

Contents

1. Purpose
2. Introduction and context
3. Policy statement
4. Definitions
5. Monitoring and controls
6. Legislation and regulation
7. Equality, diversity and inclusion
8. Communication and consultation

1. Purpose

This policy explains how Lewisham Homes will administer the rights of succession for tenants on behalf of the London Borough of Lewisham (LBL). It confirms what those rights are, and what information will be required from anyone seeking to exercise those rights.

2. Introduction and context

This policy applies to all secure tenancies issued by London Borough of Lewisham (LBL) and managed by Lewisham Homes as their agent. It also applies to introductory tenants who could go on to become secure tenants subject to a satisfactory completion of the introductory period.

This policy does not apply to any other type of tenancy or licence issued or managed by Lewisham Homes, which may be governed by other law or policy.

The Localism Act 2011 limited who could legally qualify to succeed to a secure tenancy issued on or after 1 April 2012 to the spouse or partner of the deceased tenant, unless the agreement allows for someone else to succeed.

Currently the secure tenancy agreement issued by London Borough of Lewisham allows for a qualifying family member other than the spouse to succeed, even where the agreement is signed after 1 April 2012, subject to certain conditions.

For assignment of tenancies including to a would-be successor see our Assignment policy.

3. Policy statement

- 3.1 In implementing this policy, we will balance our duty to ensure that housing stock is managed appropriately, with sensitivity for bereaved family members.
- 3.2 If a member of a household thinks they have a right to succeed they must let Lewisham Homes know in writing within 28 days of the death of the tenant, and we will assess their grounds for succession.

- 3.3 We require proof of eligibility, to support any application to succeed. It is a condition of the tenancy that a tenant must notify us in writing of any long-term change in the people who live in their home, within 28 days of the change. We will check this was done and that the information provided covers the required period. We will also check other information supporting the application, to ensure we can be satisfied the applicant qualifies for succession by virtue of the family connection, the required period of residency at the property, and that this is their only or main home. Other information that we will require as part of this process will include:
- Tenant's death certificate
 - Applicant's full birth certificate
 - Passport, driving licence or other photo ID
 - Proof of residency (at time of death for a spouse, and for last 12 months for a qualifying family member) e.g. bank statements, electoral registration
 - Proof of family connection
- 3.4 We may carry out further investigations and ask for additional evidence, where the information provided is not sufficient to reasonably establish that the applicant qualifies to succeed.
- 3.5 We will always check the tenancy agreement and tenancy history before determining eligibility for a succession or assignment. This includes checking whether there has been any prior succession or assignment.
- 3.6 The statutory right to succeed to a secure tenancy is limited to spouses and civil partners for tenancies granted after 01 April 2012. However the tenancy agreement issued by London Borough of Lewisham allows a contractual right to succession for a 'qualifying family member', even where a tenancy has been issued after 01 April 2012. For this purpose we define a family member as set out in the definitions as listed here.
- 3.7 If the qualifying family member is a minor, an adult will have to hold the legal tenancy in trust until the minor reaches the age of 18.
- 3.8 Where an occupier has been living with a tenant but has no statutory or contractual basis for a succession, Lewisham Homes has no jurisdiction to grant succession on a discretionary basis. All such applicants will be referred to London Borough of Lewisham to consider in line with their Allocations policy.
- 3.9 Where the tenancy is in an introductory or demoted state at the time of the tenant's death, the tenancy will continue in the introductory or demoted state until the required remaining period is satisfactorily completed by any successor to the tenancy.
- 3.10 Where a person qualifies to succeed, they may still be required to move from the property. We may seek possession under the following grounds of Schedule 2, Housing Act 1985 if suitable alternative accommodation is made available to the successor and their household:
- Ground 13 – the property has been specially adapted for a disabled person (adapted premises).
 - Ground 15 – the property is specifically designed for occupation by an elderly person (sheltered housing).

- Ground 15a – the Successor is under-occupying the property and is not the spouse, civil partner or joint tenant. Notice for possession will be served between six and twelve months from the date we became aware of the tenants death.

Note: If the court awards possession and the tenant accepts the offer of alternative accommodation, where the London Borough of Lewisham remains the landlord, the tenant is still a successor in the new property.

- 3.11 If more than one person makes an application to succeed and would qualify, the parties must decide between them who should succeed to the tenancy. Where they fail to reach an agreement Lewisham Homes will make a decision as to who will be the successor.
- 3.12 The deceased tenant's rent account continues to run until the tenancy ends. If there is a statutory succession, the tenancy will not end. The successor will be responsible for the rent from the Monday following the tenant's death.
- 3.13 If there is no successor, the tenancy will end either on expiry of a Notice to Quit (NTQ) or when the tenancy is brought to an end by the tenant's representatives. If there is no one eligible to succeed, anyone left in the property after the expiry of the NTQ will be liable for use and occupation charges until we recover the property.

4. Definitions

4.1 This explains what we mean when we use the following terms in this document:

Statutory right to succession - The process by which a secure tenancy is passed to another person on the death of the original tenant, as set out in law. There can be only one statutory succession to a secure tenancy and certain conditions must be met.

Contractual right to succession – This is a right given through the tenancy agreement rather than by statute. Where a succession occurs as a result of rights provided for in the tenancy agreement it will operate as a statutory succession, and there will be no further rights of succession.

Survivorship - Where there is a joint tenancy and one of the tenants dies, the remaining tenant will succeed under the common law rules of 'survivorship'. There cannot be a further succession as, while this is not a statutory succession, it counts as such when determining if there is any further right to succeed to a tenancy.

Spouse or civil partner – This includes a cohabitee who was living with the tenant at the property as if they were their husband, wife or civil partner at the time of the tenants death.

Qualifying member of the family – Family members (as defined in the Housing Act 1985), other than the spouse or civil partner. Includes child, parent, grandchild, grandparent, sibling, aunt, uncle, niece, nephew, step-relation or half-relation. Must have been residing with the tenant at the time of their death and for at least twelve months prior to this. This is a right set out in law for secure tenancies which started prior to 01/04/12.

5. Monitoring and controls

- 5.1 We will implement this policy through our succession procedure and in conjunction with the London Borough of Lewisham's Allocations scheme. We will monitor the implementation to ensure that the policy is applied and administered correctly.

6. Legislation and regulation

6.1 Legislation affecting this policy includes:

- Housing Act 1985
- Housing Act 1996
- Localism Act 2011
- Matrimonial Causes Act 1973
- Matrimonial and Family Proceedings Act 1984
- Children Act 1989
- Family Law Act 1996
- Civil Partnership Act 2004
- Marriage Same Sex Couples Act 2013

7. Equality, diversity and inclusion

- 7.1 As part of the development of this policy, we checked that we were able to meet our duties under the Equality Act 2010.

8. Communication and consultation

- 8.1 We will acknowledge all applications and subsequent correspondence relating to the case within five working days. Where we need more information we will request this clearly and promptly, and in line with any legal requirements.
- 8.2 We aim to make a decision within 28 working days of an application to succeed being made, although this is subject to adequate information being provided to allow us to make a decision. Once we have made a decision we will inform the applicant within five working days whether or not their application has been successful.
- 8.3 Complaints regarding the application or handling of this policy will be managed in accord with our complaints policy.
- 8.4 This policy has been written in line with the current tenancy agreement, which we administer on behalf of the London Borough of Lewisham, and which was subject to consultation.
- 8.5 This policy will be available through our website. A hard copy can be made available on request.



Succession policy

Programmed review of existing policy and procedure (27/04/22 updated point 3.3 to reemphasise timeframe for qualifying family members as per definitions)	
Date approved: August 2020	Effective date: August 2020
Next review: August 2025	
Approved by: Executive Leadership Team	
Policy owner: Head of Housing and Communities	