

1. This policy sets out our approach to dealing with claims for succession following the death of a tenant. Our aim is to ensure that claims are treated fairly and decisions made, and actions taken, in a timely manner. This policy applies to all social and affordable rent tenancies.

## The Guinness Policy

2. Our policy is that:
  - we will comply with statutory, regulatory and contractual requirements, including the terms of tenancy agreements, when dealing with claims for succession
  - we will accept claims for succession provided that they are made within three months of the tenant's death or as prescribed by our various tenancy agreements
  - we will investigate the application and provide a response as soon as is practicable
  - we will, entirely at our own discretion, consider offering licenses and/or tenancies to applicants whose claim for succession has been refused.

## Background

3. In most cases what we do is prescribed by law or the terms of the tenancy agreement. Tenants have a range of statutory and contractual succession rights which vary according to the type of tenancy and the variations to our standard tenancy agreements. Accordingly, claims for succession and the decisions we make will be in compliance with relevant statutes, existing agreements and any accrued rights.

## Further detail

4. We will deal with succession claims with sensitivity given that it is at a time of grief and loss for the family or household involved. Each claim will be investigated thoroughly. We will apply the principles of our Allocations Policy, and ensure that we meet our statutory and contractual obligations as laid out in our tenancy agreements.
5. Applicants will be required to provide evidence to support their claim for succession (for instance proof of their relationship with the deceased; proof of residence and the period of residence, if required; the death certificate).
6. We will inform the applicant if their application is unsuccessful as soon as possible following the decision. We will explain the reasons for refusing the claim. Where appropriate, we will provide reasonable support and guidance to enable the unsuccessful applicant to source other housing options.
7. Where we receive more than one claim for succession to the same tenancy, we will request that the potential successors decide among themselves who should be the successor. If the potential successors cannot decide, we will make a decision based on criteria outlined in the Allocations policy and our succession procedure. This decision will be final and no appeal will be considered.
8. Where either, a contractual 'succession' or the creation of a discretionary tenancy 'in lieu of succession' is to take place, applicants will be required to sign a new tenancy agreement which may or may not be on the same terms as the deceased's tenancy.

9. Where a contractual or discretionary tenancy 'in lieu of succession' has been approved, but where the existing property does not meet the new tenants' housing need, we will seek to offer them a property which we deem to be appropriate to their needs. Until the point where a new property has been found on which to offer the tenancy, we will grant the 'tenant' a license to occupy the existing property.
10. Where a statutory succession will take place but where the deceased's property does not meet the new tenant's needs we will seek to offer them a property which we deem to be more appropriate.
11. We will serve the appropriate notice on the Public Trustee's Office to end a tenancy should the tenant die without any immediately identifiable potential successors. At the same time we will also serve a notice on the personal representatives, this will be served at the deceased's property.
12. Where we feel it is necessary and where a breach of tenancy has occurred, we will serve a Notice to Quit and a further notice under s.146 of the Law of Property Act 1925, to the personal representatives of the deceased tenant (if they are known to us) and on the Public Trustee's Office. This will bring the tenancy to an end and thereby preclude any discretionary succession.
13. We will provide successors under the age of 18 years with an "Agreement for Tenancy" until they turn 18. Thereafter, the legal interest will pass to them automatically.
14. Where we are permitted by law, we will reserve the right to refuse a claim for succession in relation to a particular property in the following circumstances:
  - where the property has been adapted for special use for which the potential successor does not have a specific need
  - where the potential successor remains in a property which has been developed for a specific client group, for example, homes for older people, and they are not in that client group.
15. In the case of assured shorthold fixed term tenancies we will, at our discretion, offer the successor the remainder of the existing tenancy. At the end of the fixed term period the successor will be subject to the standard tenancy review process for fixed term tenancies.

### **Period of review**

16. Our review programme is driven by service improvement initiatives, changes to legislation, regulation, evolving good practice or feedback from customers and other key stakeholders. Typically we review policies on a three yearly cycle.

### **Key legal and regulatory references**

- Law of Property Act 1925
- Housing Act 1985
- Housing Act 1988
- Housing Act 1996
- Civil Partnership Act 2004
- Localism Act 2011
- Immigration Act 2016
- Regulatory Framework for Social Housing, with particular reference to the Tenancy Standard, April 2012.

**Related policies**

- Allocations policy
- Mutual exchange policy
- Tenancy policy
- Tenancies for minors policy

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<b>Policy owner</b>	Sarah Thomas. Executive Director of Customer Services	
<b>Version history</b>		
<b>Version number</b>	<b>Review trigger</b>	<b>Brief description of the main changes</b>
2.0	Cyclical review	Redrafting following a cyclical review of the policy.

## Annex 1: Definitions

Term	Description
Contractual Succession	Rights granted to some people in accordance with the terms of the deceased's tenancy agreement, rather than by statute. In this situation, we will issue a new tenancy, in accordance with our Tenancy policy. The new tenant will not be a successor so they will have a further right of statutory succession when they die.
Death Certificate	The official record of death. Death certificates are issued by the Probate registry.  We will accept photocopies and/or photographs emailed via a smartphone or scanned copies emailed of a death certificate for administrative purposes.
Discretionary tenancy (in lieu of succession)	Often referred to as a 'Discretionary Succession'. We will consider granting discretionary tenancy in lieu of succession where a family member or household member or carer does not have a statutory or contractual right to succeed to a tenancy. We will treat each case on its merits, measured against a strict set of criteria.
Statutory Succession	Legal rights established under Acts of Parliament for a single instance of succession. Following a statutory succession under the Housing Acts 1985, 1988 and 1996 and the Localism Act 2011, the successor succeeds to the existing tenancy. A new tenancy agreement is not issued.
Succession	The act of succeeding, assuming or taking over a tenancy from the estate of a deceased tenant subject to statutory restrictions.
Survivorship	When a joint tenant dies the other tenant becomes the sole tenant not by succession but by "survivorship" (i.e. he or she was already a joint tenant and becomes a sole tenant simply by having survived the other joint tenant). This is not a succession but the surviving sole tenant is treated as a successor.
Tenant	A person who occupies land or property rented from Guinness and whose occupation is supported by a tenancy agreement.