

# Succession & Assignment



---

**This summary leaflet sets out the ways in which succession and assignment take place**



# Succession and Assignment

## What is a succession?

Succession is a legal term used when a person inherits a tenancy when the tenant dies. The person who inherits the tenancy is called a “successor”.

Succession is a right given under the Housing Act 1985 for secure tenants to pass on their tenancy to their husband/wife/civil partner, the deceased tenants’ partner (including same sex partner) or family member following their death. In the case of family members they must have been living with the tenant for at least twelve months. **There can only be one succession of a secure tenancy. This means that if the deceased tenant was already a successor then the tenancy cannot be passed on again to another person.**

## Who is a member of the family?

The law defines a "family member" as parents, grandparents, children, grandchildren, siblings, uncles, aunts, nieces and nephews, step relations, half relations, unmarried partners (heterosexual) and unregistered same sex partners.

## How do you become a successor?

Succession only occurs on the death of a tenant. There are two main circumstances where a succession occurs:

### 1) Following the death of a sole tenant

If a tenant dies, provided that they had not inherited the tenancy, it will automatically pass to their husband/wife/civil partner or otherwise onto a family member, provided that the family member has lived with the tenant for the past twelve months

## **2) Where a joint tenancy changes to a sole tenancy**

Where a tenancy is held in joint names and one of the tenants dies, the surviving tenant succeeds to the tenancy as a sole tenant. There is then no further right of succession so the tenancy cannot be passed on again.

### **What information is required to consider a claim to succeed to a tenancy?**

South Lakes Housing need the following information in order to make a decision:

- Completed 'Succession to Tenancy Standard Information Form'
- The former tenant's death certificate.
- Proof of your full name and date of birth (e.g. birth certificate, current passport etc.)
- Proof of your relationship to the former tenant (e.g. birth and/or marriage/civil partnership certificates proving the relationship etc.)
- Proof that you currently live in the property.
- Unless you are the joint tenant, or were the deceased tenant's husband/wife/civil partner then you are required to provide at least three original documents confirming that you lived with the tenant for a period of 12 months prior to their death. (e.g. benefit paperwork, bank statements, utility bills etc.)

### **Can more than one person succeed to a tenancy?**

No - the law provides there can only be one successor. In the case of a married couple or civil partner, when one of the partners dies the other partner automatically takes the tenancy by succession. Where there is no husband/wife/civil partner it is up to the family members living there to

decide which one will take the succession and hold the tenancy. If the family cannot decide South Lakes Housing will make this decision.

### **What will happen if there are rent arrears left owing?**

If the deceased tenant had any rent arrears when they died they will not be passed on to the successor, unless they are the joint tenant. However, if there is an outstanding court order, the successor takes on the terms and conditions of the court order.

### **If I qualify to succeed can I be asked to move?**

If you are not the husband/wife/civil partner you may be asked to move in the following circumstances:

- If the property is larger than you require (please refer to eligibility criteria on pages 10 & 11)
- If the property has been adapted for special needs and you do not need to use the adaptation.

In both of these cases south Lakes Housing will offer you suitable alternative accommodation. However, if you refuse to move we can ask a court to force you to move.

### **What if there has already been one succession?**

Under the terms of the 1985 Housing Act, South Lakes Housing has a legal duty to allow one succession only. By law, a second succession is not possible.

However, in exceptional circumstances, South Lakes Housing may grant a new tenancy.

### **What will happen if I do not qualify to succeed?**

If you do not qualify as a successor you will be required to move out. We will serve a notice on the Public Trustee to officially terminate the deceased tenant's tenancy. If you have not moved out by the end of the notice period, we will take the necessary legal action to take back possession of the property.

**In all cases, if you are living with a family member who has died you must inform your Housing Officer as soon as possible.**

## **Some examples of succession**

### **Mr & Mrs Smith – joint tenants - Mr Smith dies**

Mrs Smith remains as the sole tenant but she is a “successor” because the joint tenancy has become a sole one and therefore she has no right in law to pass on the tenancy again.

### **Ms Jones is a sole tenant. Ms Walker is the civil partner of the tenant. - Ms Jones dies**

Ms Walker becomes the sole tenant. She has succeeded to Ms Jones tenancy and therefore has no right in law to pass on the tenancy again.

### **Mr Smith – sole tenant - Mrs Smith dies**

Mr Smith remains a tenant just as before; If there has been no succession he is free to pass on the tenancy to a member of the family who has lived with him for 12 months.

# What is an Assignment?

Assignment is the legal term used when a secure tenancy passes from one person to another.

Any original secure tenant who has **not** succeeded to the tenancy, has the right to assign (pass) their tenancy to their husband/wife/civil partner, or a family member who is living with them and has lived with them for the past twelve months. However, South Lakes Housing must approve the assignment and it must be done by a legal document called a Deed of Assignment. A person taking the tenancy in this way is counted as a successor and as mentioned previously there is **only one succession allowed**.

The courts can also order an assignment between married partners and civil partners as a result of divorce proceedings, or dissolution of a civil partnership. This is called a “tenancy transfer”.

## What do I need to do to assign my tenancy?

South Lakes Housing will need the following information in order to make a decision:

- Completed ‘Request for a Variation of Tenancy Form - Assignment’
- Proof of both yours and the assignee’s identity (e.g. birth certificate, current passport etc.)
- Proof of the assignee’s relationship to you (e.g. birth and/or marriage/civil partnership certificates proving they are your partner or qualifying family member)
- Proof that the potential assignee lives in the property.
- Unless the assignee is the joint tenant, or husband/wife/civil partner of the tenant they are required to provide at least three original documents confirming they have lived with you for a period of more than 12 months. (e.g. benefit paperwork, bank statements, utility bills etc.)

## **What if I have arrears on my rent account?**

If you apply to pass your tenancy to someone else we will ask you to clear your rent account.

In exceptional circumstances we may allow the assignment if the assignee agrees in writing to take responsibility for the rent arrears.

## **Circumstances in which we will not allow you to assign your tenancy**

There are a number of reasons why we may not allow you to pass your tenancy to another person:

- You yourself succeeded to the tenancy.
- If you have a demoted tenancy you lose your right to pass on your tenancy.
- If you have caused anti-social behavior or harassment we might be in a position to refuse your request.
- If you are currently in the process of buying your home or moving to another South Lakes Housing property, or if you have been nominated by South Lakes Housing to another landlord for housing, or if you are in the process of doing a mutual exchange with another tenant.

## **What will South Lakes Housing do if I leave someone in my home and I move out?**

If you leave your home and have no intention to return, the security of your tenancy is lost. If before you leave you give your keys to someone else, even if that person may have been entitled to take on the tenancy South Lakes Housing will consider the person to be an unauthorized occupier. South Lakes Housing will take the necessary legal action to evict the person and take back possession of the property. While the person remains in the property until we receive the keys we will charge them for its use and occupation. If we have to take them to court they will be liable to pay our costs.

## **General advice**

If you wish to receive any further advice or more detail on the matters covered in this leaflet you can ask for an appointment with your Housing Officer to have matters more fully explained.

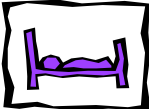

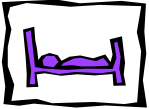







## **Further information Citizens Advice Bureau**

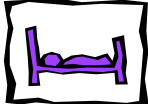




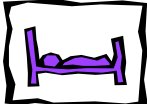
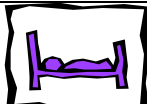
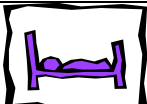
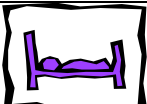
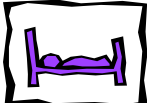
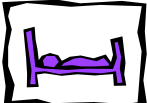
For free independent legal advice/information please phone the CAB on the following numbers:

Kendal	0870 126 4061
Grange over Sands	015395 33100
Ulverston	01229 585585
Windermere	015394 46464

If you see a solicitor you should check with them whether or not a charge will be made for advice.

South Lakeland District Council’s guidelines on bedroom eligibility in cases of succession. (The following chart does not apply to a husband, wife or civil partner). If in doubt please contact your Housing Officer.

Household Type	Number of Bedrooms					
	Bedsit	1	2	3	4	5
Single person						
Cohabiting or married couple without children						
Pregnant woman 30 weeks or more pregnant (with or without partner) with no other children						
Parent (s) with one child						
Parent (s) with one girl and one boy both under 10 years						

Household Type	Number of Bedrooms					
	Bedsit	1	2	3	4	5
Parent(s) with two same sex children under 10 years						
Parent (s) with one girl and one boy where at least one child is over 10 years						
Parent (s) with two same sex children where the age difference is 10 years or more						
Parent (s) with three or four children						
Parent (s) with five or more children						

## Further information

If you require further information please contact a housing officer at one of our offices - details at the bottom of this page.

You can get a copy of this document in different formats such as large print, Braille, audio, or in a different language by calling **0845 057 0080**.

Pode obter uma cópia deste documento em vários formatos, como por exemplo em Braille, áudio, ou numa outra língua. Para tal ligue para o 0845 057 0080.

如果您想获取该文件的不同版本，如：大字体印刷、盲文、音频或不同语言版本，请致电：**0845 057 0080**。

Paskambinę telefonu **0845 057 0080**, galite užsisakyti šio dokumento kopiją įvairiais formatais, pavyzdžiui, atspausdintą dideliu šriftu, Brailio raštu, užsisakyti garso įrašą arba gauti dokumentą, išverstą į norimą kalbą.

Aby otrzymać kopię tego dokumentu w innych formatach, takich jak duży druk, druk Braille'm, audio, lub w innym języku proszę dzwonić pod numer **0845 057 0080**.

**0845 057 0080**'u arayarak, bu dokümanın bir kopyasını büyük puntolu, körler için kabartmalı, ses dosyası gibi değişik formatlarda veya farklı bir dilde edinebilirsiniz.

আপনি **0845 057 0080** -এই নম্বর ফোন করে, বিভিন্ন ফরম্যাট যেমন বড় প্রিন্ট, ব্রেইল, অডিও বা একটি ভিন্ন ভাষাতে এই নথিটির একটি কপি পেতে পারেন।

### Registered office address:

Little Aynam House

Little Aynam

KENDAL

Cumbria LA9 7AH

Tel: (01539) 717 717

Fax: (01539) 717 716

Email: [info@southlakeshousing.co.uk](mailto:info@southlakeshousing.co.uk)

### Area office address:

Town Hall

Queen Street

ULVERSTON

Cumbria LA12 7AR

Tel: (01229) 584424

### Central Tel:

**0845 057 0080**



INVESTOR IN PEOPLE

[www.southlakeshousing.co.uk](http://www.southlakeshousing.co.uk)



Registered in England and Wales, company registered number 04876696.

HASF.16

ISOQAR certificate number

