

Policy	Succession Policy
Users of Policy	Colchester Borough Council Officers, Colchester Borough Homes officers
Date Adopted	30 January 2014
Date last Reviewed	
Review Frequency	Review every 3 years
Best Before Date	
Scheme Delegation	
Formation of Policy	Portfolio Holder with delegated responsibility for Housing
Amendments	Portfolio Holder with delegated responsibility for Housing
Monitoring	ALMO Performance Manager
Implementation	ALMO Performance Manager
Approval of	Head of Service responsible for the Council's Housing Revenue account.

1. Aims of Policy

- 1.1 To ensure that tenancy changes in cases of succession are dealt with in accordance with current legislation and are compatible with the Gateway to Homechoice Allocations Policy to ensure the best use of the council's housing stock.

2. Legislation and Guidance

- 2.1 The Housing Act 1985 Part IV s87 set out the persons qualified to succeed on the death of a tenant:
- A person is qualified to succeed the tenant under a secure tenancy if he occupies the dwelling-house as his only or principal home at the time of the tenant's death and either—*
- (a) He is the tenant's spouse or civil partner (Civil Partnership Act 2004 s112 gave equal rights), or*
- (b) He is another member of the tenant's family and has resided with the tenant throughout the period of twelve months ending with the tenant's death;*
- unless, in either case, the tenant was himself a successor, as defined in section 88 of the Act.*

The Housing Act 1996 Chapter 1 Part IV s6 – deals with the issuing of guidance by relevant authority and stated that:

The Relevant Authority may issue guidance with respect to the management of housing accommodation by registered social landlords.

(2) Guidance under this section may, in particular, be issued with respect to—

(a) the housing demands for which provision should be made and the means of meeting those demands;

(b) the allocation of housing accommodation between individuals;

(c) the terms of tenancies and the principles upon which levels of rent should be determined;

2.2 The Localism Act 2011

The Localism Act limits those persons who will be eligible to succeed to any new secure tenancy. The Act limits succession rights to only spouses or civil partners who are living with the deceased immediately prior to their death and are occupying the property as their only or principle home.

The act also gave Local authorities the power to grant additional succession rights to other family members or carers if they choose to do so. This will not affect existing tenants whose tenancies began before April 2012.

Colchester Borough Council decided under powers given by the Localism Act to limit succession rights to spouses, civil partners and couples. This will only apply to tenancies that started from 1st April 2012 as detailed in section 3.

3 The Policy

3.1 Succession is where upon the death of the tenant, a partner or family member may have the right to take over the tenancy if they are resident at the property and if it was their only or principle home at the time.

3.2 Upon the death of either an Introductory or Secure tenant **one succession** will be granted to either:

- *A partner or spouse of the tenant as long as they lived at the property with the deceased at the time of death.*
- *Civil partners who have signed a civil partnership document in the presence of a registrar and two witnesses, and were living at the property with the deceased at the time of death.*

- *A member of the tenant's family (where the tenant had no partner or spouse living at the home) who lived with the tenant at the home as his or her main or only home for at least twelve 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"*

This only applies to tenancies that began before 1 April 2012

- 3.3 A family member under the age of 18 can succeed to a tenancy subject to the usual conditions of succession being met. However a trustee would need to be agreed to hold the tenancy in trust for the child. A trustee can be a family member or the local authority.
- 3.4 Succession does not involve the creation of a new tenancy; instead the statutory successor takes over the existing tenancy:
- Any existing arrears become the successors' responsibility.
 - Any legal notices applying to the tenancy still take effect.
 - All rights to the tenancy apply to the successor.
- 3.5 In cases where the eligible successor (excluding spouse, partner or civil partner) is living in a home that is larger than their housing need they are required to move to a more suitable property. This includes properties that were adapted for the tenant and the adaptations are no longer needed by the eligible successor or properties where the Council restricts the age of the person that can live in them. This is in line with the Council's Allocations Policy.
- 3.6 The eligible successor would not qualify for a payment under the Transfer Incentive Scheme in this situation. Only successor tenants over the age of 60 would be eligible for a bungalow in line with the Council's Allocations Policy.
- 3.7 Where the deceased tenant has already been a successor to the tenancy there will be no further right to succession. However, there are circumstances where the person living with the deceased at time of death may qualify for alternative housing assistance, these are:

If the applicant has lived with the deceased for at least five consecutive years prior to their death, and has provided the deceased with a high level of personal care (*full details of the care provided and welfare benefits would need to be evidenced*).

If the applicant is considered to be a vulnerable homeless person and in priority need in line with homelessness legislation the council would owe a duty to re house them if they were required to leave.

A monthly meeting is held between Colchester Borough Council and Colchester Borough Homes to ensure that individual cases are dealt with under the law and this policy

- 3.8 Applications to succeed to a tenancy that have no statutory right to succeed to the tenancy will be refused.

4 Appeals Procedure

- 4.1 Appeals must be received in writing within 28 days of the decision.
- 4.2 Appeals must set out which particular aspects of the application of the policy or procedure the appeal is based on.
- 4.3 Appeals against the decision will be considered by the Head of Service responsible for the Council's Housing Revenue account whose decision is final.

5 Service Standards

- 5.1 Colchester Borough Homes will acknowledge requests and a decision will be made where possible within 5 working days.
- 5.2 If further investigation is required, the applicant will be advised of the reason for the delay in a decision being reached.

6 Monitoring and Review

- 6.1 The policy will continue to be monitored by monthly meetings set up to discuss succession cases. Cases and outcomes will be recorded by Colchester Borough Homes.
- 6.2 Reviews of the policy will be conducted every 3 years to make sure the policy continues to be efficient and effective or sooner if there is a significant change in legislation or case law.

7 Communicating the Policy to Staff

- 7.1 Managers and staff involved in the implementation of the Policy will receive a copy of the policy.
- 7.2 The Council and CBH will provide sufficient training to enable staff to understand and comply with the Policy.
- 7.3 A copy of the Policy will be placed on the 'Hub' – the Council's central electronic communications point and the equivalent central point for CBH.
- 7.4 Any amendments to the Policy will be communicated to managers and staff involved in implementing the policy.

8 Communicating the Policy to Customers

- 8.1 A fact sheet of frequently asked questions will be put together for this policy.
- 8.2 A copy of the policy will be placed on the Council's website and CBH website
- 8.3 A leaflet in plain English will also be produced explaining the policy

9 Scheme Delegation

Formation of Policy - Portfolio Holder with delegated responsibility for Housing

Amendments - Portfolio Holder with delegated responsibility for Housing

Monitoring - ALMO Performance Manager

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Approval of - Head of Service responsible for the Council's Housing Revenue account.

10. Appendix