Draft Succession and Assignment Policy

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1. Introduction

This policy sets out the Council's approach to the administration of tenancy successions, assignments, and the granting of discretionary tenancies for secure and introductory tenants.

This policy explains the different types of tenancy transfers that can be undertaken through survivorship, succession and assignments and their eligibility criteria.

This policy is aligned with Brent council's Allocations Scheme and supports effective management of the council's housing stock.

2. Scope

This policy applies to secure tenancies granted by Brent Council. It applies to introductory tenancies only where explicit reference is made to discretionary decisions under the council's Allocations Scheme.

The policy does not apply to non-secure tenancies, temporary accommodation, private sector leased properties, service tenancies, or licences issued by the Council, none of which carry rights to succession or assignment under the Housing Act 1985.

3. Definitions

Succession

A succession occurs when a sole tenant dies and another household member may be entitled to take over ("succeed to") the tenancy under statute or may be considered for a discretionary tenancy.

Survivorship
Survivorship is the transfer of a tenancy to the surviving joint tenant when the other joint tenant dies.

Assignment
Assignment is the legal transfer of a tenancy whilst a tenant is alive. It includes assignments by:

- mutual exchange
- court order
- assignment to someone who has a statutory right to succeed

4. Qualified Persons

A secure tenancy can only be succeeded to once, unless otherwise provided by legislation applying at the time the tenancy was granted.

Under s.87 of the Housing Act 1985, a tenancy that started before April 2012 can be succeeded by the deceased tenants:

- husband/wife
- civil partner
- unmarried heterosexual partner
- same-sex partner
- Relatives (parents, grandparents, children, grandchildren, siblings, uncles, aunts, nephews and nieces)

In cases where a spouse or civil partner succeeds a tenancy, they must have occupied the property as their sole and principal home at the time of the tenant's death.

In cases where the qualified person is not a spouse or partner, they must have occupied the property as their sole and principal home at the time of the tenant's death; and resided with the tenant for at least 12 months prior to the tenant's death.

Under s.86A of the Housing Act 1985 and s.160 of the Localism Act 2011, only the following can succeed a tenancy that started on or after April 2012:

- Spouse
- Civil Partner
- Partner
- Joint Tenants

Family members under the age of 18 can succeed to a tenancy. In such cases, a trustee would need to be agreed to hold the tenancy in trust for the child.

For tenancies starting on or after April 2012 the qualified person must have occupied the property as their sole and principal home at the time of the tenant's death.

5. Succession Policy

Approval of succession claims are subject to the submission of sufficient evidence. The evidence must demonstrate that the applicant is a qualified person under the relevant legislation, as set out in this policy.

Any rent arrears owed by the deceased tenant will **not** transfer to a successor, who is only liable for rent from the date the tenancy is formally transferred to them; arrears accrued before that point remain the responsibility of the deceased tenant. A tenancy may only be succeeded **once,** and where the deceased tenant was already a successor, no further statutory succession is permitted. However, in more complex situations, such as where a possession order is already in place at the time of the tenant's death, the standard rules may operate differently. In these cases, the possession order may remain enforceable, and although the successor does not inherit the deceased's arrears, they may nonetheless assume responsibility for complying with the conditions of the order if the tenancy is transferred to them. Each succession request must therefore be assessed on its individual circumstances, taking into account statutory rights, council policy, and the status of any ongoing court action.

5.1 **Applying for a Succession**

If eligible to succeed to a tenancy, the applicant must complete a 'request for succession' application form and provide evidence of eligibility. This includes providing proof of the relationship to the deceased and living at the home.

A copy of the form can be requested online at: www.brent.gov.uk/MyAccount, through your local Area Tenancy Manager by email at housingmanagement@brent.gov.uk or by calling 020 8937 2400.

An applicant may also be asked to attend an interview. The Council acknowledges the loss of a family member is distressing and will seek to ensure any interviews are only held if necessary. Failure to attend an interview may result in an application being refused.

Whilst a decision is considered, the applicant will be responsible for paying use and occupation charges at the property. If you do not make payments and fall into arrears, we will end our assessment, and you will need to leave the property as soon as possible.

The Council will write to the applicant to confirm the outcome of their application. If successful, the applicant will be contacted to make arrangements to grant a new tenancy and set up their rent account. The tenancy will be backdated to the date immediately after the tenant's death. If unsuccessful, the council will serve a Notice to Quit and any remaining household members will be required to leave the property.

5.2 **Verifying the application**

A Housing Officer will contact other organisations and agencies, and teams within the Council to confirm any of the information provided. This may include the Department of Work and Pensions (DWP) and our Council Tax and Benefits Team.

The Housing Management service also works with colleagues in the council's Counter Fraud and Intelligence service to verify the submissions of evidence to confirm qualified persons for succession, and potentially fraudulent claims.

Tenancy successions are verified by Counter Fraud and Investigations to ensure that only those with a legitimate legal right to take over a property are granted the tenancy. This helps protect valuable social housing stock from being claimed through false statements, forged documents, or unlawful occupation. By confirming residency, relationship status and eligibility, the fraud team prevents misuse of homes, supports fair allocation to those in genuine need, and safeguards the organisation from financial loss and reputational risk.

5.3 **Moving to a smaller property**

If you are the spouse or civil partner of the deceased tenant, you are entitled to stay in your current home, and we will update the details of your tenancy. However, if you are another family member you may need to move to a smaller property if the property has more bedrooms than you need. Your housing officer will tell you this when your request to succeed is approved. When deciding your housing need, we will not be able to consider other people, including children, who may visit or stay temporarily at the property. If you have to move, we will offer you a home that meets your needs.

5.4 **Moving out of an adapted property**

If your home has been adapted for a disabled person and no one in your household now requires these adaptations, the council will help you move to a more suitable property.

5.5 **Successions granted outside of the framework**

Within this policy is the provision to award discretionary tenancies in certain circumstances in line with our allocations scheme. To be considered for a discretionary tenancy you must have lived with the deceased tenant as your main and principal home for at least 20 years. The council may also grant discretionary tenancies in extraordinary situations that fall outside of the allocations scheme.

For the full criteria, please refer to the council's allocations scheme.

6. Survivorship

Where a tenancy is held jointly, survivorship rules mean the surviving joint tenant automatically becomes the sole tenant when the other joint tenant passed away. Upon survivorship, the surviving tenant assumes full responsibility for the tenancy, including rent payments and fulfilment of tenancy agreement conditions.

7. Tenancy Assignments

If you are a secure tenant, you have the right to assign your tenancy to somebody who would be entitled to succeed to it when you die.

The right to assign your home depends on your relationship to the person you wish to pass the tenancy on to.

7.1 General rules

Assignments are permitted only where:

- required by a court order
- part of a mutual exchange
- the assignee would be entitled to statutory succession if the tenant had died at that time

The tenant must apply in writing, and the Council will require proof of residence and household composition before making a decision.

7.2 Eligibility for a Tenancy Assignment

To be eligible for an assignment you must be the original tenant. If you succeeded or took over your tenancy you will likely be ineligible to pass on your tenancy again.

The person (“the assignee”) who you wish to pass your tenancy onto must also be able to inherit your tenancy if you died. The process follows the same qualified persons criteria set out in section 5 of this policy.

If you wish to assign your tenancy, you must not have rent arrears on your account. Exceptional cases where there is a clear commitment to pay the owed arrears will be considered on a case-by-case basis.

You may not be able to pass on your tenancy if you have a court order against you, or if you have caused Anti-Social behaviour or harassment.

You cannot assign your tenancy if you are in the process of buying your home, moving to another Brent Council property, or doing a mutual exchange in any form.

7.3 Applying to assign your tenancy

To apply to assign your tenancy to someone else you will need to provide the following supporting documents to the Housing Management Service:

- Completed assign a tenancy form
- Proof of your and the assignee’s identity
- Proof of your and the assignee’s relationship
- Deed of Assignment

A tenancy can only be assigned with the approval of Brent Council. Please contact your housing officer for further information.

7.4 Unauthorised Assignments

If you leave your home without intending to return before a Deed of Assignment is completed, you will lose security of tenure. The Housing Management Service will deem the person(s) who have moved in as an unauthorised occupier and legal action will be taken to repossess the property.

Whilst the property is being recovered the unauthorised occupier will be charged for use and occupation.

7.5 **Assignments under duress**

In circumstances where individuals are completing assignments under duress, the council has provision in place to refuse them if we think that a tenant is at risk of being exploited by family members.

7.6 **Decision-making and timescales**

Applicants must return supporting documents within 28 days – if documents are not received within this timeframe, the council will not continue with the application.

Failure to provide supporting documents within this timeframe may result in the application being closed. All decisions will be communicated in writing.

8. Appeals and Complaints

Applicants can submit a written appeal if the Council has refused their claim for succession, or an application for assignment. The council will respond to all complaints in a prompt and timely manner.

Appeals can be submitted through the applicant's local Area Tenancy Manager or the Brent Housing Management Team by email: Housingmanagement@brent.gov.uk

Applicants can also submit complaints through the following methods:

- by calling the Housing Contact Centre on 020 8937 2400
- in person at the Civic Centre or Brent Hubs
- by speaking to your Area Tenancy Manager
- by emailing housingmanagement@brent.gov.uk
- through SignVideo (for BSL users)

9. Equity, Diversity and Inclusion Statement

The policy aims to ensure that all cases covered by this policy are treated consistently and fairly, regardless of age, disability, gender re-assignment, race, religion, belief, sex, sexual orientation, marriage and civil partnership, pregnancy and maternity, care experience, socio-economic status and other relevant characteristics such as carer status or immigration status. The Council is committed to ensuring that residents are treated as individuals, with dignity, fairness and respect, and that responses take account of cultural implications and barriers.

Where appropriate, officers will take steps to remove barriers that may disadvantage particular groups, for example, by: offering alternative formats or communication methods; considering impacts on people with disabilities or long-term health conditions; responding sensitively to bereavement, trauma or vulnerability; taking cultural factors into account when verifying household composition or caring arrangements. Where an applicant is experiencing, or at risk of, domestic abuse, financial abuse, coercion, or any form of exploitation, the Council will prioritise safety and safeguarding in its interactions and decisions.

10. Relationship with Other Policies

This policy should be read in conjunction with:

- the Allocations Scheme
- Tenancy Management Policy
- Rent Arrears and Income Collection Policy
- Safeguarding Policies
- Equality and Diversity Policies

11. Statutory Framework

This policy is based on the following legislation:

- Housing Act 1985
- Housing Act 1988
- 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
- Domestic Abuse Act 2021

12. Monitoring and Review

This policy will be reviewed every four years, or sooner if there are significant changes in legislation, regulations, or operational requirements that impact the assignment of tenancy or succession process.