



**LANCASTER CITY COUNCIL**  
*Promoting City, Coast & Countryside*

Council Housing Services

# **Who can take over the tenancy when the tenant dies?**

**The right of  
succession**

## **Tenancy Matters**

This information can be made available in large print, braille, audio and other languages.  
For further details please contact us on (01524) 582929.

[www.lancaster.gov.uk](http://www.lancaster.gov.uk)

# SUCCESSION

## What is succession?

When a sole tenant (a tenant who has the tenancy in their name only) with a secure or introductory tenancy dies, certain people can take over their tenancy – this is known as succeeding to the tenancy.

For a joint tenancy (where the tenancy is in the name of more than one person), the remaining tenant or tenants will automatically take over the tenancy.

There are strict rules over who can and cannot succeed to a tenancy. These rules were made by Parliament and are in the Housing Act 1985.

## Who can succeed to the tenancy?

Two groups of people can succeed to the tenancy: the tenant's husband or wife, or a family member. The person who succeeds is known as the successor.

- A husband or wife can succeed, as long as they were living there at the time of the tenant's death.
- If the tenant was not married, or the tenant's husband or wife was not living at the property, then a family member can succeed, as long they have been living in the property as their main home for at least 12 months before the tenant died – we will need to see proof of this. (A family member includes a non-married partner or a close relative by blood or marriage.)

## **If more than one family member is living with the tenant, who will succeed to the tenancy?**

If more than one family member is involved, the family must decide who succeeds. If the family cannot decide, we will make the decision. This must happen as quickly as possible, so that the tenancy details can be sorted out.

## **When can a tenancy not be succeeded to?**

A secure or introductory tenancy cannot be succeeded to if the tenant:

- had already succeeded to the tenancy themselves after 1981, or
- had the tenancy assigned to them (see our leaflet on assignment), or
- lived alone, or
- was a joint tenant (the remaining tenant automatically takes over the tenancy through the 'right of survivorship'), or
- was a sole tenant after a joint tenant had died.

## **Can the successor be made to move?**

This depends on how they are related to the tenant and the type & size of the property.

If the successor was the tenant's husband or wife, they have the right to stay in the same property.

Family members do not have the same right to stay in the property as married partners. In this case, we may ask the successor to move if we feel the property is bigger than they need. This is because we need large, family-sized properties.

We may also ask the successor to move where the property is one of a group of properties that we let for occupation by persons with special needs – for example elderly person's accommodation and sheltered accommodation.

We won't know whether we will ask the successor to move until after the succession. We can only ask the successor to move if there is a suitable property available for them. If we cannot find somewhere else within 12 months of knowing about the death of the tenant, we cannot ask the successor to move.

### **What happens if the successor does not like the property we offer?**

If the successor does not like the property we offer them, we can apply to court to ask them to make the successor move. In court, we would have to prove that the new accommodation is suitable, and that it is reasonable for us to ask the successor to move.

We will contact the successor and serve a legal notice to explain what action we are going to take. We will not take any action until at least six months after knowing about the tenant's death.

### **What if there is someone living with the tenant who cannot succeed?**

If someone is living with the tenant who cannot succeed, we may be able offer them a new tenancy. They should contact your Area Housing Office as soon as possible after the tenant has died, as a decision cannot be made until that time. A senior council officer will make the decision.

If we do not offer this person a new tenancy, we will ask them to leave the property. If they do not, we will serve a legal notice telling them to move out. Failing that, we will refer the case to court for an eviction.

## **Can someone take over a tenancy before a tenant dies?**

It may be possible for you to assign your tenancy. This is covered in our leaflet:

Can I give my tenancy to someone else? - The right of assignment.

Please contact the Housing Office for this leaflet.


**Notes:**


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# CONTACT INFORMATION

## Council Housing Services


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Our office hours are 9.00 am to 5.00 pm weekdays  
(10.00 am to 5.00 pm Wednesdays)

In an emergency ring the Council's Central Control Centre,  
which is open 24 hours a day, 365 days a year.

The number to call is  01524 67099

Calls may be recorded to help improve our standard of service  
and accuracy of information