

Discretionary Succession

 Policy

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| Reference |  |  | Version | 1 |
| Staff affected | Housing Operations |  | Issue date | 1st April 2024 |
| Approved by | ELT |  | Review Date | 21st March 2024 |
| Lead Officer | Director of Operations  |  | Next Review | April 2027 |

1 Introduction

1.1 Succession is the process which occurs when a tenant dies, and an eligible person has a right by law to take over the tenancy.

1.2 This policy outlines Arches housing’s approach to people left in occupation of a property following the death of a tenant. This policy will give guidance in situations where a person does not qualify to succeed.

2 Legislative Framework

2.1 The rights of Arches tenants to succeed to a tenancy will be different depending on whether they are:

* A secure tenant (governed by the Housing Act 1985)
* An assured tenant (governed by the Housing Act 1988)

2.2 For all tenancy types, one statutory succession is allowed in total. Where a tenancy was originally a joint tenancy and one of the joint tenants dies, this counts as a succession and no further statutory successions can be allowed.

2.3 The would-be successor must at the time of death of the original tenant, occupy the property as their only or principal home.

2.4 For assured tenancies, the deceased tenant’s spouse or civil partner can succeed on the basis that they are occupying the property as their only or principal home. No other family members have the right to succeed.

2.5 For secure tenants, the additional following family members have the right to succeed:

* Spouse or civil partner
* Parents
* Grandparents
* Children
* Grandchildren
* Siblings
* Uncles
* Aunts
* Nephews and nieces

 These include step-relations and half relations.

2.6 In the case of anyone other than the spouse or civil partner claiming succession, they must demonstrate they have been living at the property for 12 months or more. Spouses or civil partners only have to demonstrate that they are living at the property as their principal home.

2.7 Where a child under 18 succeeds, their tenancy interest will be placed in trust to another family member until they reach 18 years of age.

2.8 Arches housing does not confer any additional succession rights through its tenancy agreement.

3 Policy Statement

3.1 A discretionary succession is where the person requesting to succeed to the tenancy was left in the property on the death of the tenant but has no statutory right to succeed. They are asking us to exercise our discretion to let them stay as a tenant. We are under no obligation to exercise that discretion.

3.2 Arches housing will consider all requests for discretionary succession taking into consideration our Access to Housing Policy. In deciding whether to exercise this discretionary grant of a tenancy, the following will be considered:

* Previous successions to the tenancy.
* Whether the would-be successor is a family member as defined under the 1985 Housing Act or the appointed guardian of the deceased tenant’s children.
* The would-be successor has lived in the property as their only or main home in the 12 months prior to their death.
* That all adult household members have the right to rent.
* That the property is not over or under occupied.
* The occupier passes an affordability assessment.
* The property has been kept in a c lean and well-maintained condition and there are no complaints of anti-social behaviour or other breaches of tenancy against the household members.
* The applicant agrees to pay an arrears that have accrued since the tenant’s death.
* The applicant does not have the right to live at another property.
* The property is not adapted or sheltered accommodation.
* The property is suitable for the needs of the applicant and household members.

3.3 Where we would agree to a discretionary grant of a new tenancy, but the property is unsuitable, we will support the occupant in finding rehousing.

3.4 Where the occupant is vulnerable consideration will be given to those vulnerabilities and any potential impact caused by a change in accommodation.

3.5 It is important to note that someone who is granted a tenancy under this option, will not be treated as a ‘successor’ which means their spouse, or civil partner will have a statutory right of succession in the future.

3.6 Where an applicant is unhappy with the outcome of their request, they will have the right to appeal through our formal complaints process.

4. Organisation Roles and Responsibilities

4.1 Chief Executive

The Chief Executive, and ultimately the Board, have overall responsibility for the Discretionary Succession Policy.

4.2 Director of Operations

The Director of Operations is responsible for the implementation of this policy and associated procedures.

4.3 Head of Housing Operations

The Head of Housing Operations is the operational lead for the day to day running and implementation of the Discretionary Succession Policy.

4.4 Employees

 Housing Operations Employees have a responsibility to identify when this policy should be used and to follow this guidance, along with associated processes.

6. Review

6.1 This Policy shall be reviewed and updated by the Head of Housing Operations triennially.

7. Equality and Diversity

7.1 All involved will recognise their ethical and a legal duty to advance equality of opportunity and prevent discrimination on the grounds of; age, sex, sexual orientation, disability, race, religion or belief, gender reassignment, pregnancy and maternity, marriage and civil partnership.

8. Publicising this Policy

8.1 The Discretionary Succession Policy will be publicised on the Arches Website.