

Wandsworth Borough
Council

Tenancy and Rent
Strategy

Wandsworth Council Tenancy and Rent Strategy

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Introduction

1. It is a regulatory requirement that registered providers of social housing in England must publish clear and accessible policies which outline their approach to tenancy management, including interventions to sustain tenancies and prevent unnecessary evictions and tackling tenancy fraud, and set out:
 - a) the type of tenancies they will grant;
 - b) where they grant tenancies for a fixed term, the length of those terms;
 - c) the circumstances in which they will grant tenancies of a particular type;
 - d) any exceptional circumstances in which they will grant fixed term tenancies for a term of less than ten years in general needs housing following any probationary period;
 - e) the circumstances in which they may or may not grant another tenancy on the expiry of the fixed term, of the same property or a different property;
 - f) the way in which a tenant or prospective tenant may appeal against or complain about the length of fixed term tenancy offered and the type of tenancy offered, and against a decision not to grant another tenancy on the expiry of the fixed term;
 - g) their policy on taking into account the needs of those households who are vulnerable by reason of age, disability or illness, and households with children, including through the provision of tenancies which provide a reasonable degree of stability;
 - h) the advice and assistance they will give to tenants on finding alternative accommodation in the event that they decide not to grant another tenancy; and
 - i) their policy on granting discretionary succession rights, taking account of the needs of vulnerable household members.
2. **Under the Localism Act 2011, registered providers of social housing in Wandsworth must have regard to this strategy when formulating their policies in relation to the types and lengths of tenancies they will grant in various circumstances and the circumstances in which they will grant a further tenancy (of the same property or of a different property) on the coming to an end of an existing tenancy.** In addition, the Council expects that they will have regard to this strategy when formulating their rent policies and their policies on all the matters set out above.
3. In developing their policies, registered providers should engage with and consult the Council to ensure that their policies reflect and align with the expectations set out in this strategy and ensure that the tenancies they issue are compatible with the purpose of the accommodation, the needs of individual households, the sustainability of the community

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and the efficient use of their housing stock to assist in meeting the housing needs identified in Wandsworth.

4. As required by the Localism Act 2011 the Council will, having regard to the London Housing Strategy, keep this strategy under review and may modify or replace it from time to time. In particular, the Council will, as a minimum, annually review the Affordable Rent levels guidance; published annually in the Affordable Housing Update report presented to the Council in June committee. As also required by the Localism Act 2011, before making any modification to the strategy reflecting a major change of policy, the Council will:
 - a) Send a copy of the draft strategy or proposed modification to every private registered provider of social housing for its district, and give the registered provider a reasonable opportunity to comment on the proposals; and
 - b) Consult the Mayor of London and other such persons as the Secretary of State may by regulations prescribe.
5. To assist the Council in keeping the strategy under review, comments on the strategy are welcome at any time. The Council also expects registered providers to assist in the ongoing monitoring and review of the strategy by providing feedback on the impact of the strategy.
6. **The Council expects all registered providers of social housing in Wandsworth to publish their policies on their website and make copies available free of charge to anyone who might request a copy.**

Tenancies for applicants who were not already social housing tenants as at 1st April 2012

General needs housing

7. The Council supports the use of fixed term assured shorthold and flexible tenancies as they provide an opportunity to periodically review each tenant's household circumstances and tenancy record with them and their household and, taking these into account, their housing options. The use of fixed term tenancies in line with this strategy is intended to ensure that best use is made of housing in Wandsworth to meet residents' housing needs and aspirations and that residents are made aware of the full range of housing options and assisted to access them.
8. A key outcome from the use of fixed term assured shorthold and flexible tenancies is to ensure that the use of social housing stock is optimised to meet a range of housing needs. Whilst it is likely that the majority of those offered such tenancies will have those tenancies renewed it is equally the case that the use of such tenancies will allow registered providers to assess whether alternative housing options, including alternative low cost social rented and homeownership housing, should be considered and offered.
9. There needs to be clarity and understanding amongst tenants as to the terms under which a property is offered and the review process. Whilst the Council advocates and fully supports the use of fixed term assured shorthold and flexible tenancies the overall approach to tenancy management should be a positive and progressive one looking to

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explore housing options. The review process should also provide reassurance that, as long as the terms of the tenancy have been abided by, appropriate assistance will be offered be that to renew the existing tenancy, to offer an alternative tenancy or to explore other housing options such as home ownership.

10. In cases of domestic abuse where a tenant of social housing either flees their property or makes an application to turn their joint tenancy into a sole tenancy, the Council supports a 'like for like' approach. In all circumstances where a tenant has a secure periodic tenancy, a secure periodic tenancy must be offered if the Council is satisfied that the person or member of the person's household is or has been the victim of domestic abuse carried out by another person and the Council grants a new tenancy for reasons connected with that abuse. This is in line with the Secure Tenancies (Victims of Domestic Abuse) Act 2018 and the Council expects private registered providers of social housing in Wandsworth to follow this approach as the legislation includes 'assured tenancies' within the definition of a 'qualifying tenancy' under the Act.

11. In order to ensure that best use is made of housing in Wandsworth to meet residents' needs and aspirations and provide a reasonable degree of stability:

- a) **Registered providers of social housing in Wandsworth should usually offer a probationary tenancy followed by an initial ten year fixed term assured shorthold or flexible tenancy and subsequently any further tenancy for a five year fixed term** – It is the Council's view that offering an initial ten year fixed term assured shorthold or flexible tenancy (preceded where legislation allows by a starter or introductory tenancy) and then assessing whether a further tenancy should be offered (of either the same or of one or more different properties) in line with the approach set out on page 7 provides a reasonable degree of stability for all households (including those who are vulnerable by reason of age, disability or illness, and households with children) while also ensuring that the best use is made of housing in Wandsworth to meet residents' needs and aspirations.
- b) **The Council would support an initial fixed term assured shorthold or flexible tenancies of less than ten years being granted in the exceptional circumstances set out below.** The length of these tenancies should be decided by the registered provider in accordance with their tenancy policy which must comply with legislative and regulatory requirements that the tenancy is for at least two years in addition to any probationary tenancy period.
- c) Where a further tenancy is offered the Council would support a fixed term assured shorthold or flexible tenancy of five years being granted. A tenancy of less than five years could be granted in exceptional circumstances as set out in paragraph 13.

Exceptional Circumstances in which the Council would support fixed term assured shorthold and flexible tenancies of less than ten years being granted

12. The Council would support an initial fixed term assured shorthold or flexible tenancies of less than ten years being granted for social housing in Wandsworth in the following circumstances:

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- a) In exceptional circumstances determined by a senior officer, for example where a tenant has not managed a previous tenancy well or has a history of anti-social behaviour or non-payment of rent;
- b) Where the tenancy is offered in a property which is due to be decanted for regeneration purposes.

Exceptional circumstances in which the Council would support fixed term assured shorthold and flexible tenancies of less than five years being granted on the review of tenancy

13. Where a further tenancy is to be offered on the coming to an end of an existing tenancy the Council would support fixed term assured shorthold or flexible tenancies of less than five years being granted for social housing in Wandsworth in the following circumstances:

- a) Where a tenant has not managed their existing tenancy well or has a history of anti-social behaviour or non-payment of rent;
- b) Where changes (actual or anticipated) in household profile, financial circumstances or other material considerations are likely to mean that it will be appropriate to explore alternative housing options with the tenant(s) and household members sooner than in five years, for example:
 - i. Where a household is occupying a property with two or more bedrooms, it might be appropriate for the tenancy length to be set so that the tenancy ends when a household member will turn 18 and the household's housing need could be met by offering tenancies of two smaller properties or exploring other housing options;
 - ii. Where a household's income and savings are currently at or expected to soon reach a level which would enable the household to purchase the property they are living in (if suitable) or another suitable property outright or on a shared ownership / equity basis.

Sheltered housing

14. For sheltered housing in Wandsworth, registered providers of social housing should usually offer a probationary tenancy followed by an assured / secure tenancy but may wish to offer fixed term tenancies in the following circumstances:

- a) Where the tenancy is of a property with two or more bedrooms and it is intended that the property should be let so that both bedrooms are fully utilised (e.g. to accommodate an older sibling needing care and support or joint tenants who need separate bedrooms);
- b) In exceptional circumstances determined by a senior officer, for example where a tenant has not managed a previous tenancy well or has a history of anti-social behaviour or non-payment of rent.

15. The length of these tenancies should be decided by the registered provider in accordance with their tenancy policy which must in itself comply with legislative and

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regulatory requirements that the tenancy is for at least two years in addition to any probationary tenancy.

Tenancies for applicants who were already social housing tenants as at 1st April 2012

Tenancies offered on Social Rent terms

16. Where registered providers of social housing offer a tenancy on Social Rent terms (i.e. where the tenancy is not offered on Affordable Rent terms – see below) to an applicant who was already a social housing tenant as at 1st April 2012 and has remained a social housing tenant since that date:

- The Regulatory Framework for Social Housing in England requires them to offer a tenancy with no less security of tenure.

Tenancies offered on Affordable Rent terms¹

17. Where registered providers of social housing offer a tenancy on Affordable Rent terms to an applicant they must consider the following if the applicant was already a social housing tenant as at 1st April 2012 and has remained a social housing tenant since that date:

- There is no regulatory requirement that a tenancy with no less security of tenure must be offered where the tenant chooses to move; but
- The Regulatory Framework for Social Housing in England requires them to grant tenants who have moved into alternative accommodation during any redevelopment or other works a tenancy with no less security of tenure on their return to settled accommodation.

18. In addition, the Council expects registered providers, when they offer a tenancy of a property in Wandsworth on Affordable Rent terms to an applicant who was already a social housing tenant as at 1st April 2012, to have regard to the following when deciding what type of tenancy to offer:

- a) Generally, the type and length of tenancy offered should be the same as they would be if the tenancy were being offered to a new tenant (see page 4).
- b) However, consideration should be given to offering a tenancy with more security of tenure where this is needed to encourage the tenant to move to more suitable accommodation thereby freeing up their existing home for another household, particularly for tenants moving to a smaller home and / or sheltered housing and those moving via a mutual exchange where this resolves a housing issue (for example where a tenant who is under occupying their home exchanges with a tenant resulting in them no longer being

¹ As set out in the Affordable Housing Update approved annually by the Council in June. Latest version as of April 2019: June 2018 - Paper 18-164
<http://wbcvmod01/ieListDocuments.aspx?CId=575&MId=5999&Ver=4>

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overcrowded) or where it provides opportunities for the household wishing to exchange (for example, securing employment).

Granting a further tenancy on the coming to an end of an existing fixed term assured shorthold or flexible tenancy

19. Prior to the coming to an end of an existing fixed term assured shorthold or flexible tenancy of a property in Wandsworth, registered providers of social housing should review the tenant's household circumstances and housing options with them and their household, in a manner that is sensitive to their needs, to determine:
- a) whether they can (where income, savings and incentives allow) be assisted to purchase the property they are living in (if suitable) or another suitable property outright or on a shared ownership / equity basis; and
 - b) whether another tenancy should be offered of the same property or one or more different properties and, if so:
 - i. what length of tenancy should be offered; and
 - ii. what rent should be charged (within legislative and regulatory constraints).
20. In making these decisions, they should take into account the following
- a) **Household profile** – whether a change in that profile warrants a move to alternative accommodation (e.g. household is smaller / larger / requires an adapted property) or is thought likely to warrant such a move in the near future;
 - b) **Household income and financial circumstances** – whether the household's income and savings would enable them to purchase the property they are living in (if suitable) or another suitable property outright or on a shared ownership / equity basis. Advice and assistance should be sought from the Council's Home Ownership Team (020 8871 6016 / housesales@richmondandwandsworth.gov.uk). Reviews should also provide advice and / or sign posting to training, work and volunteering opportunities where working age members of the household are not working to encourage and help them back into work and/or to help them find ways that they can make a positive contribution to their local community. Registered providers may wish to consider private rented options if the tenant has sufficient income. Whilst this may be a viable option the Council would encourage registered providers to consider matters of affordability and the length of tenancy that may be offered. The Council's overall view is that the tenant should be able to "move on" from their fixed term tenancy, in most circumstances, to accommodation that provides an equal level of stability and helps the tenant meet their aspirations.
 - c) **Behaviour of the tenant(s) and their household members during the tenancy** – whether there have been issues in relation to anti-social behaviour, non-payment of rent or general management of the tenancy by the tenant and

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the extent to which the tenant(s) and their household members are making an active and positive contribution to their community e.g. through employment or volunteering.

- d) **Immigration status** - In accordance with the requirements of the Housing Act 1996 section 160ZA (allocation only to eligible persons) and the Immigration and Asylum Act 1999 section 118 (housing authority accommodation) and the regulations made thereunder - namely *The Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006/1294* and *The Persons subject to Immigration Control (Housing Authority Accommodation and Homelessness) Order 2000/706* - the Council will not allocate or grant a tenancy to a person who lacks the required immigration status.

21. As stated on page 3, the Council supports the use of fixed term assured shorthold and flexible tenancies as they provide an opportunity to periodically review tenants' household circumstances and tenancy record with them and their household and, taking these into account, their housing options.
22. It is the Council's view that offering fixed term assured shorthold and flexible tenancies in line with this strategy and that assessing whether a further tenancy should be offered (of either the same or a different property) in line with the approach set out above provides a reasonable degree of stability for all households including those who are vulnerable by reason of age, disability or illness, and households with children while also ensuring that best use is made of housing in Wandsworth to meet residents' needs and aspirations.
23. It is expected that in the majority of cases registered providers of social housing will, on the coming to an end of an existing tenancy, work with the household to ensure that their housing needs and, as far as possible, preferences (e.g. locality) are met by either:
- a) Offering or helping them to obtain another tenancy (of the same property or one or more different properties that are more suitable to the household's needs) or
 - b) Where appropriate, assisting them to purchase the property they are living in (if suitable) or another suitable property outright or on a shared ownership / equity basis. There may be circumstances where it is found that a household can afford to purchase a property to meet their housing requirements but chooses not to do so. In these circumstances private renting may be an option.

Provision of advice and assistance on the coming to an end of an existing fixed term assured shorthold or flexible tenancy

24. It is the Council's view that it would be inappropriate for a registered provider not to renew a tenancy where circumstances had not significantly changed (e.g. household composition had remained the same as had income) and there were no suitable viable alternative accommodation options unless the decision not to renew the tenancy is made on the basis of the behaviour of the tenant(s) and their household members during the tenancy.
25. Where a tenancy of a property in Wandsworth is not renewed the Council would expect that registered providers' advice and assistance services are fit for purpose and meet

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any requirements set out in relevant codes of guidance and/or standards. The Regulatory Framework for Social Housing in England requires registered providers to, where they let homes on fixed term assured shorthold or flexible tenancies, offer reasonable advice and assistance to tenants at the end of the tenancy. Where there is a possibility that the tenant will seek advice and assistance from the Council, the Council would expect the registered provider to contact the Council to provide information about the circumstances of and reasons for the non renewal and if appropriate agree a plan of action (e.g. to provide information that would assist the Council in determining any rehousing duty).

26. The Council is open to discussion with registered providers in relation to providing advice and assistance services on their behalf to their Wandsworth tenants to ensure that Wandsworth residents are provided with consistent and locally specific advice and assistance.

Provision of advice and assistance to household members of a deceased tenant

27. Where a tenant of a social housing property in Wandsworth dies and there is no statutory right of succession but the property continues to be occupied by people who were living with the tenant, registered providers should review the household's circumstances and housing options with them to determine whether one or more of them should be offered a tenancy of either the property they are occupying or one or more different properties and, if so:

- a) what length of tenancy should be offered; and
- b) what rent should be charged (within legislative and regulatory requirements).

28. Where a registered provider decides to seek possession of a property in Wandsworth following the tenant's death, the Council would expect them to provide advice and assistance that is fit for purpose to any persons remaining in occupation. This advice and assistance should ensure as far as possible that no negative impacts arise for the Council's advice and assistance services.

Appeals and complaints

29. As set out in the introduction to this strategy, it is a regulatory requirement that registered providers must publish clear and accessible policies which set out the way in which a tenant or prospective tenant may appeal against or complain about:

- a) The type of tenancy offered;
- b) The length of tenancy offered; or
- c) A decision not to offer another tenancy on the expiry of an existing fixed term assured shorthold or flexible tenancy.

30. The Council expects registered providers of social housing in Wandsworth to:

- a) Have an approach to appeals and complaints that is clear, simple and accessible and ensures that they are considered and resolved promptly, politely and fairly;
- b) Publish their appeals and complaints policies on their website and make copies available free of charge to anyone who might request a copy; and

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- c) Where tenants / prospective tenants have the right to request a review of or appeal against a decision, notify them of this right in any correspondence communicating such a decision. Details should be provided of any timescale in which the review request or appeal must be made and the administrative arrangements for requesting and conducting the review / considering the appeal.

Granting discretionary succession rights

31. For tenancies that started after 1st April 2012 there is a statutory right to only one succession for spouses and civil partners (and people who were living with the tenant as if they were spouses and civil partners) i.e. when the tenant dies, their spouse or civil partner (or person who was living with the tenant as if they were their spouse or civil partner) can by law succeed the deceased tenant (take over their tenancy) provided that they were occupying the property as their only or principal home at the time of the tenant's death and the deceased tenant did not succeed the previous tenant. However, registered providers of social housing can choose to grant additional succession rights in tenancy agreements to:
- a) allow spouses and civil partners (and people who were living with the tenant as if they were spouses or civil partners) to succeed the deceased tenant (take over their tenancy) even if there has already been one or more successions; and / or
 - b) allow others (e.g. family members or resident carers) to succeed the deceased tenant (take over their tenancy) if the deceased tenant did not have a spouse or civil partner (or a person with whom they lived as if they were spouses or civil partners) who was occupying the property as their only or principal home at the time of the tenant's death.
32. **It is the Council's view that, to ensure that the best use can be made of the housing stock in Wandsworth to meet residents' needs, registered providers should not usually grant additional succession rights in tenancy agreements for properties in Wandsworth.** Instead, they should set out in their policies the circumstances in which they will consider granting a new tenancy (of either the same property or one or more different properties) to a person (e.g. a family member or person who provided care to the deceased tenant) with no statutory right of succession, as the Council does in its Housing Allocation Scheme.
33. **Where registered providers of social housing offer a tenancy to an applicant who was already a social housing tenant as at 1st April 2012, they should have regard to the following when deciding what, if any, additional succession rights to grant in the tenancy agreement.**
34. One circumstance where additional succession rights could be included in the tenancy agreement is where this is needed to encourage the tenant to move to more suitable accommodation thereby freeing up their existing home for another household, particularly for tenants moving to a smaller home and those moving via a mutual exchange. The Council encourages mutual exchanges particularly where these resolve a housing issue (for example where a tenant who is under occupying their home exchanges with a tenant resulting in them no longer being overcrowded) or where it

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provides opportunities for the household wishing to exchange (for example, securing employment). Therefore, the Council would expect that the new tenancy terms offered by registered providers to tenants wishing to exchange would as far as possible reflect the existing terms enjoyed by the exchanging parties where such benefits are identified.

35. Where a registered provider believes that additional succession rights should be granted in a tenancy agreement for a property in Wandsworth, the Council would wish them to set out the reasons in order that the Council can consider the case and confirm whether it supports the proposal that additional succession rights should be granted.

36. For detailed information on statutory succession rights for assured tenancies and secure tenancies (including flexible fixed term tenancies), please see Appendix 1 for tenancies that started after 1st April 2012, and Appendix 2 for tenancies that started before 1st April 2012.

Approach to tenancy management

Tackling tenancy fraud

37. As explained in the introduction to this strategy it is a regulatory requirement that registered providers of social housing must publish clear and accessible policies which outline their approach to tenancy management including tackling tenancy fraud.

38. The Council expects registered providers of social housing to take immediate action to terminate tenancies of properties in Wandsworth where they have been obtained by the making of a false or misleading statement.

39. The Council also expects registered providers to take a proactive approach to undertaking occupancy checks for properties in Wandsworth and encourages them to work in partnership with the South West London Audit Partnership (SWLAP) (E-mail: swlap@richmondandwandsworth.onmicrosoft.com) to tackle tenancy fraud. The SWLAP can help by cross matching data from various databases and registered provider tenancy databases to identify discrepancies that indicate potential tenancy misuse or unlawful subletting and referring anomalies identified to the registered provider for further investigation. The SWLAP will, where requested, also support registered providers around the management of complex cases to regain possession of the property.

Interventions to sustain tenancies and prevent unnecessary evictions

40. It is a regulatory requirement that registered providers must publish clear and accessible policies which outline their approach to tenancy management including interventions to sustain tenancies and prevent unnecessary evictions.

41. The Council expects that registered providers of social housing in Wandsworth will:

- a) develop and provide services that will support tenants of properties in Wandsworth (particularly those who are identified as vulnerable and showing a clear indication of failure to maintain their tenancy and / or are engaging in

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anti-social behaviour) to maintain their tenancy and prevent unnecessary evictions; and

- b) provide appropriate assistance for vulnerable perpetrators of anti-social behaviour to prevent and tackle any issues that arise in Wandsworth but also ensure that Wandsworth residents who experience anti-social behaviour are well supported.

42. The Council is committed to using the full range of powers to tackle anti-social behaviour including interventions such as mediation and provision of support but will, where such interventions do not work, take firm action against any breach of tenancy conditions.

43. The Council expects registered providers of social housing in Wandsworth to take the same approach and to work in partnership with the Council to tackle anti-social behaviour. In particular, it would not be appropriate for a registered provider to seek possession of a property where there would then be a duty on the Council to provide accommodation, except where there is an agreed plan of action.

Affordable Rent levels

44. Registered providers of social housing must set rents in accordance with the national Regulatory Framework for Social Housing which gives registered providers some discretion over the rents that can be set. In setting rent levels, a crucial balance must be struck between ensuring that housing let by registered providers is affordable to all, including those on low incomes and / or in receipt of benefits, and maximising income to enable the development of more affordable housing.

Rent levels - General needs housing

45. The Council expects registered providers to ensure that affordable housing rents in Wandsworth are set with regard to the Affordable Rent levels approved by Wandsworth Council in the Affordable Housing Update reported to committee annually or at such other rent levels as may be agreed with the Council. Any Affordable Rent levels that are set for Wandsworth should be discussed with the Council's Head of Housing Development.

46. The Council's Affordable Housing Update is approved annually by the Housing and Regeneration Overview and Scrutiny Committee in June². This contains the latest 'Capped Affordable Rent' and 'Discounted Affordable Rent' figures approved by the Council. Registered providers should refer to the latest Wandsworth Council Affordable Housing Update for up to date rent figures and rationale reflecting the latest GLA requirements.

Rent levels - Supported housing (including sheltered housing)

47. Due to the complexity of assessing, for benefit purposes, what a reasonable rent (including service charges) is for supported housing, private registered providers must agree rents and service charges with the Council.

² At time of strategy amendment, latest Affordable Housing Update was Paper 18-164 approved by HROSC on 20th June and the Executive on 2nd July 2018.

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APPENDIX 1: Succession rights for tenancies that started after 1st April 2012

Succession rights: Secure tenancies (including flexible fixed term tenancies) that started after 1st April 2012

Secure tenancies (including flexible fixed term tenancies) cannot be 'gifted' in a will.

When a joint tenant with a secure tenancy (including flexible fixed term tenancies but excluding periodic tenancies arising on the termination of a fixed term tenancy) **that started after 1st April 2012 dies**, the tenancy continues in the remaining joint tenant's name.

When a sole tenant with a secure tenancy (including flexible fixed term tenancies but excluding periodic tenancies arising on the termination of a fixed term tenancy) **that started after 1st April 2012 dies and there has been a previous succession** (see box below), nobody is entitled to succeed the tenant (take over the tenancy) unless such a right is granted by the tenancy agreement although the landlord may agree to offer a new tenancy.

There is deemed to have been a previous succession if the tenant who has died either:

- a) Had a joint tenancy and became a sole tenant when the joint tenant died; or
- b) Succeeded the tenant (took over the tenancy) when the previous tenant died; or
- c) Was a person qualified to succeed who was assigned the tenancy prior to the tenant's death.

When a sole tenant with a secure tenancy (including flexible fixed term tenancies but excluding periodic tenancies arising on the termination of a fixed term tenancy) **that started after 1st April 2012 dies and there has been no previous succession** (see box above):

- The tenant's spouse or civil partner (or a person with whom the tenant lived as if they were spouses or civil partners) is qualified to succeed the tenant (take over the tenancy) as long as they were occupying the property as their only or principal home at the time of the tenant's death.
- Where there is more than one qualifying person to succeed, the late tenant's spouse/civil partner takes precedence but otherwise the qualifying persons must agree amongst themselves who is to take over the tenancy. If they are unable to agree between them, the landlord should choose.
- If the deceased tenant did not have a spouse or civil partner (or a person with whom they lived as if they were spouses or civil partners) who was occupying the property as their only or principal home at the time of the tenant's death, nobody is entitled to succeed the tenant (take over the tenancy) unless they are entitled to do so under the tenancy agreement.

Where nobody who was living with the tenant is entitled to succeed the tenant (take over the tenancy), the landlord may agree to offer a new tenancy and must do so where the tenancy agreement requires them to.

Succession rights: Assured tenancies that started after 1st April 2012 where the landlord is a private registered provider of social housing

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An assured tenancy can be inherited on the death of the tenant, either through the rules of intestacy or under a will, and if the inheritor occupies the property as their only or principal home it will remain an assured tenancy. However:

- Where somebody is entitled to succeed the tenant (take over the tenancy), the tenancy does not devolve under the tenant's will or intestacy; and
- If the person who has inherited the tenancy does not have a right to succeed the tenant (take over the tenancy), the landlord can take legal action to end the tenancy.

When a joint tenant of a private registered provider of social housing with an assured tenancy that started after 1st April 2012 dies, the tenancy continues in the remaining joint tenant's name.

When a sole tenant of a private registered provider of social housing with an assured tenancy (including fixed term assured shorthold tenancies of at least 2 years) **that started after 1st April 2012 dies and there has been a previous succession** (see box below), nobody is entitled to succeed the tenant (take over the tenancy) although the landlord may agree to offer a new tenancy.

There is deemed to have been a previous succession if the tenant who has died either:

- a) Had a joint tenancy and became a sole tenant when the joint tenant died; or
- b) Succeeded to (took over) the tenancy when the previous tenant died; or
- c) Was a person qualified to succeed who was assigned the tenancy prior to the tenant's death.

When a sole tenant of a private registered provider of social housing with an assured tenancy (including fixed term assured shorthold tenancies of at least 2 years) **that started after 1st April 2012 dies and there has been no previous succession** (see box above):

- The tenant's spouse or civil partner (or a person with whom the tenant lived as if they were spouses or civil partners) is qualified to succeed the tenant (take over the tenancy) as long as they were occupying the property as their only or principal home at the time of the tenant's death.
- If the deceased tenant did not have a spouse or civil partner (or a person with whom they lived as if they were spouses or civil partners) who was occupying the property as their only or principal home at the time of the tenant's death, nobody is entitled to succeed the tenant (take over the tenancy) unless they are entitled to do so under the tenancy agreement.

If more than one person qualifies to succeed the tenant (take over the tenancy), they should choose between them which one of them should succeed the tenant (take over the tenancy). If they are unable to agree between them, this should be determined by the county court.

Where nobody who was living with the tenant is entitled to succeed the tenant (take over the tenancy) the landlord may agree to offer a new tenancy and must do so where the tenancy agreement requires them to.

APPENDIX 2: Succession rights for tenancies that started before 1st April 2012

Succession rights: Secure tenancies that started before 1st April 2012

A secure tenancy cannot be 'gifted' in a will.

When a joint tenant with a secure tenancy that started before 1st April 2012 dies, the tenancy continues in the remaining joint tenant's name.

When a sole tenant with a secure tenancy that started before 1st April 2012 dies and there has been a previous succession (see box below), nobody is entitled to succeed the tenant (take over the tenancy) although the landlord may agree to offer a new tenancy.

There is deemed to have been a previous succession if the tenant who has died either:

- a) Had a joint tenancy and became a sole tenant when the joint tenant died; or
- b) Succeeded to (took over) the tenancy when the previous tenant died; or
- c) Was a person qualified to succeed who was assigned the tenancy prior to the tenant's death.

When a sole tenant with a secure tenancy that started before 1st April 2012 dies and there has been no previous succession (see box above):

- The tenant's spouse or civil partner is legally entitled to succeed the tenant (take over the tenancy) as long as they were occupying the property as their only or principal home at the time of the tenant's death.
- If the deceased tenant did not have a spouse or civil partner who was occupying the property as their only or principal home at the time of the tenant's death, certain members of the tenant's family including partners (see below) qualify to succeed the tenant (take over the tenancy) as long as they were occupying the property as their only or principal home at the time of the tenant's death and had been living with the tenant for at least 12 months prior to their death. However, where the property is larger than reasonably required by the successor tenant and / or it has been adapted for a disabled person, the successor tenant may be legally required to move to a smaller property.

The following people qualify to succeed the tenant (take over the tenancy) as long as the conditions outlined above are met:

- The tenant's partner i.e. a person with whom the tenant lived as if they were spouses or civil partners;
- The tenant's parent, grandparent, child, grandchild, brother, sister, uncle, aunt, niece or nephew
 - A relationship by marriage is treated as a relationship by blood and the stepchild of a person is treated as his or her child;
 - A relationship of the half blood is treated as a relationship of the whole blood;
 - An illegitimate child is treated as the legitimate child or his or her mother and reputed father.

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If more than one person qualifies to succeed the tenant (take over the tenancy) they should choose between them which one of them should succeed the tenant (take over the tenancy). If they are unable to agree between them, the landlord should choose.

Succession rights: Assured periodic tenancies that started before 1st April 2012

An assured tenancy can be inherited on the death of the tenant, either through the rules of intestacy or under a will, and if the beneficiary occupies the property as their only or principal home it will remain an assured tenancy. However, if the person who has inherited the tenancy does not have a right to succeed the tenant (take over the tenancy), the landlord can take legal action to end the tenancy.

The right of statutory succession does not apply to assured shorthold tenancies that started before 1st April 2012 during any fixed term tenancy but does apply once the fixed term has expired (i.e. the tenancy has become a periodic tenancy).

When a joint tenant with an assured periodic tenancy that started before 1st April 2012 dies, the tenancy continues in the remaining joint tenant's name.

When a sole tenant with an assured periodic tenancy that started before 1st April 2012 dies and there has been a previous succession (see box below), nobody is entitled to succeed the tenant (take over the tenancy) although the landlord may agree to offer a new tenancy.

There is deemed to have been a previous succession if the tenant who has died either:

- a) Had a joint tenancy and became a sole tenant when the joint tenant died (after the Housing Act 1980 came into force); or
- b) Succeeded to (took over) the tenancy when the previous tenant died; or
- c) Was a person who was qualified to succeed to (take over) the tenancy who was assigned the tenancy prior to the tenant's death.

When a sole tenant with an assured tenancy that started before 1st April 2012 dies and there has been no previous succession (see box above):

- The tenant's spouse or civil partner (or a person with whom the tenant lived as if they were spouses or civil partners) is qualified to succeed the tenant (take over the tenancy) as long as they were occupying the property as their only or principal home at the time of the tenant's death.

Where nobody who was living with the tenant is entitled to succeed the tenant (take over the tenancy), the landlord may agree to offer a new tenancy and must do so where the tenancy agreement requires them to.