

Succession Policy

Date: 13-12-2025
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Approved by and date:	Customer, Culture, Colleague Committee 17th June 2026		
Date Policy Created:	December 2025	Review Period:	3 Years
Policy Review Date:	December 2028		
Version Number:	1		

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TWO RIVERS HOUSING

Succession Policy

1. Statement of Intent

- 1.1. The purpose of this policy is to set out how Two Rivers Housing (TRH) will approach claims of succession when a tenant passes away.
- 1.2. The policy will provide clarity around the individual circumstances in which succession is either granted or refused.
- 1.3. TRH will manage successions fairly, in a transparent and efficient manner meeting legislative requirements and following the guidance set down by the Consumer Standards.
- 1.4. We will be clear and open to ensure that tenants and applicants understand their responsibilities and our policy when succeeding to a tenancy, or when having to move from the home, whether or not the application for succession has been successful or has failed.
- 1.5. When assessing applications, TRH will consult the tenancy agreement, along with our policies, specifically the Allocations Policy, Tenancy Policy and Reasonable Adjustments Policy.
- 1.6. This policy should be applied in conjunction with all TRH policies in existence at the time of using it. Most specifically:
 - Tenancy policy
 - Tenancy Management policy
 - Safeguarding policy
 - Equality, Diversity and Inclusion policy
 - Reasonable Adjustments policy.
- 1.7. This policy is legally compliant at the time of writing and will be reviewed on any change in law or best practice.
- 1.8. Except where stated otherwise, all contacts or requests for service will be acknowledged within 5 working days.

2. Definitions

- 2.1. A **sole tenancy** is where one person has legal responsibility for a tenancy.
- 2.2. A **joint tenancy** is defined as one tenancy between a landlord and two or more tenants, with each tenant being jointly and individually responsible for the tenancy.
- 2.3. **Succession** refers to the legal transfer of a tenancy to someone else following the death of a tenant. A succession can be statutory or contractual but there can only be one succession of the tenancy, and this must be to a Qualifying Person.
- 2.4. **Statutory Succession** is a right set down in legislation to inherit a tenancy on the death of a tenant. Only Qualifying Persons are eligible to inherit a tenancy in this way. The tenancy does not end following the death of a tenant – it continues in the name of the successor.
- 2.5. **Survivorship** is when one tenant in a joint tenancy dies and the remaining joint tenant becomes a sole tenant, if they have been resident in the home. Survivorship is a type of statutory succession and is automatically applied for joint tenants.
- 2.6. **Contractual succession** is a succession that refers to the tenant's right to pass on their tenancy to a Qualifying Person based on the terms of the tenancy agreement rather than by Statutory Succession.
- 2.7. A **Qualifying Person** is a partner or relative of a tenant who is able to provide evidence that they satisfy the requirements to succeed the tenancy.
- 2.8. **Mesne profit/Use and Occupation account** – this is an account set up to receive payments of use and occupation charges from an occupier who has no permanent right to a tenancy.
- 2.9. **Occupier** – a person or household who we give permission to occupy a home without the legal rights to a tenancy being confirmed.
- 2.10. **Notice of Seeking Possession (NOSP)** - A Notice of Seeking Possession (NOSP) is a formal legal notice issued by a landlord to a tenant, informing them that the landlord intends to seek possession of the home.
- 2.11. **Vests** – person obtains a legally enforceable right to a present or future interest in property.

3. Qualifying Persons

- 3.1 A qualifying person may be a Spouse, Civil Partner and Cohabitee plus anyone defined as a successor in the individual tenancy agreement.

4. Requesting Succession

- 4.1. TRH appreciate that requesting a succession comes at a very difficult time for family members. We will at all times deal sensitively and kindly with requests, meeting face to face if family members require and putting information in writing to confirm discussions. We will guide applicants through the process and help them understand what we need to assess the application, as well as the possible outcomes.
- 4.2. We will advise relevant parties to seek independent advice.
- 4.3. The death certificate must be provided before the application can be considered, we cannot proceed without one. If a final or interim death certificate is not provided within one month, we may take steps to regain possession of the home.
- 4.4. We will require proof in all applications for succession, to confirm the identity of the person who is claiming succession, their relationship to the tenant, the length of residence with the tenant and, where a discretionary succession is being claimed, evidence of their right to rent.
- 4.5. Once all the information is received, we will determine if the applicant has the right to a statutory or contractual succession and write to them to inform them of our decision within 21 working days.
- 4.6. This right applies to all tenants who hold either an Assured tenancy or a 10-year Fixed Term Tenancy.
- 4.7. Succeeding to a tenancy means that the original tenancy “vests” in the person who qualifies. This means that the tenancy passes by law to the qualifying person with no requirement for a new tenancy agreement to be signed.
- 4.8. Any rent arrears or debt owed to TRH by the deceased tenant should be reclaimed from the deceased tenants’ estate, the successor will be responsible for rent from the Monday following the date of death.
- 4.9. The accepted successor will become responsible for the condition of the property and its contents, including any damage or negligence caused by the original tenant.
- 4.10. If the tenancy does pass to someone and the family member is under-occupying (for example, they need one bedroom, but the property has 2) the property at the date of the tenant’s death, they will still succeed to the Tenancy, but we will require them to move to more suitable accommodation.
- 4.11. TRH will work with the successor to ensure that their needs are taken into consideration and will make an offer of alternative accommodation to the successor.

- 4.12. We will make a maximum of two reasonable offers, if the last offer is declined by the successor, the offered home will be held whilst legal proceedings are considered or taken using ground 9 of the Housing Act 1988.
- 4.13. Where there are no rights to succession, due to a previous succession being granted or no-one meeting the criteria outlined above, TRH will issue the relevant notice to gain vacant possession of the property.
- 4.14. Vacant possession means that there is no one else living in the Property and that all belongings have been removed, cleared and cleaned.
- 4.15. For clarity, TRH does not class a joint to sole tenancy change as a succession except when the joint to sole has taken place due to the survivorship of one tenant over the other.

5. Succession to a Minor

- 5.1. In cases where a person under the age of 18 meets the conditions for succession we will support their legal right to do so by seeking to find an appropriate adult to hold the tenancy in trust until their 18th birthday.
- 5.2. Where there are a Last Will and Testament the executor of this Will, will automatically be held as the trustee. In the absence of a Will, we will talk to other adult family members, social workers or other guardians to ensure an appropriate trustee is appointed.
- 5.3. We recognise this is a significant responsibility at a difficult time for a family – we will work with all parties to ensure they are supported and understand the legal agreement they are entering into.
- 5.4. In the event there is no adult to act as a trustee we will take legal advice to establish how best to protect the rights to the tenancy on behalf of the minor.

6. Discretionary Succession

- 6.1. This policy sets the framework for decision making in Statutory and Contractual Succession; however we reserve the right to apply discretion in succession decisions. A discretionary succession may be considered where the person requesting to succeed to the tenancy was left in the property on the death of the tenant but has no statutory or contractual right to succeed but they wish to take on the tenancy.

- 6.2. TRH will consider or approve a discretionary succession and will apply this on a case-by-case basis, the circumstances must be exceptional for us to approve a discretionary succession.
- 6.3. In cases where a discretionary succession is approved but will lead to under occupation, we may require the tenant to move to a smaller home and will make one offer of suitable alternative accommodation. If the offer is refused, we will look at our options to gain possession of the home, which may include court proceedings.
- 6.4. An alternative to discretionary succession may be to grant a new tenancy. In the case of discretionary award of new tenancy this will be a Starter Tenancy and will not be considered a succession.
- 6.5. Any discretionary succession may be discussed with the relevant Local Authority and be approved by a member of TRH's senior leadership team or above.
- 6.6. In both cases, we would take into consideration:
 - Whether the applicant would qualify for social housing under the relevant choice-based lettings scheme, and our allocations policy
 - Any previous successions to the tenancy
 - The relationship to the original tenant
 - Where the applicant has lived for the 12 months before the tenant's death
 - The right to rent of all adults in the home.
 - The size of the home and who could reasonably be expected to live there with the applicant
 - Affordability, operation of the mesne profit account and any tenancy sustainment risks
 - Medical needs, vulnerabilities or support needs
 - Tenancy history e.g. ASB or tenancy breaches, including how the application has managed during the Mesne Profit account.
 - Rights to other homes and any actions needed to gain possession

7. Evidence Requirements

- 7.1 In all cases evidence will be required to show residency of the applicant and any other residents.
- 7.2 Accepted evidence includes:
 - Council Tax Statements
 - DWP or HMRC letters
 - Utility Bills
 - Medical records

7.3 Evidence that will not be accepted includes:

- Any documentation over 12 months old
- Letters from family or friends
- Insurance paperwork
- Mobile phone bills
- Any other unofficial documents

8. When a succession will be refused

8.1 A request for succession may be refused when:

- There has been a previous succession, including survivorship;
- A statutory successor was not living with the Tenant as their main and sole residence at the time of their death;
- A contractual successor had not been living at the address as their main and sole residence for at least 12 months.
- Non occupation of the tenant: Where a tenant has moved out of the home, either for respite or permanent care, and subsequently dies in this care, the rights to succeed the tenancy are no longer in place (*Dudley Metropolitan Borough Council v Mailley* (2022) EWHC 2328 (QB)). However, if a home has been significantly adapted and a qualifying person remains in the home who would benefit from these adaptations, consideration will be given to a discretionary award of a tenancy (see point 6 above)
- Mutual exchange - new home but no new rights: The right to succeed carries forward and this right transfers with 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.
- The tenant is a starter tenant unless this is succession by survivorship or statutory (as by definition the applicant will not have been there for 12 months)
- If during the lifetime of this policy other legal or policy precedents are set, we reserve the right to refuse an application on this basis, notwithstanding our obligation to amend policies and ensure they remain live.

9.0 Right of appeal

- 9.1 When writing with a decision to refuse an application for succession we will advise of the reason for our decision and of the right to appeal.
- 9.2 A tenant or applicant can appeal our decision for the following reasons:
- The tenant believes we have made a mistake when deciding they are ineligible or non-qualifying.
 - There is information that the applicant thinks we have not taken into account, either about their status as a non-qualifying person or in relation to any disability, medical condition or vulnerability.
- 9.3 We will not normally accept an appeal for any other reason – we know tenants and applicants may not be happy with a decision but unless the appeal is for one of the reasons here, we will be unable to consider it.
- 9.4 To appeal our decision, you should contact us and tell us which reason you are using to appeal and provide us with any supporting information. There is a deadline for this - you will need to contact us within 10 working days of our decision.
- 9.5 We accept an appeal in all of the following ways:
- Emailing customerservices@2rh.org.uk with the title – Request to Appeal Succession Decision; or
 - Telephoning us on 0800 316 0897 advising us you are appealing a decision. We will ask for you to provide the information above and may need you to send further information in by email or post.
 - In person – you can advise any member of staff that you wish to appeal a decision. We will ask for you to provide the information above and may need you to send further information in by email or post.
 - By post to Two Rivers Housing, Riversmeet, Cleeve Mill Lane, Newent, GL18 1DS
- 9.6 The appeal will be heard by a manager or above, who was not involved in the original decision and our response to your appeal will be sent within 15 working days.
- 9.7 In exceptional cases it may take us a little longer to consider the appeal. If this is the case, we will let you know and agree a date when you will have a decision.
- 9.8 As part of dealing with the appeal, we may contact you to ask questions to ensure we have all of the right information.

- 9.9 Once the appeal decision has been made there will be no further appeal.
- 9.10 If you are unhappy with how we have managed your case, you can make a complaint by contacting us in any of the ways listed above. Any complaint received will not form an appeal of the decision made.

10.0 Responsibilities

- 10.1 The Neighbourhood Managers are responsible for managing the application in its entirety including the communication with tenants, preparing all associated paperwork and ensuring that evidence checks are completed.
- 10.2 The Neighbourhood Managers will notify the Lettings Team of any changes required to the tenancy type or any other change.
- 10.3 The Lettings team are responsible for changing the details on our housing management system.
- 10.4 The Housing Managers are responsible for ensuring that this policy is followed, that timelines are adhered to and legal documents are properly completed.

11.0 Monitoring and review

- 11.1 The Head of Neighbourhoods is responsible for monitoring this policy to ensure that it is correctly applied.
- 11.2 The Head of Neighbourhoods is responsible for ensuring that reviews of this policy are carried out.
- 11.3 TRH will undertake regular reviews of this policy, the procedures related to it and staff training needs to ensure that it continues to operate in line with best practice and that service improvements are made and implemented.
- 11.4 In the absence of any trigger for review, the policy will be reviewed at 3 year intervals or such other periods as the Board of TRH may from time to time determine.
- 11.5 On review, if possible this policy will be reviewed with our Tenant Voice or a panel of tenant representatives.

Version	Date	Author	Change description	Approved by	Date approved
1.0	Nov 25	Sally Howell	Creation of standalone policy.	Customer, Culture, Colleague Committee	17 th June 2026