

CONTROLLED DOCUMENT

N.B. Employees should be discouraged from printing this document. This is to avoid the risk of out of date printed versions of the document. The Intranet should be referred to for the current version of the document.

SUCCESSION POLICY

CATEGORY:	Policy
CLASSIFICATION:	Housing and Property
PURPOSE:	To document Brunelcare's approach to claims to succeed to a tenancy.
CONTROLLED DOCUMENT NUMBER:	BC/H&P/017
VERSION NUMBER:	V002
CONTROLLED DOCUMENT SENIOR LEADERSHIP TEAM LEAD:	Operations Director/Director of Housing Service
CONTROLLED DOCUMENT AUTHOR:	Operations Director/Director of Housing Services
APPROVED BY:	Board
APPROVED ON:	22 March 2022
IMPLEMENTED ON:	24 March 2022
REVIEW PERIOD:	Every three years
REVIEW DATE:	March 2025
ASSOCIATED DOCUMENTS:	Tenancy Policy Allocations and Lettings Policy Mutual Exchange and Assignment Policy
Essential Reading for:	Housing Team Housing Customer Services Team ECH team
Information for:	

Document Consultation and Review Process

Groups/Individuals who have overseen the development of this Policy:	Housing Team ECH team Housing Customer Service Team
Groups/Individuals Consulted:	

Document version control:

Date	Version	Amendments made	Amendments Approved by
March 2022	V001	New Policy	Board - 22 March 2022
11 March 2022	V001	Inclusion of the role of the PQ&E Committee within Board compliance reporting added within paragraph 6.6 following feedback from Trustees (DE)	Board - 22 March 2022
14 November 2022	V002	Updated job roles following restructure of SLT and the Housing Team	SLT
14 November 2022	V002	5.1 and 5.2 Updated to reflect what is in the current tenancy agreements	SLT

For the Use of the Corporate Governance Team only:

Date added to Register:	24 March 2022
Date published on Boris:	25 March 2022
Does it need to be published on website:	No

CONTENT

Section	Area Covered	Page
1	Policy Statement	4
2	Aim of the Policy and Related Legislation	4
3	Scope of the Policy	5
4	Definitions	5
5	Key Principles and Requirements	5
6	Roles and Responsibilities	7
7	Equality and Data Protection	8
8	Implementation and Training	9
9	Monitoring and Review	9

1. POLICY STATEMENT

1.1 The Tenancy standards issued by our regulator state:

“Registered Providers shall let their homes in a fair, transparent and efficient way. They shall take into account the housing needs and aspirations of tenants and potential tenants. They shall demonstrate how their lettings:

- *Make the best use of available housing*
- *Are compatible with the purpose of the housing*
- *Contribute to local authorities’ strategic housing function and sustainable communities*

There should be a clear application, decision-making and appeals process.”

1.2 Brunelcare will apply a succession policy which is fair and transparent and makes the best use of its housing stock so that it is available for those who need it.

1.3 Brunelcare’s approach to succession will meet and be managed in line with the tenancy standards as identified above.

Deborah Evans

Deborah Evans
Chair of the Board

O Goldsworthy

Oona Goldsworthy
Chief Executive Officer

2. AIM OF THE POLICY AND RELATED LEGISLATION

2.1 The aim of this policy is to set out a framework as to how Brunelcare will deal with succession requests.

Relevant Legislation and Guidance

[Housing Act 1988](#)

[Localism Act 2011](#)

[Human Rights Act 1998](#)

[Equality Act 2010](#)

3. SCOPE OF THE POLICY

- 3.1 This policy applies to all Brunelcare's tenancies and leases.
- 3.2 This policy documents Brunelcare's approach to succession to tenancies.
- 3.3 This policy applies to all succession requests.

4. DEFINITIONS

- 4.1 *Succession* is the term used when a tenancy is passed on following the death of a tenant. If an occupier succeeds to a tenancy, it will be the same type of tenancy, at the same rent, and have the same tenancy rights as the previous tenant.
- 4.2 *Tenancy* refers to the tenancy agreement or lease signed by the tenants/leaseholders at the start of the tenancy/lease.

5. KEY PRINCIPLES AND REQUIREMENTS

Tenancies After April 2012

- 5.1 From April 2012, where the Tenancy Agreement states that under the Housing Act 1988, on the death of a sole tenant who is not a successor, a tenancy will pass to a tenant's spouse or civil partner, providing that he/she is living with the tenant at the time of the tenant's death and has been living at the property for the 12 months preceding the tenants death, however he/she may be asked to move to a more appropriate property (see Sections 5.13-5.15 below).
- 5.2 Succession will not be granted to a person who has been living with the tenant who is under the age of 55. Assistance will be given to that person to move to more suitable accommodation.
- 5.3 On the death of a sole tenant where there has been no succession, if there is no spouse or partner living there, Brunelcare has discretion, in exceptional circumstances (and taking into account any needs of vulnerable members of the household) to allow a live-in carer, who has been living there for a year or more and is their principal home at the time of death (and evidence of this has been provided to our satisfaction), to succeed to the tenancy. He/she may be asked to move to a property more appropriate to their needs (see Sections 5.13-5.15 below).
- 5.4 If there is any doubt about the situation, the burden is on the carer to provide evidence of this. Even in these exceptional circumstances, due to the nature of our accommodation, succession will not be granted for a family member or carer that has been living with the tenant who is under the age of 55.

Tenancies Prior to April 2012

- 5.5 Prior to April 2012, some tenancy agreements may have allowed for succession to a close member of the family, where there is no spouse or partner living in the property, and there has not been a previous succession or assignment. The family member must have been living with the tenant for at least 12 months preceding the tenant's death as his/her principal home, and must agree in writing to abide by the terms of the Tenancy Agreement.
- 5.6 The burden is on the person claiming succession to prove to our satisfaction that they have been living at the property for that length of time. If they do succeed, they may be asked to move to a more appropriate property (see Sections 5.13-5.15 below).
- 5.7 Succession will not be granted for a family member or carer that has been living with the tenant who is under the age of 55.

General Rules

- 5.8 There is only one right of succession in law (an assignment to a person who would have succeeded is regarded as a succession also). Therefore, where there has already been a succession, the tenancy will be brought to an end. If there are no executors and there is no will, a Notice to Quit will be served on the Public Trustee as well as the personal representatives of the deceased (naming the deceased) at the tenancy address.
- 5.9 On the death of one joint tenant, the other tenant succeeds by default (survivorship), and the successor should be allowed to stay in the property. This will be taken into account by the Tenancy Services Manager when making a decision about granting a joint tenancy, (in line with the Allocations and Lettings Policy), in order to make the best use of stock.
- 5.10 A person claiming the right to succeed has the right to review the decision made by the Housing Officer/Centre Manager regarding succession. This will be via Brunelcare's Complaints Policy.

Housing Fraud

- 5.11 Claiming succession when there is no right to do so, is a form of social housing fraud. Where this is suspected, the matter will be investigated as if it is housing fraud, and may involve the Local Authority's fraud team, making all reasonable enquiries.
- 5.12 Where claiming succession is considered by Brunelcare as fraudulent, possession of the property will be sought and legal claims for damages made where possible. The matter may also be referred to law enforcement agencies.

Properties which Exceed the Needs of a Successor

- 5.13 Where someone succeeds to a tenancy, they may be asked to move properties rather than remaining in the property to which the tenancy relates. Such a request will be made where the size of the property exceeds the successor's housing need, as assessed at the time of death of the previous tenant.
- 5.14 This request will similarly be made where the property has been specially adapted, and the successor does not require those adaptations.
- 5.15 Should the successor fail to comply with this request, Brunelcare reserves the right to seek possession of the property under Ground 9 of Schedule 2 of the Housing Act 1988 or any other grounds/routes for/to possession.

6. ROLES AND RESPONSIBILITIES

The Board of Brunelcare (Employer and Landlord)

- 6.1 The Board has overall accountability for the activities of the organisation, which includes succession arrangements. The Board will ensure that it receives appropriate assurance that the requirements set out in this policy are being met.
- 6.2 The Board discharges its responsibilities for its succession policy and related procedures through the Chief Executive Officer. It will report back to tenants and residents or their family representatives on how Brunelcare manages its succession arrangements.

Chief Executive

- 6.3 The Chief Executive Officer has overall accountability for the provision of efficient and effective succession arrangements.
- 6.4 The Chief Executive Officer discharges the day to day operational responsibility for succession arrangements through the Operations Director/Director of Housing Services.

Operations Director/Director of Housing

- 6.5 The Operations Director/Director of Housing Services is responsible for the operational delivery of this Policy and the associated procedures.
- 6.6 The Operations Director/Director of Housing Services will put clear mechanisms in place:
- to monitor and measure compliance with the policy, setting a performance framework that includes key Performance Indicators (KPIs);

- provide regular performance reports to the Board (via the Performance, Quality and Experience Committee); and
- ensure performance against key performance indicators is regularly reported to Brunelcare's customers.

6.7 The Director of Housing Services has ultimate responsibility for ensuring that lettings and allocations operate in accordance with Brunelcare's policies.

Tenancy Services Manager and ECH & Community Support Manager

6.8 The Tenancy Services Manager/ECH & Community Support Manager are responsible for overseeing the day-to-day operation of the succession processes.

Housing Team Managers, Tenancy Officers, ECH Officer, Centre Managers and Customer Service Officers

6.9 Housing Team Managers, Tenancy Officers, ECH Officer, Centre Managers and Customer Service Officers are responsible for all the administration involved in succession claims.

7. EQUALITY AND DATA PROTECTION

Equality and Diversity

7.1 Brunelcare seeks to embed an environment where all clients, visitors and employees are treated as individuals, fairly and in a consistent way. We work within the spirit and the practice of the Equality Act 2010 by promoting a culture of respect and dignity and actively challenging discrimination, should it ever arise. This Policy will be applied in a way that is consistent with these principles.

7.2 This policy is available on request in other formats (for example in an alternative language, in Braille, on tape, in large type).

Data Protection

7.3 Brunelcare is committed to ensuring protection of all personal information that we hold, and to provide and protect all such data. It is recognised that dealing with tenancy issues, including succession, will involve sensitive data; particularly from complainants and third-party agencies.

7.4 Brunelcare is dedicated to safeguarding the personal information under our control and in maintaining a system that meets our obligations under the General Data Protection Regulation (GDPR). Our Practice is set out in our Data Protection Policy.

8. IMPLEMENTATION AND TRAINING

- 8.1 The Director of Housing Services has delegated the day-to-day responsibility for the implementation of this policy and for its regular review to the Tenancy Services Manager in terms of Sheltered Housing and Customer Service. Responsibility for the day-to-day implementation of this policy in Extra Care Housing settings has been delegated to ECH managers.
- 8.2 There will be no formal training provided regarding succession however Housing staff, the Extra Care Housing team and Customer Services staff will be referred to this policy upon induction.

9. MONITORING AND REVIEW

- 9.1 Information about all lettings will be provided on the Choice Based Lettings system and recorded on CORE (Continuing Recording of Lettings and Sales in Social Housing in England). This data will be used to monitor lettings and report to the Board annually against equality and diversity criteria.
- 9.2 This policy will be reviewed every three years, or following any major statutory or regulatory changes, significant changes in procedures or practices, or if the author deems it to be required.