

HORIZON HOUSING ASSOCIATION LIMITED	HOUSING MANAGEMENT POLICY
TITLE	SUCCESSION POLICY
DATE OF APPROVAL	FEBRUARY 2010
DATE OF REVIEW	FEBRUARY 2013

1. INTRODUCTION

- 1.1 Succession describes the situation when an existing tenant dies and the tenancy is passed on to a member of their household who is qualified to succeed as prescribed by Part 2, section 22 of the Housing (Scotland) Act 2001 (the Act).
- 1.2 This policy states how we will meet the legal requirements of the housing act, whilst making best use of our housing stock and ensure that, wherever possible houses are occupied by households that need the type of standard of accommodation we provide. The policy will be supported by working procedures.
- 1.3 The policy also clarifies the different levels of succession for mainstream and amenity housing and for that of wheelchair housing.

2. MAINSTREAM AND AMENITY HOUSING

- 2.1 The Act defines a qualifying person as follows, in order of priority in which they are entitle to succeed the tenancy. There are three levels of succession as outlined below:
- Level one - is the tenant's surviving husband/wife or co-habitee (including same-sex partners) – as long as they can prove that they are living in the property as their only or principal home at the time of the tenant's death. Any co-habitee must have occupied the property for at least six months immediately prior to the date the tenant died.
 - Level two - if there is no surviving husband/wife or co-habitee, or they choose not to succeed, then a member of the tenant's family aged 16 or over, can succeed, as long as they are living in the property as their only or principal home at the time of the tenant's death.
 - Level three - if there is no-one in the above categories, or they do not choose to succeed, then the tenant's carer, as long as they are aged 16 or over, and have given up their home to live with the tenant as their carer, and they are living in the property as their only or principal home at the time of the tenant's death
- 2.2 Where there is more than one qualified person with equal priority to succeed, they may apply in writing to succeed as joint tenants. If they do not wish to be joint tenants, they have the right to decide between themselves who should

succeed to the tenancy. They must confirm this decision in writing to Horizon. If they cannot decide who should succeed to the tenancy within 28 days of the tenant's death, Horizon will make the decision on who is to be granted the succession taking into account all the needs and circumstances of those involved

- 2.3 The Act allows for two 'rounds' of succession: where a qualified person who has succeeded a tenancy later dies, the tenancy can be succeeded one final time as above.

3. FOLLOWING SECOND SUCCESSION

- 3.1 Where the second successor dies the tenancy terminates unless there is an existing joint tenant where there would be no change to their existing tenancy status.

- 3.2 If there is a qualified person left in the tenancy, (who wants to succeed but are not entitled to) they are able to remain in the property for up to six months, however, the tenancy ceases to be a SST and they should be offered an Occupancy Agreement in line with section 22a of Housing (Scotland) Act 2001. They are responsible for paying the rent as from the tenant's death until they leave the property.

4. WHEELCHAIR HOUSING OR PROPERTY THAT HAS BEEN DESIGNED OR SUBSTANTIALLY ADAPTED FOR A DISABLED PERSON

- 4.1 Under the terms of the Act, tenants of wheelchair housing, or property that has been designed or substantially adapted for a disabled person shall be succeeded only under the following circumstances:

- Level one - is the tenant's surviving husband/wife or co-habitee (including same-sex partners) – as long as they can prove that they are living in the property as their only or principal home at the time of the tenant's death. Any co-habitee must have occupied the property for at least six months immediately prior to the date the tenant died.
- Where the property has been designed or substantially adapted for a disabled person, no person will qualify under level two or three unless that person has a disability that requires the type of accommodation in the house. If a person would have qualified, but for this paragraph, the Association will make suitable alternative accommodation available. The person who would have qualified should complete an application for housing as soon as possible to allow their housing need to be registered.
- The Association will consider such housing applications and make an offer of suitable accommodation as soon as same becomes available within its own housing stock. Where such an offer is unreasonably refused by the applicant, the Association may commence court proceedings to recover possession of the property.

5. QUALIFIED PERSON DECLINES OFFER OF SUCCESSION

- 5.1 Should a qualified person not wish to succeed to the tenancy they must inform the Association in writing within 28 days of the tenant's death. They have a legal right to remain in the property for up to three months from the death of the tenant.
- 5.3 The person will be offered an Occupancy Agreement in line with Housing (Scotland) Act 2001 (section 22a) and are responsible for paying the rent from the tenant's death until they leave the property.

6. IMPLICATIONS OF SUCCESSION

- 6.1 The rights of the incoming tenant are as follows:
- A new tenancy agreement is not given as the successor assignee takes on the terms and conditions of the original tenancy as set out in the agreement signed by the original tenant.
 - The assignee cannot be held responsible for liabilities under the tenancy prior to the date of assignation, e.g. rent arrears. Any outstanding debts require to be recovered from the estate.

7. APPEALS

- 7.1 Where an individual has been refused succession to a tenancy, they may appeal that decision by following the Association's complaints procedure.

8. POLICY REVIEW

This policy shall be reviewed at least every three years.