

# Succession Policy



Approved by Management Committee: January 09

Date of next Review: January

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## **1 Introduction**

- 1.1 The purpose of this policy is to outline how Easthall Park Housing Co-operative manage succession rights as set out in Schedule 3 of the Housing (Scotland) Act 2001.

## **2 Equal Opportunities**

- 2.1 Easthall Park Housing Co-operative is committed to equal opportunities for all sections of the community. Accordingly, no person will be discriminated against during the implementation of this policy on the grounds of sex, marital status, family circumstances, race, ethnic or national origins, disability, age, religion, political or sexual orientation.
- 2.2 In this context, the policy can be made available in a variety of different formats including large print, alternative languages and audiotape.

## **3 The Law**

- 3.1 The Housing (Scotland) Act 2001 provides for succession to tenancy by certain individuals in the event of the tenants death. The law states: *“on the death of a tenant under a Scottish Secure Tenancy, the tenancy passes by operation of law to a qualified person”*. Section 22 and Schedule 3 of the Act provides three levels of priority in determining who should succeed to a tenancy.

### **3.2 Level 1**

In the first instance, succession passes to:

- The tenants spouse
- The tenants partner or same sex partner (the 2001 Act states that the partner should have resided in the house as their only or principal home for the six months ending in the tenants death)
- A surviving joint tenant (in the case of a joint tenant)

### **3.2 Level 2**

If there is no one who meets the above criteria or the tenancy is declined by the qualifying person then the tenancy passes to:

- A member of the tenants family aged at least 16 years of age (at the date of date) where the house was the persons only or principal home at the time of the tenants death.

### **3.3 Level 3**

If there is no one who meets the above criteria or the tenancy is declined by the qualifying person then the tenancy passes to:

- A carer providing, or who has provided, care for the tenant or a member of the tenant's family where:
- The carer is aged at least 16 years (at the date of death); and
- The house was the carers only or principal home at the time of the tenants death; and
- The care had a previous only or principal home which was given up \*

*\* the carer should have given up their previous only or principal home before the death of the deceased tenant.*

3.4 All successors have to become shareholders of the Co-operative.

3.5 The law states where two previous successions have been granted the tenancy terminates (unless a joint tenant remains). The Co-operative however is prepared to extend the right of succession beyond the second round of succession to applicants who would otherwise succeed.

#### **4 Houses with Adaptations**

4.1 If the house has been adapted for special needs, then only the following qualifying persons may succeed to the tenancy:

- The tenants husband or wife, partner or same-sex partner, joint tenant; or
- A qualifying person with special needs requiring accommodation of the kind provided by the tenancy

4.2 Any other person who would have otherwise qualified had it not been for the fact that the house had been adapted, must be provided with suitable alternative accommodation by the Co-operative.

#### **5 Disputes**

5.1 When there is more than one qualified successor in Level 1, then the parties must decide between them who is to succeed within 4 weeks of the death of tenant.

5.2 Where the parties cannot agree, Easthall Park Housing Co-operative, as the landlord, can intervene and take the decision.

5.3 The same principles apply where there are multiple qualifying occupiers at Level 2 and 3 above.

## **6 Declining an Offer of Succession**

A qualified person who is entitled to succeed to the tenancy but does not wish to do so must inform the Co-operative in writing within 28 days of the tenant's death.

A qualified person who declines an offer of succession must vacate the house within three months of notifying the Council of their decision. The qualified person is responsible for paying the rent from the start of the rental period following the tenant's death until the end of the period they leave the property.

## **7 Termination of Tenancy**

7.1 Where no one qualifies to succeed to the tenancy, the Co-operative will regard the tenancy as terminated on the date of the tenants' death and administer the property in line with the void management policy.

## **8 Right to Review**

8.1 Where a decision is made on succession – including who is/is not a qualifying person(s) entitled to succeed the tenancy – there is a right to review which the aggrieved party may invoke. An application for review must be submitted within 28 days of the original decision being notified.

## **9 Committee Reporting**

9.1 The number of successions granted and refused will be reported to Committee on a quarterly basis, as part of the Co-operative's Allocations report.