



<b>Policy Title:</b>	Death of Tenant Policy
<b>Owner:</b>	Housing Manager
<b>Date Approved:</b>	26th April 2022
<b>Approved By:</b>	Board
<b>Next Review Date:</b>	April 2025
<b>Regulatory Standards:</b>	Regulatory Standard 3: The RSL manages its resources to ensure financial wellbeing, while maintaining rents at a level that tenants can afford to pay.

## 1. Introduction

- 1.1. It is the aim of Cadder Housing Association (CHA) to deal with the death of a tenant in a sympathetic manner. Whilst taking account of the bereaved family's loss, the Association must ensure that any rent loss is minimised and make the most effective use of our stock.
- 1.2 The objective of this policy is to clarify the Association's position and to give staff guidance with situations involving the death of a tenant.
- 1.3 By having a written Death of Tenant Policy we are able to ensure that a consistent and professional approach is adopted throughout the Association and the service delivered is compliant with law, best practice and current regulation.

## 2. Death of a Tenant

- 2.1. Where the tenant dies and there is an executor, they will be responsible for funeral arrangements. The funeral must be the first thing paid out of the estate. The executor should be advised to check the cost before proceeding, as the local authority will not cover money already spent.
- 2.2 Where the tenant dies in hospital and there is no next of kin, the hospital Social Worker will arrange the funeral. In any other circumstances if there is no next of kin, the funeral is arranged by an Officer of the Council, often from Social Services.

### **3. End Date of Tenancy**

- 3.1. When we receive notification of the death of a tenant, where no person qualifies to succeed the tenancy, a period of up to two weeks should be allowed for the house to be cleared.
- 3.2. We recognise the difficulties and sensitivities associated with clearing belongings of a deceased person; therefore, the Housing Manager has the discretion to extend this period.
- 3.3. In the event of the death of a tenant when there is no qualified person to succeed the tenancy, the tenancy is terminated on notification of the tenant's death, by using the date of death as the tenancy end date. Therefore, the tenancy should be closed from the date of death and not the date that the keys for the property are returned to the Association.
- 3.4. Rights to Housing Benefit and Universal Credit normally end on the death of the tenant. We have the discretion to claim our tenant's estate for any recent rent accrued after their death if applicable.

### **4. Terminating the Tenancy and Succession**

- 4.1. In the event of the death of a tenant when there is no qualified person to succeed the tenancy, the tenancy is terminated from date of death.
- 4.2. Persons claiming the right to succeed a tenancy, should notify the Association within 28-days of the tenant's death.
- 4.3. If there is a qualified person then new tenancy arrangements should be made passing the existing tenancy to a qualified person, recording that a succession has taken place. Guidance regarding successions should be sought from the Association's Allocations Policy.
- 4.4. Succession to a tenancy may only occur twice. A tenancy that has passed twice may be terminated on the death of the second succeeding tenant.
- 4.5. Persons who fail to provide adequate proof of residency to succeed the tenancy within 28-days of notification of succession claim will be informed that they have no legal entitlement to the tenancy. They will be told that failure to vacate the property and remove their belongings will result in summary court action being taken to recover the property and reclaim loss of rental income.
- 4.6. Should the persons fail to vacate the property then this should be immediately escalated to the Housing Manager. The Housing Manager will contact the Association's solicitors to discuss legal options, such as raising a 'No Right, No Title' action.

## **5. Next of Kin/Close Relatives**

- 5.1 In the vast majority of deaths, the Association will be contacted by the next of kin or relatives of the deceased who take control of all the furniture and personal effects left in the property. A death certificate is essential to end the tenancy and must be obtained from the next of kin or relatives at the earliest convenience. This will also act as proof to the identity of the person claiming to be next of kin or relative, further checks should be carried out, e.g., providing identification.
- 5.2 The next of kin or relatives should be asked to clear the property as quickly as possible and return to the keys to the Association within 2 weeks.
- 5.3 If the next of kin or relatives are unwilling or unable to take responsibility for clearing the property, they should be asked to sign a mandate allowing the Association to clear the property and dispose of any belongings.

## **6. No Next of Kin or Relatives**

- 6.1 If there is no next of kin the estate legally becomes ownership of the Government. In cases of suspicious death or where no next of kin or relatives are involved, the Police will be dealing with this situation. Thereafter, the Police will be responsible for contacting one or both of the agencies responsible for funeral arrangements and executing the estate.
- 6.2 The agencies referred to are the Local Authority and the Procurator Fiscal. Local Authorities have a legal obligation to organise and pay for the funeral of a person who has no next of kin.
- 6.3 The Procurator Fiscal will investigate and liaise with CHA, and if necessary, the 'Queens and Lord's Treasurers and Remembrancer'. Once the Procurator Fiscal has concluded their investigations, they will contact us with their findings.
- 6.4 If a next of kin has been established, we should encourage them to empty the property as soon as possible.
- 6.5 If no next of kin have been established the Procurator Fiscal will inform us what should happen to the furniture and personal effects that have been left in the property. We will compile an inventory of furniture and personal effects. These cannot be removed until authorised by the Lord Fiscal, who in most cases will have already consulted with the 'Queens and Lord's Treasurers and Remembrancer'.

## **7. Entering the Premises**

- 7.1 If the Police or the Association receive information about a suspected death in a property, the Police will deal with this situation.

- 7.2 The Police will force access if required and investigate the circumstances of the tenant's death. They will contact any next of kin or relatives and pass the details to Cadder Housing.
- 7.3 If there is no next of kin or relatives the Police will contact the Procurator Fiscal who will carry out their own investigations.
- 7.4 When Police and Procurator Fiscal have concluded their investigations, Cadder Housing staff will compile a full inventory of each room and where possible, take photographs of any goods found within the property. Once the inventory has been completed it must be signed and dated.
- 7.5 If there is a small amount of cash (less than £50) it should be recorded and witnessed by two members of staff. It should be kept securely in our office or banked, pending a decision as to what should be done with it. If the amount exceeds £50, the Procurator Fiscal should be informed and they will notify the 'Queens and Lord's Treasurers and Remembrancer'.

## **8. Equal Opportunities**

- 8.1 Our commitment to equal opportunities and fairness will apply irrespective of factors such as race, sex, disability, age, gender reassignment, marriage & civil partnership, pregnancy and maternity. An equality impact assessment was carried out in conjunction with the preparation of this policy. It is deemed that this policy will not unduly affect under any person(s) with the above-mentioned characteristics.

## **9. Complaints**

- 9.1 Any individual who is dissatisfied with the service experienced should be encouraged to provide feedback. Complaints regarding the implementation of this Policy will be dealt with in accordance with the Association's Complaints Policy and associated procedures.