



SAXON  
WEALD

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## SUCCESSION POLICY

**First Approved: December 2004**      **Author: Les Marjoram**

**Last Revision: May 2020**              **Next Review: May 2023**

### 1.0 Introduction and aim

- 1.1 Succession occurs when a tenant dies and they are survived by someone who has the legal right to take over the tenancy.
- 1.2 The aim of this policy is to clarify who can succeed to a tenancy and how we will approach the process.
- 1.3 Saxon Weald recognises that, because succession can only happen in the event of death, this can be a very difficult time for the household involved. Each case will be dealt with sensitively and compassionately. However, due regard has to be given to both the legal position and to make best use of Saxon Weald's housing stock.

### 2.0 Background

#### Legal requirements:

- 2.1 The legal framework for dealing with succession is contained in the following legislation.
  - **Housing Act 1985** governs the right to succeed in secure tenancies (those granted tenancy before 15 January 1989). It sets out that one statutory succession can be awarded to a surviving spouse (this includes civil partners) or a member of the deceased tenant's family – though a qualifying criteria must be met. Joint tenants are automatically awarded the succession.
  - **Housing Act 1988** governs the right to succeed in assured tenancies (those granted tenancy after 15 January 1989). It sets out that there can only be one statutory succession to an assured tenancy. On the death of an assured tenant their spouse or civil partner can succeed provided that immediately before the death they were occupying the dwelling as their only or principal home.
  - **Civil Partnership Act 2004** formalised the succession rights of civil partners and cohabiting same-sex couples by bringing them on equal footing with those of married and cohabiting heterosexual couples, respectively.

- **Localism Act 2011** inserted new provisions into the Housing Acts 1985 and 1988 which amend the existing succession rights for secure and assured tenancies which were granted after 1 April 2012.

### **3.0 Policy**

#### **3.1 Legal right to succession**

3.1.1 Those legally entitled to succeed to a protected tenancy are:

- The husband, wife or civil partner of the tenant, provided they were living in the property as their only or principal home immediately before the death of the tenant.
- The surviving joint tenant, if it is a joint tenancy. This is known as Survivorship.
- A family member who was living in the property as their only or principal home for the 12 months prior to the tenant's death. (As defined by the Housing Acts.)

3.1.2 Those legally entitled to succeed to an assured tenancy are:

- The husband or wife or civil partner of the tenant, provided they were living in the property as their only or principal home at the time of the death of the tenant.
- The surviving joint tenant, if it is a joint tenancy. This is known as Survivorship.

3.1.3 If someone has a legal right to succeed then they can under-occupy the home. We cannot insist they move to smaller accommodation but we should discuss the options with them to ensure they can sustain the tenancy and to make the best use of our housing stock.

3.1.4 If the property is specialist or supported housing with restricted eligibility criteria, and the successor does not meet the criteria, we will offer them a more suitable property.

3.1.5 Under normal circumstances there can only be one succession to a tenancy. It is important to note that, where a tenancy was originally a joint tenancy and one of the joint tenants dies or assigns their interest, this also counts as a succession, meaning no further statutory successions can occur.

3.1.6 For tenants who transferred from Horsham District Council in December 2000, Saxon Weald agreed to ignore any previous successions that took place prior to the transfer of the housing stock.

## **3.2 Discretionary new tenancy**

3.2.1 Saxon Weald can consider granting a discretionary new tenancy to family members who do not have a legal right to succeed. This may include the family members or carers of assured tenants (provided they have lived at the property for at least 12 months) or in cases where there has already been a succession.

3.2.2 The Housing Manager should meet with the family member and complete the Application for a Discretionary New Tenancy form. This form asks questions about their circumstances and whether they qualify for social housing. Right to rent checks should also be carried out.

3.2.3 We will not grant a discretionary new tenancy where the home does not meet the needs of the applicant. This will be if:

- The home is under-occupied – it's too big;
- The home is over-occupied – it's too small;
- The home is unsuitable and we are unable to reasonably adapt it;
- The home is covered by a local lettings plan and the tenant does not meet the criteria;
- The home is designed for disabled households and the tenant does not need the facilities;
- We plan to redevelop or dispose of the home.

3.2.4 The decision whether to grant a discretionary new tenancy will be made by the Regional Manager. When making the decision to approve or refuse, they will consider:

- How long the applicant has lived at the home (generally we would require at least 12 months);
- Housing need in the area;
- If undue hardship or stress may be caused;
- Suitability of the home;
- Ability to pay the rent and sustain the tenancy;
- Whether they had priority need and would be eligible for re-housing by the local authority under The Homelessness Act 2002.

3.2.5 If the property is larger or smaller than the new tenant would reasonably require, we may offer the tenancy of a home of more appropriate size.

3.2.6 If the property is specialist or supported housing with restricted eligibility criteria, and the successor does not meet the criteria, we may offer them a more suitable property.

3.2.7 If a discretionary new tenancy is agreed we will grant a new starter tenancy.

#### **4.0 Value for money**

- 4.1 We will seek to make best use of housing stock through the succession process by offering succeeding tenants the tenancy of a home that is appropriate for their needs.

#### **5.0 Data protection, information exchange and confidentiality**

- 5.1 All information regarding successions will be dealt with in accordance with General Data Protection Regulations (GDPR).

#### **6.0 Monitoring and review**

- 6.1 The policy will be reviewed every three years in accordance with Saxon Weald's policy review timetable or in the interim period if legislative or regulatory changes require it.

#### **7.0 Equality & diversity**

- 7.1 Equality and diversity affects all aspects of our business and, as such, its principles are integral to everything we do. As a landlord and an employer, Saxon Weald aims to recognise and respond positively to people's differences, while providing equality of opportunity in relation to the services and careers we provide and support.

This means that no person or group of people, either working for Saxon Weald or seeking housing, services, employment or contracts from us, will be treated less favourably because of their or their partner's, family's, friend's or associated person's protected characteristics, which are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race (including colour, nationality, and ethnic or national origin), religion or belief, gender and sexual orientation. This includes individuals either already serving on or applying to join our Board.

<b>Version</b>	<b>Amendment</b>	<b>By</b>	<b>Date</b>
4.0	Sections 3.1 and 3.2 updated	Les Marjoram	March 2017
5.0	Sections 3.1 and 3.2 updated. Section 5 added.	Les Marjoram	April 2020