



Cassiltoun Housing Association

SUCCESSION TO TENANCY POLICY

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Chair Person/Office Bearers Signature:	

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Registered Scottish Charity SC 035544

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1. Introduction

Succession describes the process that takes place when a tenant (the principal tenant) dies the rights and responsibilities of their tenancy pass to a 'qualifying person' under the terms of Schedule 3 of the Housing (Scotland) Act 2001 as amended by the Housing (Scotland) Act 2014.

This Policy outlines Cassiltoun's requirement to accept and consider any application for the assignation of a tenancy as set out in the Housing (Scotland) Act 2001 as amended by the Housing (Scotland) Act 2014.

2. General Principles

2.1 On the death of a tenant the tenancy may pass to a qualified person as described in the Housing (Scotland) Act 2001 as amended in the Housing (Scotland) Act 2014 and in the Scottish Secure Tenancy Agreement. (Succession can only take place on the death of a tenant).

2.1. Consent to succeed a tenancy will only be given by the Association after consideration of the circumstances of qualified person(s).

If there is no qualifying person or the qualifying person does not wish to succeed to the tenancy, the tenancy will be terminated.

2.2. It is the responsibility of the successor to advise the statutory authorities, including Council Tax, Housing Benefit, Department of Works and Pensions (Universal Credit), gas, electricity and telephone suppliers of the death of the tenant and the date of their succession. The Association will provide advice and assistance with this.

3. Eligibility Criteria

The terms under which a Succession to tenancy can occur are set out in Section 7 of the Association's Scottish Secure Tenancy Agreement. The terms are as follows:-

3.1. Level One Successors

The highest level of priority to succeed a tenancy attaches to any person who is the:

- Late tenant's spouse, civil partner, or cohabitee, but only if the house was their only or principal home at the time of the tenant's death;
- Any surviving joint tenant, if the house was their only or principal home at the time of the tenant's death

There is no qualifying period for the tenant's spouse, civil partner or joint tenant.

In the case of a cohabitee, they must have occupied the house as their only or principal home for at least 12 months immediately prior to the death of the tenant.

A cohabitee is a person living with the tenant as a husband or wife of different or same sex.

The 12-month period cannot begin unless the Association has been informed in writing that the individual is living in the property as their only or principal home and the Association must have given consent to the proposed successors residency in the property. The Association must have been informed by the tenant, a joint tenant, or the person who wishes to succeed to the tenancy. The length of time they have been living in the property starts from the date we are notified in writing that the person is living in the property as their only or principal home.

If more than one person qualifies for the tenancy under Level One, they must decide among themselves who should get the tenancy. If they cannot agree, the Association will decide.

3.2. Level Two Successors

If no-one qualifies at Level One, or a qualified person does not want the tenancy, it may be inherited by a member of the tenant's family as long as:

- he, she or they are aged at least 16 at the date of death;
- the house was his, her or their only or principal home at the date of death and for a period of at least 12 months prior to the date of death of the tenant
- The Association had been notified in writing of, and given consent to the proposed successor's residency in the property.

The family member must have occupied the house as his/her/their only or principal home for at least 12 months immediately prior to the death of the tenant to qualify to succeed to the tenancy. The 12-month period cannot begin unless the Association had been informed in writing that the tenant's family member is living in the property as their only or principal home. The Association must have been informed by the tenant, a joint tenant, or the person who wishes to succeed to the tenancy. The length of time they have been living in the property starts from the date we are notified that the person is living in the property as their only or principal home.

If more than one person qualifies for the tenancy under Level Two, they must decide among themselves who should get the tenancy. If they cannot agree, the Association will decide.

3.3. Level Three Successors

If no-one qualifies at Level One or Level Two, or a qualified person does not want the tenancy, it will be inherited by a carer as long as:

- he, she or they are aged at least 16 at the date of death;
- the house was his,her or their only or principal home at the date of death and for a period of at least 12 months prior to the date of death of the tenant
- he, she or they gave up another only or principal home before the death of the tenant;
- he, she or they are providing, or have provided care for the tenant or a member of the tenant's family.
- The Association had been notified in writing and had given consent to the proposed successors residency in the property.

The carer must have occupied the house as his/her/their only or principal home for at least 12 months immediately prior to the death of the tenant to qualify to succeed to the tenancy. The 12-month period cannot begin unless the Association has been informed in writing

that the carer is living in the property as their only or principal home. The Association must have been informed by the tenant, a joint tenant, or the carer who wishes to succeed to the tenancy.

If more than one person qualifies for the tenancy under Level Three, they must decide among themselves who should get the tenancy. If they cannot agree, the Association will decide.

3.4. Adapted or Specially Designed Properties

If the house was designed or substantially adapted for a person with special needs, no person will qualify under level two or three above unless that person has special needs requiring the type of accommodation in the house. If a person would have qualified, but for this paragraph, the tenancy will be terminated and we will make other suitable accommodation available.

Until suitable alternative accommodation is available, we will allow the remaining residents to remain in the property on a Short Scottish Secure Tenancy.

4.0 Persons who are entitled to Succeed but do not wish to do so

If someone qualifies for the tenancy but does not want it, they should tell us in writing within four weeks of the death and leave the house within three months. Rent will be charged only for the actual period of occupation.

5.0 Limits on Succession

Under the terms of the Housing (Scotland) Act 2001 as amended by the Housing (Scotland) Act 2014 and the Scottish Secure Tenancy Agreement, the tenancy can only be inherited twice under the provisions noted in this policy. If the tenancy has already been inherited twice, the third death will normally end the tenancy. This will not happen if there is a surviving joint tenant whose Scottish Secure Tenancy will continue.

However, if there is still a person in the house who would otherwise qualify to inherit the tenancy under the tenancy agreement if it had not previously been succeeded to on two occasions, the tenancy will continue for up to 6 months after the last death. The tenancy will not be a Scottish Secure Tenancy for that period, but a Short Scottish Secure Tenancy will be granted while alternative accommodation is secured.

6.0 Confirmation of Circumstances Related to Succession

6.1 To have the right to succeed to a tenancy after living in a house, the tenant or any one of the joint tenants, or the person who has moved in must have notified the Association that the person has moved in and that the property is the “qualifying person’s” only or principal home. The qualifying period (as set out in this policy) does not commence until the Association has been notified.

6.2 The Association anticipates that the majority of issues related to succession will be straightforward and confirmation of a successor’s rights will be achieved by reference to our existing tenancy records to confirm the entitlement of the person(s) claiming to be entitled to succeed. The tenant is required to inform us of any changes in the household within the requirements of the Tenancy Agreement. The Association will accept notification in writing or by email.

6.3 In the case of children in the household reaching the age of 16, who were part of the household when the property was allocated and it is their long term and principal home, no further notification is required.

6.4 On notification, the Association will consider whether it is appropriate for that person to reside in the property. We will refuse consent if it is not reasonable that they do so. Consent will not be given in the case where a property is overcrowded as a result of their residency, and the person may not remain. Any period following refusal of consent to reside will not count towards any qualifying period for succession.

6.5 There may be other reasons why the Association does not consent to residency and the unsuccessful applicant will be notified of the reason at the time. Where a person claims to be entitled to succeed through a relationship to the deceased tenant they must produce birth, marriage or civil partnership certificates to prove a relationship that would entitle them to succeed to the tenancy.

Level three successors must provide evidence to confirm that

- they gave up another only or principal home prior to the date of death of the tenant and
- they provided care for the (deceased) tenant or that they continue to provide care for a surviving member of the tenant's family.

7. Grounds for Selecting a Successor where Qualifying Successors cannot agree

The Association will consider carefully the respective needs and circumstances of all qualifying successors prior to reaching a decision. This will include interviews with all those involved.

8. Definition of Care

The Association recognises the rights of genuine carers to succeed to a tenancy where qualifying conditions are met. The Association recognises "care" as comprising "Personal Care" as defined within Section 2 (28) of the Regulation of Care (Scotland) Act 2001 or Social Care as defined within Schedule 1 of the Community Care and Health (Scotland) Act 2002.

9. Suitable Alternative Accommodation

Where an applicant does not have the right to succeed to a tenancy, the Association does not have any discretion to grant a succession to tenancy. The Association will consider whether it is appropriate, in all circumstances to offer a tenancy to the applicant at that property or another property in order to prevent homelessness and in line with the Association's Allocation Policy.

The definition of suitable accommodation can be found in Schedule 2 Part 2 of the Housing (Scotland) Act 2001.

10. Appeals and Complaints

Any applicant unhappy about a decision relating to a succession to tenancy request must submit a written appeal to the Housing Manager within 28 days of receiving the decision.

The Housing Manager will review the appeal and provide the applicant with the result of their decision in writing.

If the applicant is still dissatisfied, recourse can be sought through the Association's Complaints Policy and Procedure.

11. Equal Opportunities Statement

We recognise our pro-active role in valuing and promoting diversity, fairness, social justice and equality of opportunity by adopting and promoting fair policies and procedures. We will check this policy and associated procedures regularly for their equal opportunity implications, taking appropriate action to address inequalities likely to result or resulting from implementation of the policy and procedures. We are committed to providing fair and equal treatment to all applicants and tenants and will not discriminate against any on the grounds of race, colour, ethnic or national origin, religion, age, gender sex, sexual orientation, marital status, family circumstances, employment status or physical ability.

12. Processing Information – General Data Protection Regulations

Cassiltoun Housing Association will process information and data contained within the Housing Applications in accordance with its Policies and Procedures relating to the General Data Protection Regulations and all applicants will be issued with a Fair Processing Notice.

All staff members will be made aware of their responsibilities in relation to the General Data Protection Regulations and will be trained in the process that the Association has introduced to ensure compliance with GDPR.

13. Policy Review

This Policy will be reviewed on a 3 yearly basis or earlier if the legislation changes to ensure that its aims are being met.

Our ref: CHA/SUCC/A1
Your ref: «Tenant_Number»

Date: xxxx

Xxxx
«Unit_Description»
«House_Code» «Address_Line_1»
«Address_Line_2»
«Postcode»

Dear xxxx,

Housing (Scotland) Act 2001 (Section 22) (as amended by the Housing (Scotland) Act 2014)
- **Succession to Tenancy**

Address: «Unit_Description», «House_Code» «Address_Line_1», «Postcode»

On behalf of Cassiltoun Housing Association, I write to inform that you as a Qualifying Occupier have the entitlement to succeed the tenancy of the above address.

I would be obliged if you could contact this office within 7 days of this letter to advise if you wish to be apply for the Succession to «Unit_Description», «House_Code» «Address_Line_1», «Postcode».

I look forward to hearing from you.

Yours sincerely

Name
Designation



SUCCESSION TO TENANCY APPLICATION

OFFICE USE ONLY	
Monthly Rent	
Annual Rent	
Service Charge	
Arrears	

OFFICE USE ONLY		
	Initials	Date
Received		
Death Cert.		
W/L appl Deleted		
Approved/Refused		
Reason for decision		
Ref No.		

*The issue of this form does not mean that Succession to Tenancy will be granted. Please answer all Questions.

- Address of house: «Unit_Description», «House_Code» «Address_Line_1», «Address_Line_2», «Postcode»
- Full name of present tenant: «First_Occup_Title» «First_Occup_Forenames» «First_Occup_Surname», «Second_Occup_Title» «Second_Occup_Forenames» «First_Occup_Surname»
- Date of tenant's death _____
- Your name _____
- Age and relationship to tenant Age _____ Relationship _____
- How many people live in the house? _____
- Give dates of birth Male _____ Female _____
Other _____ (please specify)
- When did you move in? _____
- Is your name on a housing list? If so please give details _____

- What was your last address? _____
- When did you leave? _____
- Has anyone living at the current address had an order for recovery of possession granted against them for reasons of anti-social behaviour in the last 3 years? **YES/NO**
If YES, please give details of the Landlord who obtained the order.

13. Is anyone living at the current address subject to an Anti-Social Behaviour Order? **YES/NO**

If YES please give details of the order.

I hereby certify that the particulars in this application are true and I understand that any false or misleading information or withholding of relevant information now and at any time may result in the tenancy granted to me being terminated. I understand that it is also my legal responsibility to inform Cassiltoun Housing Association Ltd of any persons aged 16 and over who live in my home.

I agree to accept the house in its present condition.

Signed _____ Date _____

Our ref: CHA/SUCC/A3
Your ref: «Tenant_Number»

Date: xxxx

Xxxx
«Unit_Description»
«House_Code» «Address_Line_1»
«Address_Line_2»
«Postcode»

Dear xxxx,

Housing (Scotland) Act 2001 (Section 22) (as amended by the Housing (Scotland) Act 2014)
Succession to Tenancy

Address: «Unit_Description», «House_Code» «Address_Line_1», «Postcode»

On behalf of Cassiltoun Housing Association, I write to confirm that you are entitled to succeed to the tenancy of the above house.

I would be obliged if you would call at this office on XXXXX at XXXXX to sign the tenancy agreement.

If this time is inconvenient please contact the office to arrange a more suitable appointment.

When calling into the office please bring along the following letters/documents.

- Proof of identity (passport etc.)
- Proof of Income (including National Insurance No)
- Proof of Residence (i.e. DSS Letters, Bank Statements)
- Other

You have the right to refuse the above succession to tenancy and if you chose to do so you must notify, in writing, the Housing Manager at the Associations office detailed below by xxxx (insert date 28 days from death of the tenant).

Yours sincerely

Name
Designation

Our ref: CHA/SUCC/A4
Your ref: «Tenant_Number»

Date: xxxx

Xxxx

«Unit_Description»
«House_Code» «Address_Line_1»
«Address_Line_2»
«Postcode»

Dear xxxx,

Housing (Scotland) Act 2001 (Section 22) (as amended by the Housing (Scotland) Act 2014)
Succession to Tenancy

Address: «Unit_Description», «House_Code» «Address_Line_1», «Postcode»

On behalf of Cassiltoun Housing Association, I write to confirm that I have assessed your application to succeed to the above tenancy.

I regret to inform you that under the terms of the Housing (Scotland) Act 2001 (as amended by the Housing (Scotland) Act 2014), you are not entitled to succeed to the above tenancy for the following reason(s):

(Please insert relevant sections from schedule 3 of the 2001 Act and/or Section 13 of the Housing (Scotland) Act 2014) e.g. Cassiltoun Housing Association do not consider that this house was your only or principal home at the date of death of the tenant.

Accordingly, I hereby give you notice that you should make arrangements to vacate the above house no later than (enter date 29 days from date of death of the tenant or if this letter is delayed in being sent 30-days from the date of this letter). While you remain resident at the house there will be an ongoing charge of £XXXX per week. The above Housing (Scotland) Act 2001 entitles the landlord, Cassiltoun Housing Association, to levy a charge while you remain resident at the house. The charge will amount to £XXXX per week.

Please note that this occupation does not mean that a Scottish Secure Tenancy has been created and does not constitute an offer of housing. If you do not vacate the property by xxxx date, Cassiltoun Housing Association will initiate court action to evict you and recover possession of the property.

To assist you in this process and enable you to secure alternative accommodation, I would be obliged if you would call at this office on XXXX at XXXX. Please bring the following documents

with you as you may be entitled to apply for Housing Benefit, Universal Credit or wish to apply to Cassiltoun Housing Association for alternative accommodation:

- Proof of identity (passport etc.)

 - Proof of Income (including National Insurance No)

 - Proof of Residence (i.e. DSS Letters, Bank Statements)

 - Other
-

Should you wish to challenge the above decision, you should do so in writing immediately upon receipt of this letter, stating your grounds for review, and enclosing any new information you wish us to consider.

Yours sincerely

Name

Designation

Our ref: CHA/SUCC/A5
Your ref: «Tenant_Number»

Date: xxxx

Xxxx
«Unit_Description»
«House_Code» «Address_Line_1»
«Address_Line_2»
«Postcode»

Dear xxxx,

Housing (Scotland) Act 2001 (Section 22) (as amended by the Housing (Scotland) Act 2014)
Succession to Tenancy

Address: «Unit_Description», «House_Code» «Address_Line_1», «Postcode»

On behalf of Cassiltoun Housing Association, I write to confirm that you are entitled to succeed to the above tenancy. I note from your letter of XXXX that you have declined succession to the tenancy of the above house.

Under the terms of Paragraph 11(3) of Schedule 3 of the Housing (Scotland) Act 2001, I hereby give you notice that you should make arrangements to vacate the above house no later than (enter date 3 months from date of death of the tenant). The above Paragraph 11(3) entitles the landlord Cassiltoun Housing Association to levy an Occupancy Charge while you remain resident at the house. The charge will amount to £XXXX per week.

Please note that payment of the Occupancy Charge does not mean that a Scottish Secure Tenancy has been created, nor does it constitute an offer of housing. If you do not vacate the property by xxxx date, Cassiltoun Housing Association will have no alternative but to initiate court action to evict you and recover possession of the property.

To assist you in this process and enable you to secure alternative accommodation, I would be obliged if you would call at this office on xxxx at xxxx. Please bring the following documents with you as you may be entitled to apply for Housing Benefit or wish to apply to Cassiltoun Housing Association for alternative accommodation:

- Proof of identity (passport etc.)
 - Proof of Income (including National Insurance No)
 - Proof of Residence (i.e. DSS Letters, Bank Statements)
 - Other
-

Should you wish to challenge the above decision, you should do so in writing, within 28 days of receiving this letter, stating your grounds for review, and enclosing any new information you wish to be considered.

Yours sincerely

Name

Designation

Our ref: CHA/SUCC/A6
Your ref: «Tenant_Number»

Date: xxxx

Xxxx
«Unit_Description»
«House_Code» «Address_Line_1»
«Address_Line_2»
«Postcode»

Dear xxxx,

Housing (Scotland) Act 2001 (Section 22) (as amended by the Housing (Scotland) Act 2014)
Succession of Tenancy

Address: «Unit_Description», «House_Code» «Address_Line_1», «Postcode»

On behalf of Cassiltoun Housing Association, I thank you for confirming that you are responsible for dealing with the estate of xxxxxxxx (enter name of deceased).

Under the terms of the Housing (Scotland) Act 2001 the above tenancy ended on xxxx (enter date tenancy ended). However, I understand that you may require some time to clear the property and deal with the other matters relating to the estate. **The maximum amount of time that can be given is 28 days.**

Please be aware that until the keys are handed in to the Housing Associations Offices at the address below, there will be an Occupancy Charge of XXX per week, for which an invoice will be raised. Please note that payment of the Occupancy Charge does not mean that a Scottish Secure Tenancy has been created, nor does it constitute an offer of housing.

Should you require any further advice or assistance in this matter please do not hesitate to contact the Housing Officer.

Yours sincerely

Name
Designation