SUCCESSION POLICY

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SUCCESSION POLICY

DOCUMENTATION MASTER SHEET

Amendments to this Document are Detailed Below.

Version Number	Date Amended	Comments	Date Approved	Author	Approved By
01	23/11/2010	New policy combining two older policies		RSH	
02	20/03/2013	Updated to reflect amendments to the Housing Act 1985 made by the Localism Act 2011.		IH/PDM	
03	27/09/2013	Review and change to LIO report and section on confidentiality added		RSH	
04	8/5/2014	Review and update to procedure		RSH	
05	12/09/2018	Reviewed and re-written. Succession & LIO elements separated as standalone Policies.	08/11/2018	BR	Tenant Panel
06	9/12/2021	Review and update to procedure to reflect restructure		NB	Tenant Panel
07	16/11/2024	Scheduled review	29/11/2024	NB	SLT
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SUCCESSION POLICY

OVERALL AIM/INTRODUCTION

In the event of the death of a tenant, GCH is committed to dealing with applications for succession, or where non qualifying-successors are left in occupation, as efficiently and sensitively as possible. This policy intends to clarify in what circumstances a tenancy will pass to another on death.

GCH will attempt to balance the needs and circumstances of households, with or without statutory succession rights, with the size of the property and the demands for social housing of this type within GCH stock.

SCOPE OF POLICY

The purpose of this policy is to:

1. Outline the statutory rights available to tenants and their family members
2. Outline the contractual rights available to our tenants and their family members
3. Determine the circumstances where we will grant discretionary 'succession'.

This policy extends to all operational areas within GCH but more specifically the Homes & Neighbourhood Team who perform the Housing Management function.

This policy applies to all tenancies but does not apply to leaseholders, shared owners or licence agreements.

LEGAL AND REGULATORY EXPECTATIONS

This policy is informed by the following legislation and regulation:

- Housing Act 1985
- Housing Act 1988
- Localism Act 2011
- Law of Property Act 1925

- Contracts (Rights of Third Parties) Act 1999

All the above Acts were amended by the Civil Partnership Act 2004. That Act provides that same-sex couples who form a civil partnership have the same rights as those who are in a heterosexual marriage.

SERVICE STANDARDS

There are five types of succession, in order of eligibility:

1. Survivorship

Is the automatic and immediate transfer of a joint tenancy to the remaining tenant following the death of a tenant.

2. Statutory succession

Is the transfer of a sole tenancy to the tenant's partner following the death of a tenant.

Assured tenancies feature a statutory right for the tenant's partner to succeed where the partner was resident at the time of death. A partner is a spouse, civil partner, or an individual living as if spouse or civil partner.

3. Contractual succession

Is the transfer of a sole tenancy to a qualifying individual following the death of tenant where we have provided for enhanced succession rights in the tenancy agreement.

Enhanced Assured Tenancies historically featured contractual rights for a family member to succeed to the tenancy, mirroring the statutory rights of secure tenants.

4. Devolution by will or intestacy

Is where the tenancy is passed by a sole tenant to a designated individual through their will, or to their next of kin through intestacy.

5. Discretionary succession

Is the grant of a new tenancy to an individual following the death of a sole tenant where there is no right to succeed but where we consider that exceptional circumstances warrant it.

SUCCESSION ELIGIBILITY

Any successions prior to GCH stock transfer in April 2015 have been discounted as part of the conditions of stock transfer and will not be taken into consideration.

Survivorship will always occur upon the death of a joint tenant regardless of any previous successions. Statutory and contractual succession however will only occur once where there has been no previous succession.

If you have an Enhanced Assured Tenancy

Right to succession

The Enhanced Assured Tenancy Agreement details who is entitled to succeed to this tenancy:

People entitled to succeed to an Enhanced Assured Tenancy

(a) If you are a joint tenant and you die then the tenancy will continue in the name of the remaining tenant.

(b) If you are not a joint tenant and you die, the tenancy may pass to your wife, husband, civil partner or partner (this includes same sex couples) provided he or she lived with you in your home as their principal or only home at the time of your death.

(c) If you are not a joint tenant and you do not have a wife, husband, civil partner or partner (this includes same sex couples) who lived with you in your home as their principal or only home immediately prior to your death, the tenancy may pass to a member of your family who lived with you in your home (as their principal or only home) for at least 12 months prior to your death.

For the purposes of succession family members are defined as:

- Spouse
- Civil partner
- Parent
- Grandparent
- Children
- Grandchildren
- Siblings
- Uncle and aunt
- Nephew and niece

These include step relations and half relations as well as persons living together as husband and wife or civil partners and their children.

If more that one member of your family has a right to the tenancy they should agree who will claim it.

If they cannot agree, they could:

(a) All make a claim to us in writing within three months of your death and we will assess the claims, or

(b) Make an application to court.

In certain circumstances, if the property is larger than the needs of the successor or has been provided or adapted for an elderly or disabled person and the successor is not elderly or disabled, the successor will be offered suitable alternative accommodation.

Special succession rights

If inheritance rules do not allow someone who qualifies under condition 52.5(c) to take over this tenancy, we may use ground 7 in schedule 2 to the Housing Act 1988 to end this tenancy and grant that person a new tenancy of your home.

If your home has been specially adapted and no one living in your home needs that adaptation or if your home would be larger than the person entitled to a new tenancy reasonably requires, we may offer them a tenancy of a more suitable home owned by us. The new tenancy will be on the same terms as this tenancy other than in relation to rent (and other charges) and succession.

If you have an Assured Tenancy

Right to succession

The Assured Tenancy Agreement details who is entitled to succeed to this tenancy:

People entitled to succeed to an Assured Tenancy

If you are a joint tenant and you die then the tenancy will continue in the name of the remaining tenant.

a) If you are not a joint tenant and you die, the tenancy may pass to your wife, husband, civil partner or partner (this includes same sex couples) provided he or she lived with you in your home as their principal or only home at the time of your death.

Assured tenants have no remaining succession right where they:

- had the tenancy passed to them through survivorship or statutory succession
- had the tenancy passed to them through devolution by will or intestacy
- had the tenancy assigned to them and the previous tenant was a successor
- were a successor of a previous tenancy of the same property

DISCRETIONARY SUCCESSION ELIGIBILITY

This discretion will only be considered in exceptional circumstances where the is no statutory right to succeed. We may consider the vulnerability of the remaining members of the household and decide to grant a discretionary succession. This decision will be made on a case-by-case basis and this provision does not create any obligation for GCH to grant a discretionary succession.

The following are examples of where discretionary succession may be considered:

- Someone who has accepted responsibility for the deceased tenant's dependants.
- The home was adapted for their needs
- The vulnerability of the remaining occupant

In addition, however they would have to:

- Meet the grounds to be eligible for Social Housing in Gloucester.
- Meet GCH's Lettings Policy

An Area Team Lead will decide whether an applicant should be afforded a discretionary succession.

Where a discretionary succession is granted, succession paperwork will be completed.

We will make only one offer of suitable accommodation and tenure in accordance with our Lettings Policy; thereafter the individual may be dealt with as unauthorised occupiers – see Unauthorised Occupiers Policy.

Where a discretionary succession is not granted, the individual will be an unauthorised occupier – see Unauthorised Occupier Policy.

MINORS ELIGIBILTY

A minor – an individual under the age of 18 – may succeed to a tenancy where they meet the eligibility criteria. A minor cannot legally hold a tenancy, and so this will result in an equitable tenancy being held in trust for the minor until they come of age.

We will only allow succession to a minor under the age of 16 where we are legally unable to prevent such, and will only consider permitting succession to a minor aged 16 or 17 in exceptional circumstances and where appropriate support and safeguards are in place.

PROCESS

Gloucester City Homes (GCH) will respond to all applications for the recognition or granting of succession promptly and efficiently, and in accordance with relevant legislation. Each application will be considered on an individual basis to consider the needs and requirements of the applicants and GCH.

Neighbourhood Managers will take the lead on advising, investigating, and responding to succession applications.

Survivorship, statutory succession, certain contractual successions, and devolution happen automatically upon the death of tenant where an individual meets the relevant criteria; however, GCH must investigate and confirm that succession has occurred before recognising and acknowledging as such. Other forms of succession are not automatic and require GCH to investigate and grant the succession.

Applicants will be required to complete and sign a succession form and may be required as appropriate to provide proof of identity, proof of relationship to the deceased tenant and proof of residence prior to death of tenant within 28 days.

Only one individual may succeed to a tenancy. Where multiple individuals apply for succession, we will investigate each application and, where there are equal rights to succession will request the applicants agree among themselves who should succeed. Where agreement cannot be made, a Court must decide (Housing Act 1988, s.17 (5) and (6)).

RENT ARREARS/AFFORDABILITY

A successor will remain liable for any rent arrears where there was a joint tenancy, and the succession happens automatically.

The successor will not be liable for rent arrears or other debts owed by the deceased tenant, nor due any credit on account. The deceased tenant's estate will be liable for any arrears and due any credit.

As part of the request, GCH will assess the affordability of the property for the potential successor in line with our usual pre-tenancy checks.

TENANCY ENFORCEMENT/PREVENTING TENANCY FRAUD

GCH will conduct checks in addition to using the documentary proof provided by the applicant to verify their identity, relationship, and occupancy in order to confirm their entitlement to succession.

We may use data matching, referencing, credit checking or similar, to supplement these checks including liaising with other authorities to confirm any information we deem relevant that forms our decision regarding considering a request for succession.

Failure to provide required proof or to explain conflicting records of occupation to a standard beyond reasonable doubt within 28 days are a failure to prove entitlement to succession and will result in us not acknowledging or refusing to grant succession and taking enforcement and possession action to terminate the tenancy as appropriate.

Falsely or dishonestly claiming succession, providing false or misleading information or evidence to support a claim, or covering up the death of a tenant to benefit from their tenancy is fraud and often also a criminal act.

We will take appropriate enforcement or preventative action where we believe tenancy fraud, deception or dishonesty has occurred. We will typically seek possession where succession has been recognised or granted, or otherwise refuse succession. We will report fraud and attempted fraud to the Police, Local Authority or other relevant authorities for further investigation and legal action as appropriate.

ALTERNATIVE ACCOMMODATION

GCH will strive to ensure that our homes are used to the most appropriate effect.

We will seek to avoid an individual succeeding to a property which is larger than they need, or to a property which is significantly adapted where they have no need of those adaptations. The individual will instead succeed to an alternative, more suitable property.

We will require a statutory or contractual successor to move to a suitable property where the law allows us to do so. We will support the successor to move voluntarily but may seek a court order compelling them to do so should they fail to cooperate. We will require a devolution successor to move to more a suitable property and will seek possession should they fail to do so.

We are unable to compel a survivorship successor to move, or likewise a statutory successor who is a partner. We may where appropriate encourage and support these individuals to voluntarily seek accommodation which suits and meets their needs.

DECISION

Each application received will be considered by a relevant Neighbourhood Manager and the decision approved by an Area Team Lead.

We will advise whether we recognise survivorship, statutory succession or devolution as having occurred, recognise or are willing to grant contractual succession, are willing to offer discretionary succession, or consider there to be no right to succeed. We will at this stage advise of any consequence or condition, such as a requirement to downsize.

Where an individual residing in the property has no right to succeed, we will treat them as Unauthorised Occupiers. Refer to the Unauthorised Occupiers Policy for further information.

TENANCY SUSTAINMENT, SUPPORT & PARTNERSHIP

GCH is committed to promoting tenancy sustainment and to supporting sustainable communities.

Tenancy sustainment refers to a customer's ability to successfully manage a tenancy independently or with tailored support. In terms of tenancy compliance a successor would need to demonstrate a clear understanding of their responsibilities under the tenancy agreement.

Where we identify that a customer needs support, we will incorporate an action plan and support package identifying the specific support needs and make referrals to the relevant

organisation/provider and ensure that we have review mechanisms in place for the support plan in partnership with this organisation/provider.

CONSULTATION

The Homes & Neighbourhood, Income, Sustainment and Lettings Team have been consulted in the review of this policy.

APPEALS

Succession is a legal right determined through legislation and the tenancy agreement, therefore where a statutory or contractual succession has been refused the failed successor does not have a right of appeal against that decision.

Where a request for discretionary succession has been refused, the failed successor may appeal against that decision.

REVIEW

This policy will normally be reviewed triennially to ensure that it reminds fit for purpose, unless an earlier review is required due to regulatory, statutory or other requirements.