
Succession Policy



February 2026 | This policy relates to Elmbridge Borough Council Residential Properties



Elmbridge
Borough Council

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1. Scope

This policy explains how we manage tenancy succession when a tenant passes away.

This policy applies to all tenants who have a Secure Tenancy or a Flexible Tenancy with us and any members of their household applying for succession.

2. Aims of this Policy

We aim to ensure that succession applications are dealt with consistently, fairly, and in accordance with legislation.

Our specific objectives are to:

- Make best use of our limited number of homes and to offer tenancies that best match the needs of individual households.
- Provide our managing agent, staff, and tenants with a clear framework for managing and determining successions to tenancies.
- Set out the statutory rights available to succeed to a tenancy when a tenant passes away.

3. Statutory Rights

It is possible for a resident spouse, civil partner or cohabitee to apply for the right to succeed to the tenancy of a deceased tenant. Succession is the passing of a secure or Flexible tenancy to another person on the death of the tenant. The person who takes on the tenancy is called a 'successor'.

The rules governing succession depend on when the tenancy began. For tenancies granted before 1 April 2012, the Housing Act 1985 applies, allowing succession to the tenant's spouse or civil partner, or to another family member who lived with the tenant for at least twelve months prior to their death. For tenancies granted on or after 1 April 2012, the Localism Act 2011 applies, limiting succession rights to the tenant's spouse or civil partner, including someone living with the tenant as if they were married or in a civil partnership.

4. Types of Succession

The 4 types of succession are:

- Survivorship is where a joint tenant passes away, and the tenancy continues in the surviving tenant's name. The remaining joint tenant or 'survivor' is a successor and therefore no further succession rights exist.
- Statutory succession is a legal right giving successors the right to succeed a tenancy on the death of a tenant. Legislation provides for one statutory succession only, this includes survivorship, as above.
- Contractual succession is where the tenancy agreement provides additional rights of succession, without needing consent or permission. Elmbridge Borough Council do not include contractual rights of succession within their tenancy agreements.

5. Dealing with Succession Claims

Succession claims are managed by our managing agent, on our behalf and in accordance with this policy. We will handle succession claims with care and sensitivity at a time of grief for family members and try to ascertain eligibility as soon as possible. The council will have consideration for the Equality Act 2010 and the Human Rights Act 1998.

Statutory succession rights apply only to secure and flexible five-year tenancies. A non-secure tenant or licensee has no succession rights.

Once it has been established whether legal rights to succession apply, we will notify you of the decision as quickly as possible.

In the case of joint tenancy and 'survivorship', the tenancy is automatically succeeded by the remaining joint tenant, and a new tenancy agreement is not issued. If the remaining tenant remarries, their new spouse or civil partner has no right to succeed the tenancy.

In the case of a sole tenancy, the following persons are eligible to succeed. The following order of priority applies:

- The deceased tenant's spouse or civil partner
- A partner or cohabitee living with the deceased as their spouse or civil partner

A spouse or civil partner is eligible to succeed to the tenancy provided they were in occupation at the date of the tenant's death.

Only one person can succeed to the tenancy, and we will not allow joint successors. Where we receive more than one claim for succession and where the potential successors are unable to decide amongst themselves, we will decide based on the relationship with the deceased tenant, their housing need, and whether there are any dependents.

A succession to a flexible five-year tenancy is only for the remainder of the current fixed term. After which, the tenancy will be reviewed in accordance with our flexible tenancy review procedure.

Where statutory succession applies, a new tenancy agreement will not be issued as the successor succeeds to the existing tenancy with the same rights and obligations that existed at the time of the tenant's death.

We will investigate each claim for succession thoroughly and ask you to provide evidence and documents in support of your claim such as:

- Confirmation of identity
- Household composition
- Death certificate of deceased tenant
- Proof of relationship to deceased tenant
- Proof of residency and length of residency
- Immigration status
- Interests in other property

If there is a suspicion of tenancy fraud taking place, we will refuse the succession claim and investigate.

If no claim for succession is received, the tenancy is vested in the deceased tenant's estate, and we will follow the process within our death of a tenant procedure.

6. Rent Arrears and Succession

Where succession takes place through survivorship, the remaining joint tenant is liable for any rent arrears or associated recharges and sundry debts.

They are also entitled to any credit that may exist on the account.

Where a tenancy passes by statutory succession, the successor is not liable for rent arrears that may be owed by the deceased. However, if there is a possession order in force at the time of death, the successor will be at risk of eviction if they do not comply with the terms of the order.

Liability for rent arrears on the death of a tenant will pass to the deceased tenant's estate.

7. Under Occupation and Succession

A spouse or civil partner has the legal right to succeed to the tenancy whether they are under-occupying the property or not.

8. Disputed Succession

Where we believe that there is no legal right to succession, we will commence legal proceedings to obtain possession and will consider the failed successor to be an unauthorised occupier.

We will notify you that there is no right to succeed the tenancy and will inform you, along with the deceased's representative, of our intention to seek possession. We will issue a Notice to Quit on the deceased's personal representative as well as on the Public Trustee.

On expiry of the Notice to Quit, a use and occupation account will be set up in the name of the unauthorised occupant/s to enable payment of weekly charges until the property is recovered.

Where legal action is taken, we will pursue a money judgement order for outstanding

use and occupation charges as well as court costs.

Where an occupant is found not to have the right to succeed the tenancy, they will be signposted to the council's homelessness prevention and advice team for support regarding their housing options. Support to access this service will be provided where required, or the occupant will be signposted to appropriate support agencies to assist them in securing alternative accommodation.

9. Review of Decision and Complaints

Any succession applicant who is not satisfied with the way we have dealt with the service they have received regarding succession has the right to have their case investigated.

Should you wish to make a complaint, please follow the procedure as detailed in our complaints policy.

10. Reasonable Adjustments

If you have a disability, health condition, or other need that affects how you access our services, we'll make reasonable adjustments to support you. This could include providing information in alternative formats, using your preferred communication method, or allowing extra time to respond.

Please let us know as early as possible if you need any adjustments—we're here to help.

11. Policy Review

This policy will be reviewed every two years or sooner if laws, regulations, or best practice change.