

## SUCCESSION TO TENANCY POLICY

### 1. Introduction

The Housing (Scotland) Act 2001 provides a right to two rounds of succession for Scottish Secure Tenancies. Ayrshire Housing (the “organisation”) will ensure that applications for succession to tenancies are dealt with in accordance with the terms of the Housing (Scotland) Act 2001.

The Housing (Scotland) Act 2014 introduces changes to the eligibility criteria for persons who wish to succeed to a Scottish Secure Tenancy. Ayrshire Housing (the “association”) will ensure that applications for succession to tenancies are dealt with in accordance with the terms of the Housing (Scotland) Act 2014. These eligibility changes are detailed in this policy and take effect from 1 November 2019.

**Definition of Succession** – When a tenancy is passed to another household member resident in the house at the time of the tenant’s death, this is called a “succession”.

**Limits on Succession** – The association will permit succession to a tenancy on two occasions. If there has been two successions already the third death will normally end in the tenancy being terminated unless there is a surviving joint-tenant whose Scottish Secure Tenancy will continue.

If there is still a person remaining in the house who would otherwise have qualified to succeed to the tenancy if it had not already been succeeded to on two occasions, the association may consider an application for the tenancy on a discretionary basis or may consider offering alternative accommodation. This would not be a “succession” but would be a new tenancy requiring a new Scottish Secure Tenancy Agreement to be signed.

### 2. Current Position

#### Order of Priority

2.1. For each round of succession there are three levels of priority that will be applied:

#### **Level One – Spouses, Co-habitants, Partners, Joint Tenants**

- The first priority goes to the surviving spouse, co-habitee/partner of either sex or joint tenant.

- For the tenant's spouse or joint tenant there is no qualifying period for the right to succeed to the tenancy providing that the property was the person's only or principal home at the time of the tenant's death.
- In the case of a co-habitee/partner of either sex the house must have been the person's only or principal home for at least 6 months prior to the tenant's death.

#### **Level Two – Other Members of the Tenant's Family**

- If nobody qualifies or chooses to succeed from the first group the second level of priority goes to a member of the tenant's family over 16 years of age, providing the house was their only or principal home at the time of the tenant's death.

#### **Level Three - Carers**

- If nobody qualifies or chooses to succeed from either the first or second groups the third level of priority goes to a carer providing, or who has provided, care for the tenant or a member of the tenant's family. The carer must be at least 16 years of age, the house was the carer's only or principal home at the time of the tenant's death and the carer had given up their only or principal home to care for the tenant or a member of the tenant's family.

- 2.2. If there is more than one qualifying person within each level of priority they may decide themselves who should succeed to the tenancy. If they cannot agree the association will decide.

### **3. Houses Designed or Adapted for Special Needs**

- 3.1. If the house has been designed or adapted for someone with special needs and there is no-one in the first priority group eligible to succeed to the tenancy, succession will be granted to family members or carers only where the family member or carer has special needs requiring accommodation of the kind provided by the house.
- 3.2. Family members or carers who would have been eligible to succeed but for the requirements outlined in paragraph **3.1** will be offered other suitable accommodation.

#### **4. Position from 1 November 2019**

4.1. For each round of succession there are three levels of priority that will be applied:

##### **Level One - Spouses, Co-habitants, Partners, Joint Tenants**

- The first priority goes to the surviving spouse, co-habitee, civil partner of either sex (including same sex) or joint tenant.
- For the tenant's spouse, civil partner or joint tenant there is no qualifying period for the right to succeed to the tenancy providing that the property was the person's only or principal home at the time of the tenant's death.
- In the case of a co-habitee or partner (different from civil partner), the house must have been their only or principal home for at least 12 months prior to the tenant's death.
- The 12 month period only begins when the association has been notified in writing that the person wishing to succeed is residing in the property and the association has consented to this.

##### **Level Two - Other Members of Tenant's Family**

- If nobody qualifies or chooses to succeed from the first group the second level of priority goes to a member of the tenant's family over 16 years of age and the house was their only or principal home at the time of the tenant's death.
- The house must have been the person's only or principal home for at least 12 months prior to the tenant's death.
- The 12 months period only begins from when the association has been notified in writing that the person wishing to succeed is residing in the property.

##### **Level Three - Carers**

- If nobody qualifies or chooses to succeed from either the first or second groups the third level of priority goes to a carer providing, or who has provided, care for the tenant or a member of the tenant's family.
- The carer must be at least 16 years of age at the date of the tenant's death.

- The house was the carer's only or principal home at the time of the tenant's death and had been for a period of at least 12 months prior to the date of the tenant's death.
- The carer had given up their only or principal home to care for the tenant or a member of the tenant's family.
- The 12 months period only begins from when the association has been notified in writing that the person wishing to succeed is residing in the property and the association had consented to the person's residency in the property.

4.2. If there is more than one qualifying person within each level of priority they may decide themselves who should succeed to the tenancy. If they cannot agree the association will decide who will succeed to the tenancy.

## **5. Notifying Landlord of Household Details**

5.1 Along with letters or completed pro-forma the association will accept emails and also online changes to the household details e.g. using the tenants' portal, MyHome, as fulfilling the requirement to "notify in writing".

## **6. Houses Designed or Adapted for Special Needs**

6.1. If the house has been designed or adapted for someone with special needs and there is no-one in the first priority group (Level One) eligible to succeed to the tenancy, succession will be granted to family members or carers only where the family member or carer has special needs requiring accommodation of the kind provided by the house.

6.2. Family members or carers who would have been eligible to succeed but for the requirements outlined in paragraph 6.1 will be offered other suitable alternative accommodation.

## **7. Equality and Diversity**

7.1 Ayrshire Housing is committed to equal and fair treatment of 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. In delivering this policy, Ayrshire Housing's staff will comply fully with the requirements of the association's Equality and Diversity Policy.

## **8. Complaints**

- 8.1 Any individual who is dissatisfied with the service experienced should be encouraged to provide feedback. Complaints regarding the implementation of this policy will be dealt with in accordance with the association's corporate Customer Complaints Policy and associated procedures.