within five working days of the request being received and will ask for all supporting evidence required to consider the request. A decision will be made within ten working days of receipt of all information. If further investigation is required, the applicant will be advised of the reason for the delay in the decision being reached and an estimated date by which the decision will be made.

Complaints Policy

The Council's Corporate and Housing Complaints Policy is available to any tenant or prospective tenant who is dissatisfied with any aspect of the housing services we provide. Further information can be obtained from the Council's Corporate and Housing Complaints Policy [Making a complaint](#).

General Data Protection Regulations

All access requirements that include identifiable personal information will be processed in accordance with the requirements of the Data Protection Act 2018 and the UK General Data Protection Regulations. The Council will only disclose or share personal information where required to do so by law or where a lawful exemption applies; for example, for the purposes of a prosecution, a safeguarding concern, where it is in the public interest or with the person's consent. Personal information is processed by Tendring District Council for a number of purposes. These can be found in the Privacy Notices which are available on the Council's website at www.tendringdc.gov.uk/privacy or on request at our public reception areas.

Equalities Statement

The Council is committed to treating all customers fairly and with respect and professionalism. To this end the Council will ensure that no individual is discriminated against on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief (including political opinions), sex or sexual orientation and that, in the application of this policy, the Council will comply with their duties under the Equality Act 2010 and specifically its Public Sector Equality Duty (Section 149) under which a public authority must have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by this Act and, in summary, to advance equality of opportunity and foster good relations between people with differing characteristics. To enable customers

to have clear information and equal access to this policy, information will be made available in a range of appropriate languages and formats, when requested.

Legal and regulatory context

This policy is set within the legislative framework:

- Regulator of the Social Housing Consumer Standards
- Localism Act 2011
- The Housing Act 1985 and 1988
- Landlord and Tenant Act 1985
- Equality Act 2010

Related Documents

Tendring District Council Housing Allocations Policy

Tendring District Council Introductory and Secure Tenancy Agreement

Tendring District Council Mutual Exchange Policy

Review of policy

This policy will be reviewed every three years in consultation with tenant representatives, staff, the Portfolio Holder responsible for Housing and other stakeholders unless there are any reasons, such as legislative or regulatory changes, requiring that it be reviewed earlier