



Property and Housing Services

Succession and Assignment Policy

(2025)

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Purpose

This policy describes the circumstances in which a tenancy can be transferred from one person to another, either by succession (after a tenant's death) or assignment (during a tenant's lifetime).

Scope

This policy applies only to Introductory, Fixed Term and Secure tenants of Havering Council.

This policy does not apply to non-secure tenancies or licenses. These tenancies or licenses are not intended to be assignable or capable of giving rise to any succession, either statutory or discretionary. Members of the household of such tenants/licensees who are deceased are advised to apply to the Council for housing under the homelessness provisions of Part VII Housing Act 1996 and/or under the Council's Housing Allocation Scheme. This procedure also does not cover any properties in sheltered housing schemes.

Associated policies

This policy should be read alongside the Tenancy Policy. Other relevant policies include:

- Vulnerable Person Policy for Council Tenants
- Allocations Policy

Succession

Succession is when the remainder of a tenancy passes from a tenant to a successor upon the tenant's death. There are two types of succession: statutory and discretionary.

Only one succession or assignment can take place per tenancy. This means that if a tenancy is transferred from one tenant to another through succession **or** assignment, then no further successions **and** no further assignments will be allowed to take place for that tenancy (unless, in exceptional circumstances, another successor successfully applies for discretionary succession).

Successions and assignments that took place before 3rd October 1980 will not be counted.

Statutory succession

When a successor has an automatic legal right to succeed to a tenancy, this is known as "statutory" succession. The following table shows which people have this right.

	<u>Introductory tenancies</u>	<u>Secure lifetime tenancies granted before 1st April 2012</u>	<u>Secure lifetime and fixed term tenancies granted on or after 1st April 2012</u>
<u>Who can succeed to the tenancy?</u>	<ul style="list-style-type: none"> • Joint tenant, spouse, Civil Partner, or Person living with the tenant as if husband or wife or civil partner (i.e. including same-sex couples) at the time of death. • An adult family member who has been resident with the deceased secure tenant at the premises throughout the 12 months before their death. This may be a parent, grandparent, child (including those who have been legally adopted and stepchildren), grandchild, brother, sister, uncle, aunt, nephew, or niece. It should be noted that a foster child is not counted as a child for the purposes of succession. 	<ul style="list-style-type: none"> • Joint tenant, spouse, Civil Partner, or Person living with the tenant as if husband or wife or civil partner (i.e. including same-sex couples) at the time of death. • An adult family member who has been resident with the deceased secure tenant at the premises throughout the 12 months before their death. This may be a parent, grandparent, child (including those who have been legally adopted and stepchildren), grandchild, brother, sister, uncle, aunt, nephew, or niece. It should be noted that a foster child is not counted as a child for the purposes of succession. 	Joint tenant, spouse, Civil Partner, or Person living with the tenant as if husband or wife or civil partner (i.e. including same-sex couples) at the time of death.

Although the above successors have a legal right to succeed to the tenancy, successors (with the exception of joint tenants) are still required to provide the following documentation:

- Completed Succession Application Form.
- The former tenant's death certificate.
- Proof of your full name and date of birth
- Proof of your relationship to the former tenant
- Proof that you currently live in the property.
- Unless you are the joint tenant or were the deceased tenant's husband/wife or civil partner then you need to show you were living with the tenant for twelve months by providing at least five separate and different items of official paperwork for each of the last twelve months.

Please see Appendix A for list of accepted documents.

This documentation will allow us to check the successor's eligibility and record the succession that has taken place.

Upon the death of a joint tenant, the surviving joint tenant is not required to provide all of the above documentation but is required to inform us of the other tenant's death. We will then arrange a meeting with a Housing Officer, so that the surviving tenant can complete the relevant forms.

A spouse or civil partner who was not residing with the tenant continuously for the twelve months prior to the date of death does not have the right to statutory succession.

Under 18 year olds

Nobody under the age of 18 at the time of the tenant's death can succeed to a tenancy. Any children in occupation of the property will be referred to Children's Services for assistance and/or fostering, adoption or care services. Children who will attain 18 years shortly after the tenant's death will be referred to the Housing Options Service.

Under-occupied properties

In some circumstances, where a statutory successor will under-occupy the property (ie. the council considers the property to be bigger than the successor needs, by more than one bedroom), the successor will be required to move to a smaller property. This is so that the larger property can be given to tenants with greater need for a home of this size. The table below shows when successors will need to downsize from an under-occupied property:

Type of tenancy	Successor	Requirement to downsize
Secure lifetime tenancy	Joint tenant, spouse, Civil Partner, or Person living with the tenant as if husband or wife or civil partner (i.e. including same-sex couples) at the time of death.	No
Secure lifetime tenancy	Any other successor	Yes. The successor will be served with a Notice of Seeking Possession 6-12 months from the date of death. <u>Unless the successor is a spouse.</u>
Fixed term tenancy	Spouse, Civil Partner, or Person living with the tenant as if husband or wife or civil partner (i.e. including same-sex couples) at the time of death.	Not during the present term, but the successor will be required to downsize when a new term commences.
Fixed term tenancy	Joint tenant	Not during the present term, but the successor will be required to downsize when a new term commences.
Introductory tenancy	Joint tenant, spouse, Civil Partner, or Person living with the tenant as if husband or wife or civil partner (i.e. including same-	Not during the present term, but the successor will be required to downsize when a new term commences.

	sex couples) at the time of death.	
Introductory tenancy	Any other successor	Yes

When a successor is required to downsize, we will work with them to find a suitable home. If a successor refuses reasonable offers of alternative properties, the council may resort to legal action to take possession of the property

Discretionary succession

“Discretionary succession” is when a landlord chooses to allow a succession to take place when the beneficiary of that succession has no statutory right to it.

Limitations on discretionary succession

There is no automatic right to discretionary succession, and it will usually only happen in exceptional circumstances.

The council may choose to allow discretionary succession if the proposed successor is vulnerable or at risk of homelessness. For a definition of vulnerability and examples of some vulnerabilities that may be taken into consideration, please see the Vulnerable Person Policy for Council Tenants (please note that each application is judged on its merits, and the existence of one or more vulnerabilities in a household does not automatically result in a Discretionary Succession application being accepted). These will be treated as new tenancies.

Discretionary succession to the deceased tenant’s property will not take place in the following circumstances:

- The property is under-occupied after the tenant’s death
- The property is intended for use as sheltered or extra-care accommodation
- The property has an age restriction (e.g. over 55s only) which is not met by the potential successor.
- The property is specially adapted for use by disabled or less-abled persons.

In these cases, there remains a possibility that an applicant for discretionary succession will be allowed to take over the tenancy, but in a more suitable property.

Discretionary succession will not be permitted if a court has granted a possession order as a result of the potential successor’s actions or omissions.

Process for discretionary succession

- After a tenant’s death, potential successors in the tenant’s household will receive a Succession Application Form from the council.
- The potential successor must provide:
 - Completed Succession Application Form
 - The former tenant’s death certificate.
 - Proof of your full name and date of birth
 - Proof of your relationship to the former tenant (see Appendix A for list of accepted documents)
 - Proof that you currently live in the property.

- Unless you are the joint tenant or were the deceased tenant's husband/wife or civil partner then you need to show you were living with the tenant for twelve months by providing at least five separate and different items of official paperwork for each of the last twelve months.

Please see Appendix A for list of accepted documents.

- The potential successor may be invited to interview to discuss the application.
- The interviewing officer will complete an Exceptional Circumstances Report summarising the application.
- The Director of Housing and Property or the Assistant Director of Housing Operations will decide the outcome of the application.
- The applicant will be informed of the outcome.

Rent arrangements from the date of death

A joint tenant who becomes a sole tenant upon the other tenant's death remains liable for the rent arrears which accrued before the other tenant's death.

Any other successor is not liable for the deceased tenant's rent arrears. However, when statutory succession takes place, the successor becomes liable for the rent since the date of death.

When somebody without statutory succession rights continues to live in a property after the date of expiry of the Notice to Quit, they become liable for "use and occupation" charges from the date of expiry of the Notice to Quit. This is instead of paying rent. These charges continue for as long as they remain in the property (or until they are granted discretionary succession). Although distinct from rent, use and occupation charges are equivalent in value to the rent.

Assignment

Assignments There are three main types of tenancy assignment, each requiring specific procedures:

- Assignment by Mutual Exchange
- Judicial Assignment
- Assignment to a Successor

Assignment by Mutual Exchange:

Mutual exchange is a process that allows tenants to swap homes with other tenants. This type occurs when two or more tenants wish to exchange properties.

To proceed with a mutual exchange, both tenants must have the right to assign, and they need to obtain permission from the landlord.

As the landlord, we must not unreasonably withhold permission, and any refusal must adhere to the conditions set out in schedule three of the housing legislation.

Who Can Mutual Exchange

Mutual exchanges are available to Havering tenants who hold a secure, assured, or who have completed their introductory tenancy and are now a fixed term tenant.

They can swap with tenants of Havering Council, housing associations, and other local authorities providing they have the following tenancy types:

- 1. Assured Tenancy** – Typically for Housing Association tenants and a form of long-term tenancy
- 2. Lifetime Secure** – Typically for Council tenants and a form of long-term tenancy
- 3. Flexible Tenancy** – A fixed term tenancy, usually between 2 and 10 years with similar or same protections to a lifetime secure tenancy
- 4. Assured shorthold tenancy (AST) with a housing association** - only fixed term ASTs of at least 2 years

If a tenancy is still an introductory tenancy or has been demoted, then residents will be unable to exchange. We will also not consider exchange requests from residents with any other assured short hold tenancy, discretionary tenancies and licences and other forms of non-secure tenancies. This is not an exhaustive list.

Why Tenants May Mutual Exchange

Tenants may seek a mutual exchange for various reasons, including:

- Under-occupying: A family whose children have moved out and many want to downsize to a smaller and more manageable property 14
- Overcrowding: A growing family may need a larger home to accommodate their needs
- Location: A tenant may wish to move closer to their workplace to reduce commuting time
- Adapted Properties: Tenants may need a home that better suits their physical needs.

What we need to progress an exchange:

- Mutual exchange forms completed correctly and in full (to include full names for each person) within 2 weeks of each other.
- Tenancy Audit – within last 12 months for Havering Council tenants, including passport-style head-and-shoulders photo of each tenant if needed to add to the tenancy
- Property Inspection with signed disclaimer for non-domestic appliances and any other non-standard item (if applicable)
- In date Gas Safety certificate
- In date EPC
- In date Electronics certificates
- Copy of tenancy agreement and passport-style head-and-shoulders photo of each incoming tenant if not Havering Council tenant
- If a Havering tenant, evidence of landlord permission for any alterations carried out to the property by the current tenant(s).
- Tenancy report for all households involved.

Failure to complete or allow access to complete any of these actions will result in the mutual exchange being resulted as incomplete. A new exchange will need to then be requested, and the process started again.

Havering Council Tenants

Where two or more Havering Council Tenants are exchanging, we may consider allowing an additional room if a resident is downsizing. The main example of this is where a single person who requires one bedroom and is in a three bed is exchanging with someone who is in a two-bedroom property requiring a three bed. This will be subject to affordability checks and approval, with consideration given on a case-by-case basis.

Property condition

When residents agree to a mutual exchange, they accept the property in its current condition. This means that, aside from any major works such as gas and electrical safety-related repairs, the property will be exchanged as-is. Residents should thoroughly inspect the property and understand that no additional repairs or improvements will be made by the landlord prior to the exchange.

Grounds for Refusal

The Council can refuse a mutual exchange on several grounds, including but not limited to:

- Court Order: The tenant or proposed assignee is required to give up possession due to a court order.
- Possession Proceedings: Proceedings for possession have begun or a notice has been served under specific grounds.
- Anti-Social Behaviour Orders: Relevant orders or applications for anti-social behaviour or demotion orders are in force or pending.

- Excessive Accommodation: The dwelling is substantially more extensive than needed by the proposed assignee.
- Unsuitable Accommodation: The dwelling is not reasonably suitable for the needs of the proposed assignee and their family.
- Employment-Related Housing: The dwelling is part of a building mainly used for non-housing purposes and was let due to employment with specific organizations
- Charity Conflict: The landlord is a charity, and the proposed assignee's occupation would conflict with the charity's objectives.
- Special Features: The dwelling has features for physically disabled persons, and the proposed assignee does not require such features.
- Special Needs Housing: The dwelling is part of a group for persons with special needs, and the proposed assignee does not have such needs
- Management Agreement: The dwelling is under a management agreement with a housing association, and the proposed assignee is not a member or willing to become a member of the association.

Additionally, discretionary reasons for refusal may include:

- Anti-social behaviour or criminal convictions within the last two years.
- Sex offenders prohibited from living in specific areas.
- Unauthorized major home improvements.
- Non-compliance with local lettings plans or S106 agreements.
- Affordability issues.
- The proposed property not adapted to meet the needs of someone requiring adaptations, or cannot be adapted to meet those needs
- Tenancy still within its starter/introductory period.
- Tenancy type not allowing mutual exchanges.
- Poor property condition.
- Pets not being allowed at the locations of the exchange

Grounds for Withholding Consent

The Council can withhold consent for the exchange to be completed, even if approval has been given for the exchange to take place. Consent for a mutual exchange may be withheld if:

- Anti-Social Behaviour: There is evidence of anti-social behaviour by either tenant.
- Breach of Tenancy: There are breaches of tenancy conditions by either tenant. These will need to be resolved prior to any exchange
- Legal Restrictions: There are legal restrictions or covenants on the property that prevent the exchange.

- Rent arrears – in some circumstances an exchange may be approved with arrears currently in place, however the exchange will not take place until these and related costs, such as court costs, are cleared.

These outstanding issues will need to be resolved to enable the exchange to take place.

Types of exchange

The legislation governing social housing allows for two types of exchange to take place, and it is the tenancy type of the participants that determines which type is appropriate.

If the two participants involved both hold the same or equivalent type of tenancy, then the exchange will be conducted by assignment. This means that when the participants move, they will 'inherit' the tenancy that already exists at their new address.

If the two participants involved do not both hold the same or equivalent type of tenancy, then the exchange will be conducted by surrender and re-grant of new tenancy. This means that the current tenancy for each participant will end, and they will get a new tenancy at their new address of the same type as they previously held before they moved. It should be noted that if the receiving landlord does not ordinarily offer the specific type of tenancy in their portfolio that an incoming tenant has, then the closest possible tenancy type available to offer will be deemed appropriate.

Completing an exchange

Once an exchange is approved, it is normally expected for this to be completed within two months of the approval. If the exchange does not go ahead in this period, or a date cannot be agreed, then it will be considered that the residents no longer wish to exchange, and it will be cancelled.

Once a date is agreed, should the exchange then not take place on this date, if there are no exceptional reasons for this, then it will be considered that the residents no longer wish to exchange, and it will be cancelled.

If residents do wish to complete the exchange after it has been cancelled, then they will need to submit new Mutual Exchange forms and begin the process again.

Can you change your mind?

Tenants can withdraw their application at any point before the legal exchange document / new tenancy agreement is signed by notifying the council in writing. If they then decide they did want to exchange, new forms will need to be submitted and the process will start again.

Additional Considerations

Pets - Tenants must seek permission to have pets from their Housing Officer. Certain restrictions may apply based on property type and local regulations which can result in the exchange being refused.

Judicial Assignment:

A Judicial Assignment happens when a Court Order is obtained to transfer the tenancy from one tenant to another. In situations such as divorce proceedings, a deed of assignment provided by the remaining party's solicitor is necessary, along with the court order.

Assignment to a Successor:

If a tenant wishes to transfer their tenancy to a successor, this is known as a living succession or assignment to a potential successor. The same statutory requirements that apply when a tenant

passes away must be met for this type of assignment. As a landlord, we are obliged to inform the tenant about the change in their rights resulting from assigning their tenancy.

It is essential to follow the appropriate method for the specific type of assignment to ensure a legal and smooth transfer of tenancy rights. If you are considering an assignment, please inform us, and we will guide you through the process.

GDPR & Data Protection

The London Borough of Havering shares the commitment to ensure that all data is:

- processed lawfully, fairly and in a transparent manner
- collected for a specific and legitimate purpose and not used for anything other than this stated purpose, or as provided for in our privacy and fair processing notices
- relevant and limited to whatever the requirements are for which the data is processed
- accurate, and where necessary, kept up to date. Any identified inaccuracies will be amended or removed without undue delay
- stored for as long as required, as specified within the London Borough Of Havering's Records Retention policy
- secured with appropriate solutions, which protect the data against unauthorised or unlawful processing and accidental loss, destruction or damage.

For further information about the Council's commitment to the General Data Protection Regulations (GDPR), visit the Council's website at [Havering data protection](#).

Review

This policy will be reviewed every five years or at any significant change in relevant legislation

Appendix A: Documentation accepted

For proof of identity:

- **Passport**
- **Driver's License**
- **Marriage Certificate**

For proof of address:

- **Council Tax Bills/Letters:** Official demand letters or statements showing the current council tax year.
- **Tenancy Agreements:** Signed agreements from a local council, housing association, or private landlord.
- **Mortgage Statements:** Statements from a recognized lender showing your address and details of the mortgage.
- **Utility Bills:** Gas, electricity, or water bills showing your name and the address.
- **Bank Statements:** Recent statements from a bank or building society.
- **Government-Issued Documents:** Letters from government departments, such as HMRC tax notices or benefit entitlement letters.
- **Electoral Register Entry:** Proof of being on the electoral roll at that address.
- **Insurance Documents:** Home or life insurance documents that confirm your address

For proof of marriage or a relationship to the tenant:

- **Birth and marriage certificates:**
 - Your full birth certificate is often required.
 - If you are a spouse or civil partner, a marriage or civil partnership certificate is required.
 - If you are a more distant family member (e.g., a grandchild), you will need birth certificates for other family members (e.g., your parent) to prove the family link to the deceased tenant.
- **Death certificate:** You will need to provide the death certificate of the tenant.

