

Wandsworth Borough
Council

Tenancy Policy

Wandsworth Council Tenancy Policy

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Introduction

1. In line with national standards that apply to all registered providers of social housing this policy sets out Wandsworth Council's policies in relation to:
 - a) The types and lengths of tenancies the Council will grant in various circumstances including exceptional circumstances in which the Council will grant initial flexible fixed term tenancies for a term of less than ten years in general needs housing following any probationary period;
 - b) The types and lengths of any subsequent tenancies the Council will grant in various circumstances including exceptional circumstances in which the Council will grant flexible fixed term tenancies for a term of less than five years in general needs housing;
 - c) The circumstances in which the Council may or may not grant another tenancy on the expiry of a flexible fixed term tenancy, of the same property or one or more different properties;
 - d) The way in which a tenant or prospective tenant may complain about a decision about the type of tenancy to be offered and request a review of a decision about the length of tenancy to be offered, and against a decision not to grant another tenancy on the expiry of a flexible fixed term tenancy;
 - e) The Council's 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;
 - f) The advice and assistance that the Council will give to tenants on finding alternative accommodation in the event that the Council decides not to grant them another tenancy on the expiry of a flexible fixed term tenancy;
 - g) Granting discretionary succession rights, taking account of the needs of vulnerable household members; and
 - h) The Council's approach to tenancy management, including interventions to sustain tenancies and prevent unnecessary evictions, and tackling tenancy fraud.
2. This document will be published on the Council's website (www.wandsworth.gov.uk) and copies will be provided free of charge to anyone who might request a copy.
3. The policies set out in this document were approved by the Council's Executive in January 2019 and apply from 1st April 2019. They will be amended if necessary and as required as a result of any further guidance that is provided by the Secretary of State or the social housing regulator.
4. The Council will periodically review the policies set out in this document and where appropriate make changes to them. Therefore, comments on the policies are welcome at any time.

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

General needs housing

5. Wandsworth Council supports the use of flexible fixed term and assured shorthold 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 Council's use of flexible fixed term tenancies in line with the policies set out in this document will ensure that best use is made of the Council's housing stock 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.
6. In order to ensure that best use is made of the Council's housing stock to meet residents' needs and aspirations and provide a reasonable degree of stability:
 - a) **For general needs housing the Council will, in all circumstances other than those set out below, offer an initial ten year flexible fixed term tenancy¹ (preceded by an introductory tenancy where legislation allows) to all applicants other than those who were already social housing tenants as at 1st April 2012 and have remained social housing tenants since that date.**
 - b) **Any offer of subsequent flexible fixed tenancies will be of five years**
7. It is the Council's view that offering an initial ten year flexible fixed term tenancy (preceded where legislation allows by an introductory tenancy) and then assessing whether a further tenancy should be offered (of either the same property or of one or more different properties) in line with the approach set out on pages 13 to 16, paragraphs 48 to 59 inclusive 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 the Council's housing stock to meet residents' needs and aspirations.

Exceptional Circumstances in which the Council may offer initial flexible fixed term tenancies of less than ten years and further flexible fixed term tenancies of less than five years.

8. **The Council may offer flexible fixed term tenancies of less than the initial ten years or subsequent five years but not less than two years in the following circumstances:**
 - a) Where exceptional circumstances apply - 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 in accordance with the appropriate policy relevant to the specific regeneration.

¹ Flexible tenancies are a type of secure tenancy.

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9. Where exceptional circumstances apply (as set out above), decisions about whether a flexible fixed term tenancy of less than the initial standard ten years or subsequent five years should be offered, and if so what length of tenancy should be offered, will be made on a case by case basis by a Deputy Manager in the Assessment and Adaptation Team(s) within Housing Services or more senior officer. Decisions will take into account the purpose of the accommodation, the needs of the individual household, the sustainability of the community and the efficient use of the Council's housing stock. These decisions will be taken with the aim of achieving an appropriate balance between providing a reasonable degree of stability (particularly for those who are vulnerable by reason of age, disability or illness, and households with children) and ensuring that best use is made of the Council's housing stock to meet residents' housing needs and aspirations.

Exceptional Circumstances in which the Council may offer secure periodic tenancies to existing Wandsworth Council tenants who have a secure periodic tenancy but were not already social housing tenants as at 1st April 2012

10. A secure periodic tenancy may be offered where this is needed to encourage an existing Wandsworth Council tenant who has a secure periodic tenancy but was not already a social housing tenant as at 1st April 2012 (or was but has not remained so continuously since that date) to move to more suitable accommodation thereby freeing up their home for another household.
11. By way of example, secure periodic tenancies may be offered to such tenants to facilitate an underoccupation transfer, a decant, a management transfer, an essential repair transfer or a mutual exchange.
12. Decisions about whether a secure periodic tenancy should be offered will be made on a case by case basis by a Deputy Manager in the Assessment and Adaptation Team(s) within Housing Services or more senior officer. Decisions will take into account the purpose of the accommodation, the needs of the individual household, the sustainability of the community and the efficient use of the Council's housing stock. These decisions will be taken with the aim of achieving an appropriate balance between providing a reasonable degree of stability (particularly for those who are vulnerable by reason of age, disability or illness, and households with children) and ensuring that best use is made of the Council's housing stock to meet residents' housing needs and aspirations.
13. However, 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.

Exceptional Circumstances in which the Council may offer secure periodic tenancies to other social housing tenants who have a secure periodic tenancy or an assured periodic tenancy but who were not already social housing tenants as at 1st April 2012

14. A secure periodic tenancy may be offered where this is needed to encourage a social housing tenant who is not a Wandsworth Council tenant and has a secure periodic tenancy or assured periodic tenancy but was not already a social housing tenant as at 1st April 2012 (or was but has not remained so continuously since that date) to move to more suitable accommodation thereby freeing up their home for another household.

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15. By way of example, secure periodic tenancies may be offered to such tenants to facilitate a mutual exchange.
16. Decisions about whether a secure periodic tenancy should be offered will be made on a case by case basis by a Deputy Manager in the Assessment and Adaptation Team(s) within Housing Services or more senior officer. Decisions will take into account the purpose of the accommodation, the needs of the individual household, the sustainability of the community and the efficient use of the Council's housing stock. These decisions will be taken with the aim of achieving an appropriate balance between providing a reasonable degree of stability (particularly for those who are vulnerable by reason of age, disability or illness and households with children) and ensuring that best use is made of the Council's housing stock to meet residents' housing needs and aspirations.
17. However, 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.

Sole to Joint – Granting tenancies of the same property to tenants whose sole tenancies are ended by the tenant

18. Joint tenancies can be created between an existing tenant and a spouse, civil partner or partner. However, the Council will generally not grant inter-generational joint tenancies (for instance between a parent and a child) other than in exceptional circumstances.
19. Generally, where a sole tenancy is ended by the tenant and the Council decides to offer (in accordance with the Housing Allocation Scheme) a joint tenancy of the same property to that tenant and another person or persons, the Council will offer a tenancy that:
 - a) is the same type of tenancy as the tenancy that was ended by the tenant; and
 - b) has (if it is a flexible fixed term tenancy) the same fixed term expiry date as the tenancy that was ended by the tenant.
20. However, where doing so would result in a flexible fixed term tenancy of less than two years being offered (which is not permitted by statute) a two year flexible fixed term tenancy will be offered. Furthermore, the Council may offer flexible fixed term tenancies of less than the remaining tenancy period, but no less than two years, where exceptional circumstances apply, for example:
 - a) 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 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 their household members sooner than the fixed term expiry date of the tenancy that was ended by the tenant, for example:

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- 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 needs could be met by offering tenancies of two smaller properties or exploring other housing options; and
- ii. Where a household's income and savings are currently at or expected soon to 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.

c) where a tenant is occupying a property which is due to be decanted for regeneration purposes in accordance with the appropriate policy relevant to the specific regeneration.

21. Where exceptional circumstances apply (as set out above), decisions about whether a flexible fixed term tenancy and, if so, what length of tenancy (no less than two years) should be offered, will be made on a case by case basis by a Deputy Manager in the Assessment and Adaptations Team within Housing Services or more senior officer in consultation with other relevant senior officers. Decisions will take into account the purpose of the accommodation, the needs of the individual household, the sustainability of the community and the efficient use of the Council's housing stock. These decisions will be taken with the aim of achieving an appropriate balance between providing a reasonable degree of stability (particularly for those who are vulnerable by reason of age, disability or illness, and households with children) and ensuring that best use is made of the Council's housing stock to meet residents' housing needs and aspirations.

Joint to Sole etc – Granting tenancies of the same property to tenants whose joint tenancies are ended by the tenant(s)

22. Generally, where a joint tenancy is ended by one or more of the tenants and the Council decides to offer a sole tenancy of the same property to one of the joint tenants (or another joint tenancy of the same property to some of the joint tenants) the Council will offer a tenancy that:

- a) is the same type of tenancy as the tenancy that was ended by the tenant(s); and
- b) has (if it is a flexible fixed term tenancy) the same fixed term expiry date as the tenancy that was ended by the tenant(s).

23. This approach must be applied to cases of domestic abuse where a secure periodic joint tenancy is ended after the perpetrator of the abuse has left or been removed from the property, but the victim of the abuse wishes to remain and the Council decides to grant them a further sole tenancy.

24. However, where offering a flexible fixed term of the same expiry date would result in a flexible fixed term tenancy of less than two years being offered (which is not permitted by statute) a two year flexible fixed term tenancy will be offered. Furthermore, the Council may offer flexible fixed term tenancies of less than the remaining tenancy period, but no less than two years, where exceptional circumstances apply, for example:

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- a) 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 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 their household members sooner than the fixed term expiry date of the tenancy that was ended by the tenant(s), 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 need could be met by offering tenancies of two smaller properties or exploring other housing options; and
 - ii. Where a household's income and savings are currently at or expected soon to 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.
- c) Where a tenant is occupying a property which is due to be decanted for regeneration purposes in accordance with the appropriate policy relevant to the specific regeneration.

25. Where exceptional circumstances apply (as set out above), decisions about whether a flexible fixed term tenancy and, if so, what length of tenancy (no less than two years) should be offered, will be made on a case by case basis by a Deputy Manager in the Housing Assessment and Adaptations Team within Housing Services or more senior officer in consultation with other relevant senior officers. Decisions will take into account the purpose of the accommodation, the needs of the individual household, the sustainability of the community and the efficient use of the Council's housing stock. These decisions will be taken with the aim of achieving an appropriate balance between providing a reasonable degree of stability (particularly for those who are vulnerable by reason of age, disability or illness, and households with children) and ensuring that best use is made of the Council's housing stock to meet residents' housing needs and aspirations.

Sheltered housing

26. **For sheltered housing the Council will, in all circumstances other than those set out below, offer a secure periodic tenancy (preceded by an introductory tenancy where legislation allows).**

Exceptional circumstances in which the Council may offer flexible fixed term tenancies of sheltered housing

27. **The Council may offer flexible fixed term tenancies of less than the initial ten years or subsequent five years of sheltered housing in the following circumstances provided that the tenancy is not offered to an applicant who was already a social**

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housing tenant as at 1st April 2012 and has remained a social housing tenant since that date:

- a) Where the tenancy is of a property with two or more bedrooms, particularly where anticipated changes in household profile or circumstances mean that it will be appropriate to explore alternative housing options with the tenant(s); and
- b) Where other exceptional circumstances apply - 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.

28. Decisions about whether a flexible fixed term tenancy should be offered, and if so what length of tenancy should be offered, will be made on a case by case basis by a Deputy Manager in the Assessment and Adaptation Team(s) within Housing Services or more senior officer. Decisions will take into account the purpose of the accommodation, the needs of the individual household, the sustainability of the community and the efficient use of the Council's housing stock. These decisions will be taken with the aim of achieving an appropriate balance between providing a reasonable degree of stability for the sheltered housing tenant (particularly for those who are vulnerable by reason of age, disability or illness) and ensuring that best use is made of the Council's sheltered housing stock to meet residents' housing needs and aspirations.

Sole to Joint – Granting tenancies of the same property to tenants whose sole tenancies are ended by the tenant

29. Joint tenancies can be created between an existing tenant and a spouse, civil partner or partner. However, the Council will generally not grant inter-generational joint tenancies (for instance between a parent and a child) other than in exceptional circumstances.
30. Generally, where a sole tenancy is ended by the tenant and the Council decides to offer (in accordance with the Housing Allocation Scheme) a joint tenancy of the same property to that tenant and another person or persons, the Council will offer a tenancy that:
- a) is the same type of tenancy as the tenancy that was ended by the tenant; and
 - b) has (if it is a flexible fixed term tenancy) the same fixed term expiry date as the tenancy that was ended by the tenant.
31. However, where doing so would result in a flexible fixed term tenancy of less than two years being offered (which is not permitted by statute) a two year flexible fixed term tenancy will be offered. Furthermore, the Council may offer flexible fixed term tenancies of less than the remaining tenancy period, but no less than two years, where exceptional circumstances apply, for example:
- a) 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 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 their household

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members sooner than the fixed term expiry date of the tenancy that was ended by the tenant, 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 needs could be met by offering tenancies of two smaller properties or exploring other housing options; and
 - ii. Where a household's income and savings are currently at or expected soon to 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.
- c) Where a tenant is occupying a property which is due to be decanted for regeneration purposes in accordance with the appropriate policy relevant to the specific regeneration.

32. Where exceptional circumstances apply (as set out above), decisions about whether a flexible fixed term tenancy and, if so, what length of tenancy (no less than two years) should be offered, will be made on a case by case basis by a Deputy Manager in the Assessments and Adaptation Team(s) within Housing Services or more senior officer in consultation with other relevant senior officers. Decisions will take into account the purpose of the accommodation, the needs of the individual household, the sustainability of the community and the efficient use of the Council's housing stock. These decisions will be taken with the aim of achieving an appropriate balance between providing a reasonable degree of stability (particularly for those who are vulnerable by reason of age, disability or illness, and households with children) and ensuring that best use is made of the Council's housing stock to meet residents' housing needs and aspirations.

Joint to Sole etc – Granting tenancies of the same property to tenants whose joint tenancies are ended by the tenant(s)

33. Generally, where a joint tenancy is ended by one or more of the tenants and the Council decides to offer a sole tenancy of the same property to one of the joint tenants (or another joint tenancy of the same property to some of the joint tenants) the Council will offer a tenancy that:

- a) is the same type of tenancy as the tenancy that was ended by the tenant(s); and
- b) has (if it is a flexible fixed term tenancy) the same fixed term expiry date as the tenancy that was ended by the tenant(s).

34. This approach must be applied to cases of domestic abuse where a secure periodic joint tenancy is ended after the perpetrator of the abuse has left or been removed from the property but the victim of the abuse wishes to remain and the Council decides to grant them a further sole tenancy.

35. However, where offering a flexible fixed term of the same expiry date would result in a flexible fixed term tenancy of less than two years being offered (which is not permitted by

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statute) a two year flexible fixed term tenancy will be offered. Furthermore, the Council may offer flexible fixed term tenancies of less than the remaining tenancy period, but no less than two years, where exceptional circumstances apply, for example:

- a) 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 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 their household members sooner than the fixed term expiry date of the tenancy that was ended by the tenant(s), 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 needs 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 soon to 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.

36. Where exceptional circumstances apply (as set out above), decisions about whether a flexible fixed term tenancy and, if so, what length of tenancy (no less than two years) should be offered, will be made on a case by case basis by a Deputy Manager in the Assessments and Adaptation Team(s) within Housing Services or more senior officer in consultation with other relevant senior officers. Decisions will take into account the purpose of the accommodation, the needs of the individual household, the sustainability of the community and the efficient use of the Council's housing stock. These decisions will be taken with the aim of achieving an appropriate balance between providing a reasonable degree of stability (particularly for those who are vulnerable by reason of age, disability or illness, and households with children) and ensuring that best use is made of the Council's housing stock to meet residents' housing needs and aspirations.

Right to complain about the type of tenancy offered and request a review of the length of tenancy offered

37. For information about the right to complain about the type of tenancy offered and request a review of the length of tenancy offered, please see page 16 to 17 paragraphs 60 to 64 inclusive.

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

Tenancies offered on Affordable Rent terms²

² As set out on page 17 of the Regulatory Framework for Social Housing in England from April 2012, Affordable Rent terms can only be used where a delivery agreement for new supply of social housing has been agreed under a new supply agreement entered into between a private registered provider and the Homes and Communities Agency (HCA) or the Greater London Authority (GLA).

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38. Where the Council offers a tenancy on Affordable Rent terms 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 Council will, in all circumstances other than those set out below, offer a flexible fixed term tenancy of the length that would be offered if the tenant was a new tenant (see pages 3 to 7, paragraphs 5 to 25 inclusive)**. For information about the right to complain about the type of tenancy offered and request a review of the length of tenancy offered, please see page 16 to 17 paragraphs 60 to 64 inclusive.

Exceptional Circumstances in which secure periodic tenancies may be offered

Tenancies offered on Social Rent terms

39. Where the Council offers 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 Council will, as required by the Regulatory Framework for Social Housing in England, offer a secure periodic tenancy.**
40. As required by the Regulatory Framework for Social Housing in England, the Council will grant tenants who have moved into alternative accommodation during any redevelopment or other work a tenancy with no less security of tenure on their return to settled accommodation.
41. Where the Council offers a tenancy on Affordable Rent terms, a secure periodic tenancy may be offered where this is needed to encourage an existing Wandsworth Council tenant or another social housing tenant to move to more suitable accommodation thereby freeing up their home for another household. By way of example, secure periodic tenancies may be offered to such tenants to facilitate an under-occupation transfer, a decant, a management transfer, an essential repair transfer or a mutual exchange.
42. Decisions about whether a secure periodic tenancy should be offered will be made on a case by case basis by a Deputy Manager in the Assessment and Adaptation Team(s) within Housing Services or more senior officer. Decisions will take into account the purpose of the accommodation, the needs of the individual household, the sustainability of the community and the efficient use of the Council's housing stock. These decisions will be taken with the aim of achieving an appropriate balance between providing a reasonable degree of stability (particularly for those who are vulnerable by reason of age, disability or illness, and households with children) and ensuring that best use is made of the Council's housing stock to meet residents' housing needs and aspirations.
43. However, 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.

Provision of advice and assistance (including granting a further tenancy) on the coming to an end of an existing flexible fixed term tenancy

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44. As stated on page 3 paragraph 5, the Council supports the use of flexible fixed term and assured shorthold 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. It is the Council's view that offering flexible fixed term tenancies in line with the policies set out in this document and then assessing whether a further tenancy should be offered (of either the same or one or more different properties) in line with the approach set out below 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 the Council's housing stock to meet residents' needs and aspirations.
45. **As set out below, in the majority of cases the Council will, on the coming to an end of an existing flexible fixed term 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 let by a registered provider of social housing or a private landlord 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 through the Right to Buy) 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.
46. **At least eight months, but no more than a year, before the existing flexible fixed term tenancy is due to end the Council will, in a manner that is sensitive to their particular needs, review the tenant's household circumstances and housing options with them and their household to:**
- a) **determine whether it may be possible** (where income, savings and incentives allow) **for the Council to assist them to purchase the property they are living in (if suitable) or another suitable property outright or on a shared ownership / equity basis; and**
 - b) **decide 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, if not the standard five years; and**
 - ii. **what rent should be charged** (within legislative and regulatory constraints).
47. These decisions will be recommended by a Housing Assessment Officer or Customer Services and Housing Options Officer and authorised by a Deputy Manager within the Assessment and Adaptation Team(s) within Housing Services or more senior officer in consultation with other relevant senior officers and in line with the criteria set out below.

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Deciding whether a further tenancy should be granted on the coming to an end of a flexible fixed term tenancy

48. A further tenancy is unlikely to be offered if any of the following circumstances apply:

- a) The tenant's / tenants' household income is greater than the household income threshold set by the GLA (Greater London Authority) and in place at the time the decision is made;
- b) The tenant(s) own(s) or jointly own(s) accommodation (including shared ownership accommodation) in the UK or elsewhere, or have a legal right to occupy accommodation in the UK or elsewhere unless they satisfy the Council that it would not be reasonable for them to either:
 - i. occupy the accommodation; or
 - ii. sell or let the accommodation in order to use the proceeds to obtain suitable accommodation.
- c) The Council is satisfied that the tenant(s) have obtained or attempted to obtain housing or other housing related services / benefits by making a false or misleading statement or withholding information, or encouraging someone else to do so on their behalf;
- d) The Council is satisfied that the tenant(s) are unlikely to satisfactorily manage the tenancy and / or pay their rent because, for example:
 - i. They have been served, within the last year, with a Notice of Seeking Termination of Tenancy and Recovery of Possession, in accordance with the Tenancy Conditions;
 - ii. Another person who shared the property occupied by the tenant under their current tenancy left because of the tenant's violence / abuse or threats of violence / abuse against them or a person associated with them;
 - iii. They or a member of their household have a history of anti-social behaviour (including domestic violence / abuse and noise nuisance);
 - iv. They have a record of failure to pay rent to the Council;
 - v. They have outstanding housing related debt liabilities to the Council;

49. At the discretion of a Deputy Manager within the Assessment and Adaptation Team(s) within Housing Services or more senior officer, a further tenancy may be offered to tenants in such cases in exceptional circumstances, for example:

- a) A further tenancy may be offered to tenants whose household income is greater than the household income threshold set by the GLA in order to assist the tenant(s) to purchase the property they are living in (if suitable through the Right to Buy) or another suitable property outright or on a shared ownership / equity basis;

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- b) Where it would, in the officer's opinion, be unreasonable (taking into account any vulnerability of the tenant(s) / household member(s) due to age, disability or illness) not to offer a further tenancy. To aid the decision making process, the Council may seek advice on the relevance to current or future housing needs of tenants' / household members' medical condition(s) / disability from the Council's independent medical adviser. Where further information is required the Council will, with the tenant's / household member's permission, contact their doctor(s) / hospital(s) / other council departments / other agencies;
- c) Where the tenant is abiding by an agreement they have made with the Council in relation to behaviour including the payment of rent and arrears.

50. In reaching a decision consideration will be given to the extent to which the tenant(s) and their household members are making an active and positive contribution to their community through, for example, seeking to secure and remain in employment, volunteering and fostering.

51. On the coming to an end of a flexible fixed term tenancy, if a tenant lacks the required immigration status and are therefore not eligible for social housing in England, a further tenancy will not be granted.

Deciding whether the further tenancy to be offered should be of the same property

52. Where the Council has decided, in line with the criteria set out above, to offer a further tenancy, the tenancy offered will generally be of the same property (i.e. the property occupied by the tenant(s) under their current tenancy).

53. However, where it is considered appropriate, a tenancy / tenancies of one or more different properties that are suitable to the household's needs may be offered to the tenant(s) and, in some cases, their household member(s), for example where:

- a) The Council requires possession of the property currently occupied by the tenant(s) in order to demolish, reconstruct or dispose of the property or part or the whole of the building in which the property is located;
- b) The tenant(s) is / are assessed as requiring a smaller property (i.e. a property with fewer bedrooms) than the property occupied by the tenant(s) under the current tenancy. In making this assessment the bedsize entitlement criteria in the Council's Housing Allocation Scheme will be applied;
- c) The tenant(s) and their household would be occupying the property so as to cause statutory overcrowding under a further tenancy of the same property;
- d) The property has features which are substantially different from those of ordinary properties which make it suitable for occupation by a physically disabled person who requires such features and:
 - i. there is no longer such a person residing there; and
 - ii. the Council requires it for occupation by such a person.

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54. If the Council decides to offer a tenancy of the same property (i.e. the property occupied by the tenant(s) under the current tenancy) but the tenant(s) want(s) a transfer a Housing Options Officer or Customer Services and Housing Options Officer will ensure that they are provided with any advice and assistance that they need in order to make a transfer application.
55. At the discretion of a Deputy Manager in the Assessment and Adaptation Team(s) within Housing Services or more senior officer, a further tenancy of the same property may, where legislation allows, be offered to tenants in the circumstances outlined in b) to d) above where exceptional circumstances apply for example:
- a) In order to assist the tenant(s) to purchase the property they are living in (if suitable through the Right to Buy) or another suitable property outright or on a shared ownership / equity basis; or
 - b) Where it would, in the officer's opinion, be unreasonable (taking into account any vulnerability of the tenant(s) / household member(s) due to age, disability or illness) not to offer a further tenancy of the same property. To aid the decision making process, the Council may seek advice on the relevance to current or future housing needs of tenants' / household members' medical condition(s) / disability from the Council's independent medical adviser. Where further information is required the Council will, with the tenant's / household member's permission, contact their doctor(s) / hospital(s) / other council departments / other agencies.

Type and length of tenancies that will be granted on the coming to an end of an existing flexible fixed term tenancy

56. In order to ensure that best use is made of Wandsworth Council's housing stock to meet residents' needs and aspirations and provide a reasonable degree of stability **the Council will, where it offers a tenancy on the coming to an end of an existing flexible fixed term tenancy, offer a five year flexible fixed term tenancy in all circumstances other than those set out below.**
57. The Council will, where it offers a tenancy of a sheltered housing apartment on the coming to an end of an existing flexible fixed term tenancy, offer a secure periodic tenancy in all circumstances other than those set out in paragraph 24.

Exceptional Circumstances in which the Council may offer fixed term tenancies of less than five years on the coming to an end of an existing flexible fixed term tenancy

58. **The Council may offer flexible fixed term tenancies of less than five years but not less than two years 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; and
 - 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 their household members sooner than in five years, for example:

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- 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; and
 - ii. Where a household's income and savings are currently at or expected soon to 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.
- c) where a tenant is occupying a property which is due to be decanted for regeneration purposes in accordance to the appropriate policy relevant to the specific regeneration.

59. Where exceptional circumstances apply (as set out above), decisions about whether a flexible fixed term tenancy of less than the standard ten years should be offered, and if so what length of tenancy should be offered, will be made on a case by case basis by a Deputy Manager within the Assessment and Adaptations Team(s) within Housing Services or more senior officer in consultation with other relevant senior officers. Decisions will take into account the purpose of the accommodation, the needs of the individual household, the sustainability of the community and the efficient use of the Council's housing stock. These decisions will be taken with the aim of achieving an appropriate balance between providing a reasonable degree of stability (particularly for those who are vulnerable by reason of age, disability or illness, and households with children) and ensuring that best use is made of the Council's housing stock to meet residents' housing needs and aspirations.

Right to complain about the type of tenancy offered and request a review of the length of tenancy offered

60. All offers to grant a tenancy (including offers to grant another tenancy of the same property on the coming to an end of an existing flexible fixed term tenancy) will be made in writing. Offer letters will:

- a) Specify the type and length of tenancy that is being offered³; and
- b) Where a flexible fixed term tenancy is offered, inform the tenant(s) / potential tenant(s) that they have the right to request a review of the Council's decision about the length of tenancy to be offered (but only on the basis that the length of tenancy offered is not in accordance with the policies set out in this document) provided that the request is made within 21 days of the tenant(s) / prospective tenant(s) receiving the offer letter or such longer period as the Council may allow in writing.

61. The administrative arrangements for requesting and conducting a review will be set out in the offer letter. The Flexible Tenancies (Review Procedures) Regulations 2012 set out the

³ All offers to grant another tenancy on the coming to an end of an existing tenancy will be made in accordance with this Tenancy Policy and the offer will therefore be for a tenancy of five years or less but may be a 'lifetime' tenancy where a sheltered housing tenancy is offered.

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procedure to be followed and include a right for the tenant(s) / potential tenant(s) to request an oral hearing.

62. If the Council receives, within the timescales set out above, a request to review a decision about the length of tenancy offered an officer (a Deputy Manager or Manager within the Assessment and Adaptation Team(s) within Housing Services or a more senior officer) who was not involved in the making of the original decision and is a person of greater seniority than the person who made the original decision will on behalf of the Council and as required by law:
- a) Undertake a review to establish whether the decision about the length of tenancy to be offered has been made in accordance with the policies set out in this document; and
 - b) Notify the tenant(s) / prospective tenant(s) in writing of the decision on the review and, if the decision is to confirm the original decision, the reasons for the decision.
63. Any challenge to the reasonableness of the Council's decision on review will be via Judicial Review in the High Court. The household may also complain to the Housing Ombudsman and details of avenues of challenge or complaint will be included in the notification of the decision on review.
64. There is no statutory right for applicants to request a review of the type of tenancy offered (for example, if an applicant wants a secure periodic tenancy but is offered a flexible fixed term tenancy) but applicants (or advocates authorised to act on their behalf) can make a complaint about the type of tenancy offered by telephone (0208 871 6000), in person or in writing or via the Council's website. Complaints received will be acknowledged and fully responded to as soon as possible, usually within ten working days. Full details of the Council's complaint procedure can be found on the Council's website⁴.

End of tenancy advice and assistance for tenants who will not be offered another tenancy on the coming to an end of a flexible fixed term tenancy

Notices and right to request a review of a decision not to grant another tenancy on the expiry of a flexible fixed term tenancy

65. As required by law, if the Council does not propose to grant another tenancy on the expiry of the flexible fixed term tenancy, the Council will give the tenant at least six months' notice in writing. The notice will, as required by law:
- a) State that the Council does not propose to grant another tenancy on the expiry of the flexible fixed term tenancy and explain why; and
 - b) Inform the tenant(s) that they have the right to request a review of this decision provided that the request is made within 21 days of the notice being served.

⁴ www.wandsworth.gov.uk/info/200310/about_the_council/34/making_a_complaint

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66. The administrative arrangements for requesting and conducting a review will be set out in the notice. The Flexible Tenancies (Review Procedures) Regulations 2012 set out the procedure to be followed and include a right for the tenant(s) to request an oral hearing.
67. If the Council receives, within the timescales set out above, a request to review its decision an officer (a Deputy Manager or Manager within the Assessment and Adaptation Team(s) or a more senior officer) who was not involved in the making of the original decision and is a person of greater seniority than the person who made the original decision will on behalf of the Council and as required by law:
- a) Review the decision to not grant another tenancy on the expiry of the flexible fixed term tenancy and, in particular, consider whether the decision is in accordance with the policies set out in this document; and
 - b) Notify the tenant in writing of the decision on the review and, if the review confirms the original decision, state the reasons for this.
68. Any challenge to the reasonableness of the Council's decision on review will be via Judicial Review in the High Court. The household may also complain to the Housing Ombudsman and details of avenues of challenge or complaint will be included in the notification of the decision on review.
69. If the Council's decision remains that another tenancy will not be granted on the expiry of the flexible fixed term tenancy the Council will, as required by law, give the tenant (on or before the day on which the tenancy comes to an end) at least two months' notice in writing stating that the Council requires possession of the property.
70. If on the day on which the tenancy comes to an end the tenant is still occupying the property, the tenancy will become a secure periodic tenancy and the Council will, on or after the date given in the notice, apply for a court order for possession.

Advice and assistance

71. **Where the Council decides not to offer another tenancy on the coming to an end of an existing flexible fixed term tenancy advice and assistance on finding alternative accommodation will, if it is required, be provided by the housing options and assessment section.** The advice and assistance will be the same as that which would be given to any resident who approaches the council for advice and assistance because they are worried about losing their home and will include advice on how to obtain private rented accommodation.

Granting discretionary succession rights

72. **For secure tenancies (including flexible fixed term 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 their spouse or civil partner) i.e. when the tenant dies, their spouse or civil partner (or person who was living with them 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**

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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.

73. However, registered providers of social housing, including the Council, 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 their spouse or civil partner) to succeed the deceased tenant (take over the 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.
74. For detailed information on statutory succession rights for 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.
75. It is a regulatory requirement that registered providers of social housing, including the Council, must set out their policy on granting discretionary succession rights, taking account of the needs of vulnerable household members. The Council's policy on granting discretionary succession rights is as follows.
- 76. To ensure that the best use can be made of the Council's housing stock to meet residents' needs, the Council will not usually grant additional succession rights in tenancy agreements. However, where a Wandsworth Council tenant dies and there is no right of succession the Council may, in certain circumstances as set out in the Housing Allocation Scheme, grant a tenancy (of either the same property or one or more different properties) to one or more household members who were living with the tenant at the time the tenant died.**
- 77. In addition, the Council may grant additional succession rights in the tenancy agreement where this is needed to encourage the tenant to move to more suitable (for example, smaller) accommodation thereby freeing up their existing home for another household.**
78. Decisions about whether additional succession rights should be granted in the tenancy agreement will be made on a case by case basis by specified officers to be determined by the Director of Housing and Regeneration in line with relevant legislation, this policy and departmental procedures. These decisions will be taken with the aim of achieving an appropriate balance between providing a reasonable degree of stability (particularly for those who are vulnerable by reason of age, disability or illness, and households with children) and ensuring that best use is made of the Council's housing stock to meet residents' housing needs and aspirations.

Provision of advice and assistance to household members of deceased tenants

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79. Where a Wandsworth Council tenant dies and there is no right of succession but the property continues to be occupied by people who were living with the tenant, the Council will review the household's circumstances and housing options with them to determine, **in accordance with the Housing Allocation Scheme**, 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 - Usually, a flexible fixed term tenancy of an initial ten years will be offered. The exceptional circumstances in which the Council may offer a flexible fixed term tenancy of less than ten years are set out on page 3 paragraph 8; and
 - b) what rent should be charged (within legislative and regulatory constraints).
80. Tenancies will not be offered to applicants who do not qualify for social housing in Wandsworth under the Council's Housing Allocation Scheme.
81. **Where the Council decides to seek possession of a property following the tenant's death and the occupant(s) are worried about losing their home, advice and assistance on finding alternative accommodation will be provided by the housing options and assessment section.** The advice and assistance will be the same as that which would be given to any resident who approaches the Council for advice and assistance because they are worried about losing their home and will include advice on how to obtain private rented accommodation.

Approach to tenancy management

Tackling tenancy fraud

82. The Council takes a proactive approach to undertaking occupancy checks and works in partnership with the South West London Fraud Partnership (SWLFP). The Council will take immediate action to terminate tenancies of Wandsworth Council properties where they have been obtained by the making of a false or misleading statement.

Interventions to sustain tenancies and prevent unnecessary evictions

83. The Council will:
- a) develop and provide services that will support Wandsworth Council tenants (particularly those who are identified as vulnerable and showing a clear indication of failure to maintain their tenancy and / or engaging in 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.
84. In order to encourage social housing tenants to report incidences of anti-social behaviour it is important that they feel that they will be listened to and that action will be taken. The Council is committed to using the full range of powers to tackle anti-social behaviour

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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.

Households who are vulnerable by reason of age, disability or illness, and households with children

85. It is a regulatory requirement that the Council must set out its 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. In developing the policies set out in this document, the Council has considered the potential impact of the policies on such households and completed an Equality Impact Needs Assessment (EINA). The findings of this Initial EINA as they relate to such households are summarised below.
86. This Tenancy Policy and the approach to taking into account the needs of vulnerable households are consistent with the Council's Tenancy Strategy. Taking account of guidance provided by the Minister for Housing, Communities and Local Government on flexible fixed term tenancies, recommending that a minimum fixed term of two years is offered, whilst also considering the recommendation made in the Government's Social Housing Green Paper on security of tenure (published in August 2018), it provides a balance between offering suitably long term tenancies and the ability to review the tenancy relative to any changes in circumstance. The review and options process prior to the flexible fixed term coming to an end will allow the Council to make best use of stock to the benefit of future and existing council tenants. These matters are set out in more detail on pages 3 to 7, paragraphs 5 to 25 inclusive and 12-16, paragraphs 44 to 59 inclusive of the Policy.
87. The review process set out on pages 12-16, paragraphs 44 to 59 inclusive is intended to provide a reasonable degree of stability and reassurance 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 the Council's housing stock to meet residents' needs and aspirations and that residents are made aware of the full range of housing options and assisted to access them. Effectively the reassurance in relation to how the review is to operate is that if circumstances have not changed significantly a further tenancy of the same property will be offered.
88. As set out on page 12 paragraphs 44 to 47 inclusive of the policy, the Council will work proactively with households to ensure that all housing options are explored. Whilst there will be tenants who have continuing and long term vulnerabilities it would be expected that many households during this fixed term tenancy who had previously found themselves in difficult circumstances (e.g. homeless, unemployed, alcohol or drug problem) will have settled and established themselves. It would be reasonable therefore to review circumstances at the end of the first flexible fixed term and consider housing options including those that might meet that household's aspirations. In considering alternative housing options this will include taking account of any issues that may have arisen, during the fixed term, which might require a move or the offer of a move to alternative accommodation. This review may for instance identify a move is required because of illness or disability or the need to down size as household numbers have reduced.

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89. Notwithstanding this the Council must also have regard and balance these factors with its responsibilities to assist and accommodate households with a priority need for housing and use its housing stock optimally to meet these demands.
90. The Council's use of flexible tenancies in line with the policies set out in this document will enable the Council to tackle both under-occupation and the continued occupation of social housing by households who can afford to meet their housing needs by purchasing a property, and therefore free up housing, including larger family homes, for those who cannot meet their housing needs by purchasing a property, many of whom will be households who are vulnerable by reason of age, disability or illness, and households with children. The policy is likely to particularly benefit tenants who are vulnerable by reason of age, disability or illness, and households comprising of single parents, as this policy, which has increased the length of the initial flexible fixed term tenancies offered by the Council from five to ten years, provides flexible fixed term tenants with more security of tenure.
91. Applicants aged 55 or over will be able to apply for sheltered housing if they want a secure periodic tenancy. Given that sheltered accommodation in the main offers one bedroom accommodation to households whose circumstances are unlikely to change (e.g. in respect to income, savings, household size) there is significantly less reason to undertake tenancy reviews or to use flexible fixed term tenancies other than for two bedroom units that are available in some schemes. However, as set out on page 8 paragraphs 27 to 28 inclusive, the Council has discretion to offer flexible fixed term tenancies of sheltered housing in cases where there are exceptional circumstances.

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APPENDIX 1:**Succession rights for 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 tenant's spouse/civil partner takes precedence but otherwise the qualifying persons must agree amongst themselves who is taking over the tenant. 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.

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APPENDIX 2:

Succession rights for 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 of 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.