

<b>HORIZON HOUSING ASSOCIATION LIMITED</b>	HOUSING MANAGEMENT POLICY
<b>TITLE</b>	SUCCESSION POLICY
<b>DATE OF APPROVAL</b>	DECEMBER 2006
<b>DATE OF REVIEW</b>	DECEMBER 2009

1.0 **Introduction**

1.1 Succession describes the situation when an existing tenant dies and another person is entitled to become the tenant of the property. This Succession Policy sets out our guiding principles when this occurs.

2.0 **Links to Performance Standards**

2.1 Performance Standards For Social Landlords AS1.2 states that the Association should offer the most secure form of tenancy compatible with the purpose of housing. The Tenancy Agreement should make clear the rights and duties of the tenant and landlord. The Association should act to uphold these rights and duties in a fair and responsible manner.

2.2 Performance Standard GS1.2 requires the Association to have high quality written policies and procedures to guide our actions.

3.0 **The specific objectives of our Succession Policy**

3.1 The Association will ensure that

☒ We observe the law in our dealings with tenants and successors to tenancies

☒ We observe the requirements of our contractual obligations to our tenants

☒ We observe the requirements of Performance Standards and good practice

☒ We make the best use of our housing stock and ensure that, wherever possible, houses are occupied by households that need the standard of accommodation they provide

That we deal fairly and promptly with applications to succeed to tenancies

4.0 **Legislative requirements**

4.1 The legal succession rights of Scottish Secure Tenants and their qualified successors are set out in Chapter 1 Section 22 of the Housing (Scotland) Act 2001. . This states "On the death of a tenant under a Scottish Secure Tenancy, the tenancy passes by operation of law to a qualified person."

4.2 Under the Short Scottish Secure Tenancy there is no right of succession of the tenancy on the death of the tenant. In the event of a surviving joint

tenant he or she or he will become the sole tenant.

## 5.0 **Contractual Requirements**

5.1 The Association, through its adoption of the terms of the Model Scottish Secure Tenancy has agreed that tenants of Mainstream and Amenity accommodation shall be succeeded by qualified persons. There are 3 levels of succession for mainstream and amenity tenancies as outlined below.

### **Succession is as follows:**

#### **LEVEL ONE**

**The tenant's husband or wife or co-habitee - provided the property was their only or principal home on the death of the tenant.**

#### **Or**

**In the case of a joint tenant, if the property was his or her only or principal home on the death of the other joint tenant.**

**In the case of a co-habitee he or she must also have occupied the property as his/her only or principal home for at least 6 months immediately before the tenant's death. If more than one person qualifies for the tenancy under Level One they must decide amongst themselves who should get the tenancy. If they cannot agree, the Association will decide.**

#### **LEVEL TWO**

If no-one qualifies under Level One, or a qualified person does not want the tenancy, it may be inherited by a member of the tenant's family as long as: -

**He or she is aged at least 16 years of age at the date of death of the tenant.**

**The property was his or her only or principal home at the date of the death.**

**If more than one person qualifies for the tenancy under Level Two they must decide amongst themselves who should get the tenancy. If they cannot agree, the Association will decide.**

#### **LEVEL THREE**

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: -

- He or she is aged at least 16 years of age at the date of death.**
- The property was his or her only or principal home at the date of death.**
- He or she gave up another only or principal home before the death of the tenant.**
- He or she is providing, or has provided care for the tenant or a member of the tenant's family.**

If more than one person qualifies for the tenancy under Level Three they must decide amongst themselves who should get the tenancy, If they cannot agree, the Association will decide.

## 5.2 **Wheelchair Housing**

Under the Scottish Secure Tenancy tenants of wheelchair housing shall be succeeded only under the following circumstances.

### **LEVEL ONE**

- The tenant's husband or wife or co-habitee - provided the property was their only or principal home on the death of the tenant.**
- In the case of a joint tenant, if the property was his or her only or principal home on the death of the other joint tenant.**

In the case of a co-habitee he or she must also have occupied the property as his/her only or principal home for at least 6 months immediately before the tenant's death.

5.3 The Association accepts that persons who are qualified to succeed are entitled to do so and there is no obligation on them to claim or apply for succession. However persons who are qualified to succeed may not wish to do so. If someone qualifies for the tenancy but does not want it, they should tell us in writing within four weeks of the death of the tenant and leave the house within three months. Rent will be charged for the actual period of occupation.

5.4 Where there is no qualified person who wishes to succeed to the tenancy and there is no other person with whom the Association enters into a Tenancy Agreement, the tenancy will end on the date of death of the tenant.

## 6.0 **Succession Arrangements: Tenancies of Mainstream and Amenity Properties**

6.1 Where the Association is advised of the death of a tenant, we will visit the household within 20 working days to confirm to surviving members

of the household the Association's Policy on Succession and to complete the succession arrangements.

- 6.2 In the majority of cases we anticipate that Succession will occur in a straightforward manner. However we must ensure that tenancies of our properties are held only by those who are entitled to them and there are a number of checks that will be made prior to agreeing to succession and a number of issues in which the Association may exercise its discretion.
- 6.3 Where the Association is aware, through tenancy records or previous notification of a person who is qualified to succeed to a tenancy we will ask that person to sign accepting the succession whilst acknowledging:
- i. that they have succeeded to the tenancy,
  - ii. the date of succession and
  - iii. that the terms and conditions of the tenancy are unchanged from those entered into by the original tenant.
  - iv. acceptance of any alterations carried out by the original tenant
- 6.4 If a person advises the Association that they have succeeded to the tenancy, and that person was not previously known to the Association to be a part of the Tenant's household and qualified to succeed, the Association will request that the claimant should provide such proof as to verify:
- i. That their relationship to the tenant was a relationship which qualified them to succeed to the tenancy
  - ii. That the property is their only or principal home
  - iii. Where applicable, that they resided with the tenant prior to the tenant's death.
- 6.5 Where confirmation is provided that the claimant meets the conditions set out in the Tenancy Agreement, then the Association will proceed as in paragraph 6.3 above.
- 6.6 The Association will not agree to succession where the claimant is unable to provide confirmation that they meet these conditions of 5.1 above and are not therefore entitled to succeed. Where a person claims succession but cannot verify that they meet the requirements of the Tenancy Agreement, the Association shall advise them that it does not accept that they are entitled to succeed within 7 days of concluding its investigation of the claim, and require them to remove from the property within 14 days. After this 14 day period is completed, the Association will commence legal proceedings to secure possession, if this is required.
- 6.7 Where there is more than one person qualified to succeed to the tenancy, they should decide between themselves as to whom the tenancy shall pass. In the event that they cannot decide, the Association shall decide after taking such steps as are necessary to confirm the eligibility of any person who wishes to become the tenant. Persons who are not able to confirm their eligibility shall thereby be excluded and the Association shall decide to whom the tenancy will pass within 7 days of receiving full information on the eligibility of each claimant to succeed

and shall confirm its decision in writing to each claimant.

6.8 The tenancy can only be inherited twice under the provisions noted above. If the tenancy has already been inherited twice, the third death will normally end the tenancy. This will not happen if there is a surviving joint tenant whose Scottish Secure Tenancy would continue. If there is still a person in the house who would otherwise qualify to inherit the tenancy under the above paragraphs, 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.

7.0 **Succession Arrangements: Wheelchair Houses or Properties that have been Substantially Adapted for a Disabled Person.**

7.1 **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 other suitable accommodation available. They should complete an application for housing as soon as possible to allow their housing need to be registered.**

7.2 The Association will consider such housing applications for suitable mainstream housing as becomes available within its own housing stock. Where an offer is refused, the Association shall commence Proceedings for Possession under Schedule 2 Ground 18 of the Housing (Scotland) Act 2001 that provides that Sheriff may order possession where the landlord shows that the tenant did not so accept the offer and the tenant does not satisfy the court that the tenant acted reasonably in failing to accept the offer.

7.3 In the event of a non-disabled person surviving a disabled tenant in wheelchair accommodation, and that person is not the deceased tenant's spouse or partner that person shall have no right to succeed to the tenancy.

8.0 **Appeals and Complaints**

8.1 People who wish to succeed to tenancies are encompassed within the Association's Complaints procedure. As such, if they are dissatisfied with the treatment of their succession to a tenancy, they may ask the Association to explain or review its decision. If they remain dissatisfied after receiving a fuller explanation or review, they may make a formal complaint through the Association's formal Complaints Procedure, a copy of which has been given to all tenants and which is available on request from our office.

9.0 **Policy Availability and Publicity**

9.1 A copy of this policy is available, on request and free of charge. It shall be available in media other than print and in translated languages as provided for in the Association's Policies on Equal Opportunities and

Availability of Material in media other than print.

9.2 A summary of the Associations policy on succession shall be included on the Association's website and Tenant's Handbook.

10.0 **Schedule 7 of the Housing (Scotland) Act 2001**

10.1 Succession to a Tenancy by a person who is, or who is related by birth or marriage (including heterosexual or non heterosexual cohabitation) to a current or former employee or current or former Management Committee member shall be reported to the Management Committee to demonstrate that no benefit has accrued which would breach the requirements of Schedule 7. For the avoidance of doubt, "former" shall, for the purposes of this policy, mean any employee or Committee Member who has resigned within the 12-month period prior to the succession.

10.2 **Policy Review**

This Policy shall be reviewed at least every three years, or following a review of the Association's Tenancy Agreements to ensure that it is continuing to meet its objectives as described in paragraph 3.0 above.

**Brenda Cunningham**  
**Housing Manager**  
**December 2006**