



<b>Policy Title:</b>	Succession Policy
<b>Owner:</b>	Housing Manager
<b>Date Approved:</b>	26th May 2022
<b>Approved By:</b>	Board
<b>Next Review Date:</b>	May 2025
<b>Regulatory Standards:</b>	Regulatory Standard 2: The RSL is open and accountable for what it does. It understands and takes account of the needs and priorities of its tenants, service users and stakeholders. And its primary focus is the sustainable achievement of these priorities.

## 1. Introduction

- 1.1. The purpose of this policy is to outline Cadder Housing Association's requirement to accept and consider any application for succession to a tenancy as set out in the Housing (Scotland) Act 2001 and amended by the Housing (Scotland) Act 2014.

## 2. General Principles

- 2.1 On the death of a tenant the tenancy may pass to a qualified person as described in the Housing (Scotland) Act 2001 as amended by the Housing (Scotland) Act 2014 and in the Scottish Secure Tenancy Agreement. Succession can only take place on the death of a tenant.
- 2.2 Consent to succeed a tenancy will only be given by the Association after consideration of the circumstances of the qualified person(s).
- 2.3 It is the responsibility of the successor to update the relevant authorities, such as Council Tax, Housing Benefit, Department of Work and Pensions and utility suppliers of the death of the tenant and the date of their succession. Although the Association can provide assistance with this.

## 3. Eligibility Criteria

- 3.1 The terms under which a succession to tenancy can occur are noted in Section 7 of the Association's Scottish Secure Tenancy Agreement. The terms are as follows:

### Level One Successors

The highest level of priority to succeed a tenancy attaches to any person who is the:

- Former tenant's spouse, civil partner, cohabitee or joint tenants but only if the house was their only or principal home at the time of the tenant's death.

There is no qualifying period for the tenant's spouse, civil partner or joint tenant.

In the case of a cohabitee, they must have occupied the house as their only or principal home for at least 12-months immediately prior to the death of the tenant. The 12-month period does not begin until the Association has been informed in writing that the individual is living in the property as their only or principal home and the Association must have given consent to the proposed successors residency in the property.

If more than one person qualifies for the tenancy under Level One, then they must decide amongst themselves who should get the tenancy. If they are unable to agree, the Association will decide.

### Level Two Successors

If there is no-one who qualifies at Level One, or a qualified person does not wish to take on the tenancy, it may be inherited by a member of the tenant's family in the following circumstances:

- They are aged at least 16 at the date of the former tenant's death.
- The house was used as their only or principal home at the date of death and for a period of at least 12-months prior to the death of the tenant.
- The Association had been notified in writing and given approval of the proposed successor's residency in the property.

If more than one person qualifies for the tenancy under Level Two, then they must decide amongst themselves who should get the tenancy. If they are unable to agree, the Association will decide.

### Level Three Successors

If no-one qualifies at Level One or Level Two, or a qualified person does not want the tenancy, it will be inherited by a carer as long as:

- They are aged at least 16 at the date of the former tenant's death.
- The house was used as their only or principal home at the date of death and for a period of at least 12-months prior to the death of the tenant.
- They gave up another only or principal home before the death of tenant.
- They had or continue to provide care for tenant or a member of the tenant's family.

- The Association must have had been notified in writing and had given approval to the proposed successors residency in the property.

If more than one person qualifies for the tenancy under Level Three, then they must decide amongst themselves who should get the tenancy. If they are unable to agree, the Association will decide.

As with all applications for succession, we will ensure that we consider applications quickly and sensitively. Furthermore, we will recognise that the uncertainty over a carers housing situation and the process of applying for succession is likely to cause additional stress for carers during a time of bereavement and upheaval as their caring role ends.

There will be some cases when an individual has given up their main residence to care for a Cadder Housing Association tenant but have not informed us they have moved in, and the tenant dies before the 12-month qualifying period has been met. We recognise that there may be genuine reasons why a carer or tenant has not told the Association of the changes to the household composition. This could include where the carer moved in following a medical emergency or where they were providing a high level of care which left them with little time for seeking out information or support, or informing the landlord they have moved in. Where an applicant does not meet the criteria for succession, Cadder Housing Association will carefully consider all of the circumstances of the individual case and consider whether it is appropriate to allocate a new tenancy for the same or another property, to them.

#### **4.0 Adapted or Specially Designed Properties**

- 4.1 If the property was designed or significantly adapted for a person with additional support needs, no person will qualify under level two or three above unless that person also has additional support needs require similar type of accommodation.
- 4.2 If a person would have qualified, but for this paragraph, the tenancy will be terminated and we will look to make other suitable accommodation available.

#### **5.0 Limits of Succession**

- 5.1 Under the terms of the Housing (Scotland) Act 2001 as amended by the Housing (Scotland) Act 2014, the tenancy can only be inherited twice under the provisions noted in this policy.
- 5.2 If the tenancy has already been inherited twice, the third death will normally end the tenancy. Although, this is not applicable if there is a surviving joint tenant whose Scottish Secure Tenancy would continue
- 5.3 If there is still a person in the house who would otherwise qualify to inherit the tenancy under the tenancy agreement if it had not previously been succeeded to on two occasions, the tenancy will continue for up to 6-months after the last death. The tenancy will not be a Scottish Secure Tenancy for that period, but a Short Scottish

Secure Tenancy will be granted while alternative accommodation is sourced. However, like all succession applications they will be judged sensitively and on their individual merits, therefore there may be occasions where discretion can be shown if approved by the Housing Manager.

## **6.0 Succession Process**

- 6.1 The Association anticipates that the majority of issues related to succession will be straightforward and confirmation of successor's rights will be achieved by reference to our existing tenancy records to confirm the entitlement of the person(s) claiming to be entitled to succeed. The tenant is required to inform the Association of any changes in the household as set out by the Tenancy Agreement. The Association will accept notification in writing or by email.
- 6.2 On notification, the Association will consider whether it is appropriate for that person to reside in the property. The Association may refuse consent if it is not reasonable that they do so. Consent will not be granted in the case where a property is overcrowded as a result of their residency, and the person may not remain. Any period following refusal of consent to reside will not count towards any qualifying period for succession.
- 6.3 There may be other reason why the Association does not consent to residency and the unsuccessful application will be notified of the reason at the time. Where a person claims to be entitled to succeed through a relationship to the deceased tenant they must produce birth, marriage or civil partnership certificates to prove a relationship that would entitle them to succeed the tenancy.
- 6.4 The Association has a 28-day period in order to consider applications for succession and if the applicant does not provide the necessary supporting documentation, then the application should be refused and the person(s) encouraged to submit a further application with the relevant supporting documentation.
- 6.5 If the Association fails to assess an application to succeed a tenancy within the 28-day period from receipt of the application, then it is deemed that the succession has been granted.

## **7.0 Suitable Alternative Accommodation.**

- 7.1 Where an applicant does not have the right to succeed to a tenancy, the Association does not have any discretion to grant a succession to tenancy. The Association will consider whether it is appropriate, in all circumstances to offer a tenancy to the applicant at that property or another property in order to prevent homelessness and in line with the Association's Allocations Policy.

## **8.0 Appeals Procedure**

- 8.1 Any applicant unhappy about a decision relating to a succession request may submit a written appeal to the Housing Manager within 28-days of receiving the decision.

- 8.2 The Housing Manager will review the appeal and provide the applicant with the result of their decision in writing within 14-days.
- 8.3 If the applicant remains dissatisfied, recourse can be sought via the Association's Complaints Policy.

## **9.0 Tenancy Sustainment**

- 9.1 The Association is committed to providing a quality to service to all our customers and ensure that they have all the necessary information and assistance provided in order to thrive in their tenancy.
- 9.2 When a succession is granted then the person(s) should be offered an appointment with the Association's Money Advice Officer to ensure that their income is maximised and they are fully aware of the financial obligations of taking on the tenancy.
- 9.3 Consideration should also be given to any unmet support needs and referral made to partner agencies to ensure that the new tenant is fully supported in their new tenancy, e.g., Social Work or Energy Advice.

## **10.0 Equal Opportunities**

- 10.1 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.