

Succession of a tenancy when the tenant dies



What is Succession?

Succession is a legal term used when a person inherits a tenancy. A person who inherits a tenancy is called a “successor” tenant. Succession can also take place when a tenant signs over their tenancy to another person, also known as “assignment”. A succession can also take place if a court decides a tenancy must pass from the tenant to another person. This fact sheet only covers succession following the death of the tenant.

Who can succeed to a tenancy after the tenant has died?

Succession can only take place if Homes for Islington approve a person’s succession claim. There are a number of rules that must be followed before HFI can approve it. These rules are laid down in both housing law and HFI’s own policy.

There can only be one succession of a secure tenancy. This means that if the deceased tenant was already a successor in his or her own right, the tenancy cannot be passed on again to another person. On receiving a succession claim, HFI will carry out checks of its records to establish whether or not there has already been a succession of the tenancy.

If the deceased tenant took over the tenancy from someone else more than twenty years ago this may not be classed as a succession because at the time tenancy changes were dealt with differently.

In order to succeed to a tenancy you must be eligible. All eligible persons must have been living with the deceased tenant at the time of their death and the deceased tenant’s home must be the eligible person’s only or main home. An eligible person includes in order of priority:

1. The joint tenant
2. The deceased tenant’s husband/wife or civil partner

Other people may be eligible if they are able to show they were living with the deceased tenant continuously for at least 12 months before the tenant’s death. These people are:

3. The deceased tenant’s partner (including same sex partner)
4. Other family members:
 - Parent
 - Grandparent
 - Child
 - Grandchild
 - Brother
 - Sister
 - Uncle
 - Aunt
 - Nephew
 - Niece
 - Half brother
 - Half sister
 - Foster child

If there is no joint tenant, husband/wife, civil partner or partner then the eligible members of the deceased tenant's family can decide between themselves who gains the tenancy. If the family members are not able to reach a decision HFI will make the decision for them based on each individuals' need for housing.

What happens if HFI approves a succession claim?

HFI will write confirming approval of the succession claim and confirm the date on which the succession took place. This will be the first Monday after the death of the tenant.

There are some additional rules that HFI has to take into account. These are:

Is the house or flat too large for the successor? If it is larger than required by two bedrooms or more, the successor will be asked to move to a smaller home. HFI has to do this because there are many families living in unsuitable accommodation that need a bigger home. HFI will work with the successor to help them find and move to a smaller home. If the successor refuses to move HFI can ask a court to force them to move.

This rule does not apply to joint tenants or the deceased tenant's husband/wife or civil partner although HFI can help them find and move to a smaller home if they wish.

Is the house or flat adapted for people with special needs? If there are adaptations for people with special needs, but the successor and their family do not need to use them, they will be asked to move to an alternative property. HFI needs to ensure that special aids and adaptations are available to disabled people that need them. HFI will work with the successor to help them find and move to a different home. If the successor refuses to move HFI can ask a court to force them to move. *This rule applies to any successor.*

Was the deceased tenant behind with their rent or had HFI taken them to court? If the deceased tenant had any rent arrears when they died they will not be passed on to the successor, unless the successor is the joint tenant. If the deceased tenant had a court order against them, the successor takes on the terms and conditions of the court order.

What happens if HFI does not approve a succession claim?

HFI is likely to refuse a succession claim if the deceased tenant:

- was a successor tenant. There can only be one succession.
- lived on their own when they died there can be no successor.
- had a court order against them. The right to pass on their tenancy may have been lost.
- had a demoted tenancy. The right to pass on their tenancy has been lost.

If HFI does not accept a succession claim it will confirm this decision in writing. The person in occupation will be asked to make urgent arrangements to move out and return the keys. HFI will continue to charge the person for use and occupation of the property until they move out. If the person fails to move out, HFI will take legal action to regain possession of the property. The person will also be liable to pay any court costs.

For more information about succession and how to make a succession claim speak to the Tenancy Management Team at your local area housing office.

Central Street Area Housing Office

Tel: 020 7527 6524

Holland Walk Area Housing Office

Tel: 020 7527 7497

Lyon Street Area Housing Office

Tel: 020 7527 6834

Upper Street Area Housing Office

Tel: 020 7527 5323

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