



KEY POLICY:SERVICE DELIVERY

Last Reviewed: September 2005

Date: May 2009

Review: May 2012

SUCCESSION / ASSIGNMENT

1.0 Policy Statement

South Lakes Housing (SLH) recognises that the circumstances surrounding an application to succeed to a tenancy are likely to be distressing for the applicant and will aim to deal with all such requests in a sensitive and efficient manner.

This policy sets out the aims and principles which will apply in respect to the transfer of tenancy rights through succession and assignment.

2.0 Key Strategic Link

Cumbria Housing Strategy 2006 - 2011

The Cumbrian authorities and their partners have traditionally worked in collaboration to develop housing services within the County. With a stronger regional framework we need to strengthen the sub-regional identity of Cumbria within that framework.

All of Cumbria's stakeholders agreed that by working together they would be able to improve the planning, implementation and delivery of all housing services within the sub-region. Particular emphasis is on the way our housing and planning services can improve the ability of Cumbria's housing markets to respond to social and community needs.

To deliver sustainable communities our sub-regional fit-for-purpose housing strategy will be integrated with complementary planning and economic development strategies.

3.0 Key Policy Links

This Policy should be read in conjunction with our Allocations and Lettings, Rent Arrears, Anti-Social Behaviour, Special Needs and Vulnerable Persons Policies.

4.0 Key Objectives

The Key objectives of the Succession/Assignment policy are:

- To comply with all relevant regulatory guidance and the law;
- To ensure that guidelines are in place for the proper authorisation of succession and assignment by SLH officers;

- To treat residents in a fair and non-discriminatory way, in accordance with our E & D Policy;

5.0 Definition

For the purpose of this policy and accompanying procedures, the following definition shall apply:

Succession is the process by which a tenancy is passed to another person on the death of the tenant.

Assignment refers to a tenants' right to transfer (assign) their tenancy to another qualifying member of their household.

6.0 Key Points of policy

The Director of Operations is responsible for the overall implementation of the Succession and Assignment Policy.

SUCCESSION

SLH will grant succession rights in accordance with section 87 and 88 of the Housing Act 1985.

It is normally the case that succession only happens when a tenant dies (this also applies to joint tenancies) although a succession of tenancy can be carried under the Family Law Act when the County Court orders an existing succession tenancy to be transferred to the spouse.

A person is qualified to succeed the tenant under a secure tenancy if they occupy the dwelling-house as their only or principal home at the time of the tenant's death and either;

- The tenant's spouse or civil partner (as defined in the Civil Partnership Act 2004)
- A member of the tenant's family who has lived with the tenant during the twelve months prior to the tenant's death

Where there is more than one qualified successor the spouse takes precedence over other relatives. If there is no spouse, the eligible relatives decide who should have the tenancy, and if they cannot agree, SLH will decide.

Definitions of family member – Section 113

- A spouse or civil partner (as defined in the Civil Partnership Act 2004) or a person with whom the tenant lived as husband or wife;
- The tenant's parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece;
- A relationship by marriage is treated as a relationship by blood;
- A relationship of the half blood is treated as a relationship of the whole blood;
- The stepchild of a person is treated as his or her child;
- An illegitimate child is treated as the legitimate child of his mother and reputed father;

There can be no succession if the deceased tenant was him/herself a successor. This would include:

- They were a joint tenant and have become the sole tenant;
- They gained the tenancy as a result of an exchange of tenancies and they were a successor under the original tenancy;
- They gained the tenancy as a result of a court order relating to matrimonial proceedings and their spouse was a successor;
- They gained the tenancy by a right to succession following the death of the previous tenant or under the will of intestacy of the previous tenant;

A surviving joint tenant of an Introductory Tenancy is entitled to take over the tenancy as a sole Introductory Tenant, providing that they occupied the property as their only or principal home at the time of the tenant's death. Other family members are not entitled to succeed.

South Lakes Housing will attempt to balance the needs and circumstances of households with or without statutory succession rights with the size of the property and the demands of the Housing Register.

Decisions on succession of tenancy to SLH managed property in special cases which fall outside this policy will be determined by the Chairman of the Board.

Should the property to which a person qualifies to succeed be designed for those with special needs, and the individual has no such needs, SLH will provide alternative accommodation.

Should the property to which a person qualifies to succeed be then under occupied, SLH may provide alternative accommodation.

ASSIGNMENT

SLH will grant assignments in accordance with section 91 of the Housing Act 1985.

SLDC tenants, have the right to transfer (assign) their tenancy in the following circumstances:

- by way of a mutual exchange;
- under instruction of a court order;
- to a potential successor;

The rules relating to assignment of a potential successor are as follows:

- The existing tenant must be prepared to give up all the rights to the property and rights to rehousing by SLH;
- The person to whom the tenancy will be transferred (the assignee) must be a qualifying member of the family with the appropriate residency qualifications as detailed for succession;
- The assigning of the tenancy must not result in either under-occupation or overcrowding of the property;

- The assignee must be prepared to pay the rent due and keep to all the terms and conditions of the tenancy agreement;
- Tenants must seek written approval from SLH before they assign but consent will not unreasonably be refused;

Providing the proposed assignment satisfies one of the above criteria it can be carried out. Otherwise, the assignment is not permitted.

If permission is not sought from SLH, the assignment will be invalid and not binding. SLH would then be entitled to commence proceedings to recover possession of the property against the “true tenant” in order to end the tenancy and then take proceedings against the assignee.

If SLH's consent to assign was obtained by the tenant's fraud, the assignment will still be valid. However, SLH could still issue proceedings on the basis that there has been breach of the terms of the tenancy agreement, i.e. the assignment is without consent because that consent has been invalidated by fraud.

7.0 Key Targets and Performance Indicators

- Number of qualifying successions.

8.0 Monitoring, Review and Consultation Process

It is the responsibility of Director of Operations to ensure that:

- all relevant staff are aware of the Succession/Assignment Policy

9.0 Service Development and Comprehensive Service Review Priority

SLH will review the effectiveness of this policy on a regular basis to ensure continuous improvement.

Policy Review Priority: Low.

10.0 Equality and Diversity

South Lakes Housing recognises that there is a broad range of visible and non-visible differences that characterise its tenants. Some of these qualities include race, religion, culture, nationality, ethnic background, colour, disability, sex, sexual orientation, age, literacy and income level. By understanding and respecting this diversity it is able to set a policy which ensures that all tenants are able to access services provided by South Lakes Housing in an equitable manner.

South Lakes Housing is committed to providing information and services equally and without discrimination so that they meet the needs of all sections of the community. These include our tenants, leaseholders and those living nearby or seeking access to or information on housing services in the South Lakeland area. In carrying out all housing management policies, South Lakes Housing's Equality and Diversity Policy will be adhered to.