

## Statutory Succession and Discretionary Award of Tenancy Policy

### 1. Introduction

- 1.1. Succession is the right of a spouse, civil partner, partner, or qualifying family member to take over a secure tenancy following the death of the tenant (where the property was the applicants only and/ or principle home).
- 1.2. If someone does not have this statutory right to take over the tenancy, the council may decide to award a Discretionary tenancy- there are certain criteria the applicant would need to meet for this to be granted.
- 1.3. This policy ensures the council meets its legal requirements for statutory successions and sets out the policy for awarding these discretionary tenancies.

### 2. Purpose

- 2.1. To outline how we award statutory successions and discretionary awards of tenancy, reflecting current legislation on successions and the council's housing allocations scheme.

### 3. Scope

- 3.1. The statutory succession and discretionary award of tenancy policy applies to all Hammersmith and Fulham Council tenants.

### 4. Policy

- 4.1. Under sections 87 and 88 of the 1985 Housing act, occupiers of council housing have a legal right to succeed to a secure tenancy, providing that:
  - There has been no previous succession or a previous succession was completed prior to the 3rd October 1980.
  - They occupy the dwelling house as their only or principal home, and
  - They are either the deceased tenant's spouse or civil partner, a joint tenant, or another qualifying member of the deceased tenant's family (where the tenancy was created before 1<sup>st</sup> April 2012).
  - If they are not a spouse or civil partner, that they have been resident with the late tenant for at least 12 months before his/her death.
- 4.2. Qualifying family members for a succession (for tenancies created before 1<sup>st</sup> April 2012) as set out in the 1985 housing act include:
  - Spouses, parents, grandparents, children, grandchildren, siblings, uncles, aunts, nephews and nieces; including step-relations, half-relations and 'persons living together as husband and wife' (this would include a partner).
- 4.3. The statutory right only applies to the first time that a succession occurs, but beyond this, the Council will use its discretion to allow a new tenancy to be granted in the following circumstances:
  - a) The person applying for succession has lived continuously in the property as their principal home for twelve months before the death of the tenant **and**

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b) They are the spouse, civil partner, a close relative of the tenant, or someone who has lived with the tenant to provide them with care, without which the tenant could not have maintained their tenancy **and**

c) They would qualify for the property under the council's allocations policy including being both an **eligible** and **qualifying** person(s).

The full eligibility criteria are set out in the Scheme of Allocations and in the Procedure document. The housing manager will decide whether to grant a discretionary award of tenancy in consultation with H&F advice and Housing Options where necessary.

4.4. Where a statutory successor (with the exception of a spouse or civil partner) or an applicant who has been awarded a discretionary award of tenancy is under occupying the property (the property has more bedrooms than are required) the council will seek possession through a possession order under Ground 15A of Schedule 2 of the Housing Act 1985.

4.5. If an applicant is required to downsize, they will be made two suitable offers of accommodation in line with the scheme of allocations.

4.6. If an applicant is required to move property as a result of a succession application, they will be in Band 1 on the housing register.

4.7. Should the two direct offers of accommodation be refused and the case referred to court, the allocations team will not hold either of these properties but will make a third offer if the court grants possession.

## 5. Responsibility

5.1. Head of neighbourhood services - Ultimately accountable for ensuring that statutory successions and discretionary awards of tenancy in his/her area are managed effectively.

5.2. Neighbourhood services manager - Responsible for ensuring that statutory successions and discretionary awards of tenancy in his/her area are managed effectively.

5.3. Housing manager - Responsible for making decisions about whether to approve statutory successions or not and whether applicants who apply for a discretionary award of tenancy should be approved.

5.4. Housing officer – Responsible for effectively managing applications for succession and for discretionary awards of tenancy on his/her patch and informing Allocations of any change in circumstances which may alter the offer of accommodation.

5.5. Allocations officer – Responsible for making direct offers within appropriate time scales to statutory successors that are under occupying or occupying specialist

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accommodation and to applicants that have been awarded a discretionary award of tenancy.

## 6. Monitoring, Review and Evaluation

- 6.1. Due for review when Schedule 8 of the Housing and Planning Act 2016 comes into force. Responsibility of Head of Neighbourhood Services
- 6.2. Following these changes, the policy should be checked on an annual basis to ensure that it is fit for purpose and in line with any legislative changes.
- 6.3. Head of Neighbourhood Services and Head of Allocations will arrange a review meeting six months after the confirmation of this policy to ensure that it is being enforced appropriately.

## 7. Associated policies and documents

- 7.1. Procedure
- 7.2. Successions guidance leaflet
- 7.3. Legal guidance notes
- 7.4. Scheme of allocations
- 7.5. Tenancy sign up
- 7.6. Tenancy agreement
- 7.7. The Equality Impact Assessment

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