

Succession and Assignment Policy



Directorate: Communities

Issue Date: September 2025

Review Date: September 2028

Version: 6

1. Introduction

- 1.1. This policy outlines how tenancies can be transferred through succession and assignments in conjunction with Salix Homes' succession and assignment procedure. It identifies Salix Homes' approach in relation to all applications for succession and assignment in line with current legislation.
- 1.2. Succession is the process by which a tenancy can be legally transferred to another person on the death of the original tenant. An Assignment is a transfer of the tenancy to another tenant or tenants by deed during the lifetime of the original tenant.

2. Policy Statement

- 2.1. Salix Homes is committed to providing an efficient and effective service to its customers which includes acknowledgement of the rights provided within current legislation and offering relevant advice in relation to this. This policy sets out the aims and principles which will apply in respect to the transfer of tenancy rights through succession and assignment.
- 2.2. The purpose of this policy is to ensure Salix Homes processes all claims for succession and assignment of tenancy in accordance with current legislation and the contractual tenancy agreement.
- 2.3. The policy relates to the following types of tenancy agreement:
 - Assured Shorthold (Starter Tenancies)
 - Assured Non-shorthold
 - Assured Non-Shorthold (Preserved Rights)
- 2.4. The objectives of this policy are:
 - To ensure that all claims for succession and assignment of tenancy comply with current legislation and the tenancy agreement.
 - To ensure that all claims for succession and assignment are treated fairly and efficiently within a given timeframe.
 - To ensure that all involved receive the support, advice and assistance required when submitting a request to succeed to a tenancy.

- To enable those who do not qualify for succession an opportunity to be considered under Salix Homes' left in occupation policy.
- To ensure that Salix Homes' Lettings Policy and Procedure are not open to abuse by individuals taking over properties that they are not entitled to.

3. Definitions

- 3.1. **Statutory Succession** – the legal right of an individual to succeed to that tenancy on the death of the original tenant as outlined in housing legislation: Housing Act 1985, Housing Act 1988, Localism Act 2011.
- 3.2. **Survivorship** – where, on the date of death of the joint tenant, the tenancy continues in the name of the remaining tenant(s) under the common law rules of survivorship. This is often referred to as 'the right of survivorship'
- 3.3. **Assignment** - one of the ways a tenancy can be legally transferred from one person to another during the original tenant's lifetime.
- 3.4. **Spouse** - married partner or civil partner.
- 3.5. **Co-habiting Partner** - a person living with the tenant as if they were married or civil partners
- 3.6. **Family Member** - parent, grandparent, child, grandchild, sibling (including half sibling), uncle, aunt, nephews and nieces, step relations.

4. Policy Detail

4.1. Types of succession

4.1.1. Survivorship

When one joint tenant passes away, the tenancy automatically transfers to the surviving tenant. This process is known as "survivorship." It occurs automatically at the moment of death and does not require any permission. The surviving tenant then becomes the sole tenant. Additionally, the nature of the relationship between the joint tenants does not affect whether the remaining tenant inherits the tenancy through survivorship.

4.1.2. Statutory Succession

Statutory successions are granted by law, there can normally only be one statutory succession during the lifetime of a tenancy, although there are some exceptions for Transferred Assured Tenants which are discussed below.

If the deceased tenant was already a successor in their own right, the tenancy cannot automatically be passed on again to another person. For statutory succession, a previous successor is someone who:

- Became a sole tenant by survivorship, when one of two or more joint tenants has died.
- Gained their tenancy as a right of succession following the death of the previous tenant or under the will or intestacy of the former tenant.
- Had the tenancy assigned to him or her as a potential successor.
- Obtained their tenancy as a result of an exchange of tenancies and they were a successor to the original tenancy.
- Gained their tenancy as a result of a court order relating to matrimonial proceedings and their spouse was a successor.

Transferred Assured Tenants:

Under the Housing Act 1988 a person who gained their tenancy through the statutory succession provisions of the Housing Act 1985 while it was a secure tenancy is not counted as a “successor” if the event occurred during the Council’s ownership. However, a surviving joint tenant who gained their tenancy on the death of a joint tenant is counted as a “successor” regardless of whether the death occurred before or after stock transfer.

However, it is the policy of Salix Homes that Transferred Assured tenants (previously secure tenants who signed assured tenancies following the transfer of stock from Salford City Council to Salix Homes on 23rd March 2015 and have preserved rights) will not have any previous successions counted against them.

Assured Non-Shorthold (Preserved Rights):

Tenants who hold an Assured Non-Shorthold Preserved Rights Tenancy are allowed to pass on their tenancy to:

- Their Spouse, Civil Partner or Co-habiting Partner who was occupying the dwelling as their only or principal home at the time of the tenant’s death.
- Another family member as stipulated in the Housing Act 1985, who has resided with the tenant for at least 12 months prior to the tenant’s death.

Assured Non Shorthold and Assured Shorthold (Starter Tenancies):

Assured Non Shorthold and Assured Shorthold tenants have a statutory right to pass on their tenancy to:

- A surviving Spouse, Civil Partner or Co-habiting Partner who was occupying the dwelling as their only or principal home at the time of death. If it is a starter

tenancy, it will remain a starter tenancy until the end of the starter tenancy period.

4.1.3. Discretionary Succession (New Tenancy Offers)

In certain circumstances, Salix Homes may consider offering a starter tenancy to a person who does not qualify for succession following the death of the tenant. To be eligible for consideration, the applicant must provide evidence that:

- They are a family member living in the property at the time of death; and
- They have continuously lived in the property since the start of the tenancy as their only or principal home.

Or the applicant must:

- have been caring for and living with the tenant as their only or principal home for a minimum of 12 months; and
- have been in receipt of carers' allowance for a minimum of 12 months.

Or the applicant must:

- have accepted and can evidence legal responsibility for the tenant's dependents and needs to live with them; and
- The accommodation must be their only or principal home.

Consideration will be given to Salix Homes' Left in Occupation Policy, Lettings Policy, as well as current homelessness legislation and the code of guidance, when assessing whether an allocation will be made.

Following investigation, a decision will be made as to whether the remaining occupier may be offered an assured shorthold tenancy in their current accommodation or be offered a suitable alternative property. Regard will be given, but not limited to:

- Size and type of property
- The length of time applicant has lived with the deceased tenant.
- Medical circumstances of applicants relevant to their housing
- Eligibility for assistance under Part VII of the Housing Act 1996
- Financial circumstances of applicant

When the tenancy has been terminated and whilst an investigation is being carried out, Salix Homes will set up an account in the name of the remaining occupier to collect payments for the use and occupation of the property, otherwise known as mesne profits. The balance of the use and occupation account must be clear before any subsequent offer of accommodation will be made.

Where a decision is made not to offer a property, possession proceedings will be initiated.

4.2. Multiple claims for succession

If there is more than one qualifying person, the Spouse, Civil Partner or Co-habiting Partner takes precedence but otherwise the qualifying persons must decide on a successor themselves. If they are unable to decide, Salix Homes is entitled to choose the successor, where it has discretion, considering all relevant matters. Otherwise, where there is more than one statutory successor, they must apply to the County Court for a determination. Only one named individual can apply to succeed; there can be no joint succession.

4.3. Inheriting a Tenancy

Inheriting a tenancy is not a legal right in the same way that succession is. In circumstances where a tenancy is left to someone in a will or through probate, we will review the circumstances to ensure that there is no statutory succession that would take precedence, and that the property is suitable for the person's housing needs. Assuming that the property is suitable and there is no statutory succession, Salix Homes will not unreasonably deny the transfer of the tenancy. However, we reserve the right to use Ground 7 of the Housing Act 1998 to take possession of the property if necessary.

4.4. Property type

The succession rules, outlined above, do not differentiate between property types. Where a statutory succession or survivorship has been granted the tenancy automatically transfers to the successor on the death of the tenant. However, there are some circumstances where a property would be much more suitable for other individuals than for the successor.

If the property has more bedrooms than the succeeding tenant is assessed as needing under the Lettings Policy, Salix Homes normally seek to move them to another suitable property to ensure the best use of housing stock. (This does not apply to a surviving joint tenant, Spouse, Civil Partner or Co-habiting Partner).

If the applicant is living in a property that has been adapted for occupation by a physically disabled person, or it is the practice of the landlord to let the property to persons with particular needs (and there is no longer such a person living in the property), then Salix Homes will normally seek to move them to another suitable property.

Any qualifying successors who have been offered an alternative property will be treated as a successor to their new property as far as the law allows.

Where a family member of an assured protected rights tenant (not a Spouse, Civil Partner or Co-habiting Partner):

- qualifies to succeed in a tenancy; and
- under-occupies the accommodation by more than one bedroom.

A Notice of Seeking Possession will be served on Ground 9 of Schedule 2 of the Housing Act 1988. Proceedings will be initiated no sooner than 6 months and no later than 12 months after the death (or notification of the death) unless there are other housing management reasons to depart from this timescale (e.g. rent arrears, ASB, false information). Three suitable offers of alternative accommodation will be made by Salix Homes in the interim period.

We will generally not allow a discretionary succession/offer of new tenancy, where this would lead to under occupation as determined by our Lettings Policy.

4.5. Assignment

An assignment is the formal transfer of a legal interest in land. In a housing context, it is the transfer of an assured tenancy during the lifetime of the tenant.

A tenancy can be assigned as follows:

- Assignment to potential successor
- Assignment in pursuance of a court order
- Mutual Exchange

A tenancy can only be passed on once by succession or assignment to a potential successor. An existing successor will not be permitted to assign a tenancy. In all cases of assignment, the tenancy must be assigned by way of a deed. However, a tenancy can be assigned by way of mutual exchange more than once.

Starter tenants do not have the right to assign their tenancy during the first 12 months of the tenancy or any extension period.

Assured protected rights tenants will have any previous assignment prior to transfer discounted.

Assured tenants will only be permitted to assign their tenancy in certain limited circumstances.

- A court has ordered them to transfer their tenancy to someone else.
- They are exercising their right to exchange with our permission.
- They want to assign their tenancy to someone who would be entitled to succeed as a statutory successor to the tenancy on their death. This can only be done with our permission.

We will take all reasonable steps to ensure that when a request for an assignment is being considered, the person making the request is doing so of their own free will, is aware of the rights they are relinquishing and the responsibilities they are taking on.

Salix Homes can refuse permission to assign the tenancy if:

- The property is adapted for a disabled person or for special needs and the potential assignee is not disabled or does not have those needs.
- The tenant has breached their tenancy.
- The potential assignee would be under occupying the property.

4.6. Rent Arrears

4.6.1. Succession

Where the tenant dies owing rent arrears these do not automatically become the responsibility of the successor, where there is a statutory succession.

If the 'new' tenant was a joint tenant with the deceased, they will be liable for any arrears.

If a tenant dies and their rent account is in arrears at the time of their death and a statutory succession takes place, Salix Homes will set the rent account to zero from the first Monday after the death. From that point onwards, any arrears that accrue are the responsibility of the successor.

Salix Homes will invoice the personal representative for the deceased tenant's rent arrears, which they will have to pay out of the deceased tenant's estate.

As the debt is owed by the deceased tenant's estate, if the statutory successor is also the personal representative and beneficiary of the estate as next of kin, he or she is responsible for paying the arrears out of the estate but this will not be due as "arrears".

4.6.2. Assignment

Salix Homes will not give permission for an assignment where any monies are owed to Salix Homes.

4.7. Minors

Where a minor qualifies to succeed, the tenancy will be held on trust. The minor holds the beneficial interest, and the Trustee holds the legal interest. An equitable tenancy must be signed by the minor and the Trustee. Salix Homes will not act as Trustee as this can cause a conflict of interests. As the Trustee is not automatically responsible for the rent, a Rent Guarantee will be signed either by the Trustee or another adult. Once the minor reaches 18 years of age, a vesting deed will pass the legal interest from the Trustee to the young person.

4.8. Notices & Possession claims

The death of a tenant does not automatically end the tenancy so where there are no statutory succession rights, the tenancy needs to be ended by the servicing of the appropriate notice.

5. Monitoring / Performance / Targets

- 5.1. Any application to succeed to or assign a tenancy will be acknowledged within 3 working days.
- 5.2. A decision to approve, refuse or suspend pending receipt of further information will be made within 20 working days.
- 5.3. Salix Homes' performance against these targets will be monitored by the Housing Managers.

6. Roles / Responsibility

- 6.1. The Director of Communities has overall responsibility for the implementation, application and review of this policy.
- 6.2. Housing Managers and Senior Housing Officers are responsible for ensuring staff involved are trained in the implementation and understanding of the policy and associated procedures. Housing Managers will make decisions on discretionary succession/new tenancy offers following a failed succession application.
- 6.3. Housing Officers are responsible for the day-to-day application of this policy when managing tenancies.
- 6.4. Housing Assistants are responsible for processing of survivorship applications and compiling the evidence and forms for succession applications to be assessed by the Housing Managers and Senior Housing Officers.

7. Legal / Regulatory Links

Document Name: Succession and Assignment Policy
Issue Number: V6
Author: Kate Burns
Owner: Salford South Housing Manager
Page: 8 of 10

Original Issue Date: October-2014
Current Issue Date: September 2025
Revision Date: September 2028
Approval Status: Final
Approved By: SLT

7.1. Salix Homes will comply with current legislation and guidance. Government legislation has been considered when formulating this policy and accompanying procedure. The following Acts and relevant codes of guidance should be considered as a minimum when assessing applications for succession and assignment:

- Localism Act 2011
- Housing Act 1985
- Housing Act 1988
- Housing Act 1996
- Law of Property Act 1925
- Matrimonial Causes Act 1973
- Matrimonial and Family Proceedings Act 1984
- Children Act 1989
- Civil Partnership Act 2004

8. Equality, Diversity and Inclusion

8.1. Salix Homes is committed to promoting and embedding a culture of equality, diversity and inclusion (EDI) within our workplaces and the communities we serve.

- Equality is about ensuring that every individual has an opportunity to make the most of their lives and talents;
- Diversity is recognising difference and responding positively to those differences;
- Inclusion is about creating an environment where our services and employment opportunities are accessible to all.

8.2. We are committed to meeting our obligations and duties under the Equality Act 2010 and to promoting equal opportunities both in the provision of services and in our employment practices. We will consider all the protected characteristics of the Act which are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Race
- Religion or belief
- Sex
- Sexual orientation
- Pregnancy and maternity

8.3. We also recognise that Socio-economic background is an area where inequalities exist and commit to addressing this disadvantage and inequality in our communities where able to do so.

8.4. We are also mindful of our duties under the Public Sector Equality Duty, which is to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between people who share a relevant protected characteristic and people who do not share it.

8.5. Where reasonable to do so, Salix Homes will make any reasonable adjustment to ensure compliance with the Act.

9. Related Documents

- Salix Homes' Succession and Assignment Procedure
- Salix Homes' Succession and Assignment application form
- Salix Homes' Mutual Exchange Policy and Procedure
- Salford City Council's Allocations Policy
- Salix Homes' Lettings Policy and Procedure
- Salix Homes' Left in Occupation Policy and Procedure
- Salix Homes' Tenancy Fraud Policy and Procedure