

Housing Services - Succession Policy

Purpose	<p>Succession is the process whereby a tenancy passes to another person on the death of the original tenancy holder or joint tenant.</p> <p>Only certain individuals are able to succeed to a tenancy upon the tenant's death and this will depend on various things such as the type of tenancy held by the deceased, and the relationship with the deceased tenant.</p> <p>This policy will clarify the circumstances in which a person may succeed to an Ipswich Borough Council tenancy, but it does not apply to leases or licences</p>
Owner	Head of Tenancy Services
Related documents	Tenancy Agreement
Approved by	Executive
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1.0 Policy Statement

Ipswich Borough Council's Corporate Strategy, Proud of Ipswich, recognises the importance of meeting the housing needs of our community. We aim to be an excellent landlord to the people who live in our properties.

Succession is the process whereby a tenancy passes to another person on the death of the original tenancy holder or joint tenant. Only certain individuals are able to succeed to a tenancy upon the tenant's death and this will depend on various things such as the type of tenancy held by the deceased, and the relationship with the deceased tenant.

This policy will clarify the circumstances in which a person may succeed to a tenancy, but it does not apply to leases or licences.

2.0 Scope

This policy applies to Ipswich Brough Council's tenancy agreement and specifically the succession rights of tenants.

There are four different types of succession depending on the circumstances of the tenant, and their household, at the time of death:

- (i) Survivorship
- (ii) Statutory succession
- (iii) Contractual succession
- (iv) Discretionary succession

3.0. Survivorship

3.1 Survivorship occurs by operation of law where a joint tenant dies. The tenancy passes automatically to the surviving tenant regardless of the relationship between the joint tenants. The surviving tenant will remain at the same address and no new tenancy agreement is created. The tenancy simply becomes a sole tenancy in the name of the surviving tenant.

3.2 Survivorship is not technically a succession, but it counts as one and prevents any further succession to that tenancy.

3.3 The following apply under the rules of survivorship:



- any existing rent arrears become the sole responsibility of the surviving tenant
- any legal notices applying to the tenancy still take effect
- all the rights and obligations related to the tenancy continue to apply to the surviving tenant
- the surviving tenant continues to have the right to compensation for any previous improvements.

4.0 Statutory Succession

4.1 Statutory succession is a legal right under Section 86(A) of the Housing Act 1985. This will apply where a sole tenant dies leaving a spouse, partner or civil partner who was occupying the property as his or her only or principal home immediately before the tenant's death.

4.2 If a tenancy commenced prior to 1st April 2012 (Localism Act 2011) the statutory succession rights will be extended to spouse, partner or civil partner of the deceased in addition to qualifying family members that have lived in the home as their only and principal home for at least 12 months prior to the tenant's death.

4.3 If a tenancy commenced after 1st April 2012 (Localism Act 2011) the statutory succession rights will only apply to spouse, partner or civil partner of the deceased who was living at the property as their only and principal home at the time of the tenant's death.

4.4 As in survivorship the rules included in 3.3 apply.

4.5 Only one succession can take place. If the deceased tenant was already a successor themselves, there are no further rights of succession.

5.0 Contractual Succession

5.1 Ipswich Borough Council's tenancy agreement allows tenants an additional right to a *contractual* succession. This applies to certain family members other than spouses, partners or civil partners who have lived at the property for at least 12 months prior to the tenant's death.

5.2 A contractual right to succeed will exist if the person is the son, daughter or sibling of the deceased tenant who resided with the tenant in the property throughout the period of twelve months ending with the tenant's death and providing the property was the person's only or principal home throughout this period.

5.3 Or is responsible for the deceased tenant's dependents and cannot fulfil this role without residing in the property.



5.4 The above contractual right to succeed will only be granted to one person (and if there is more than one person qualified to succeed that person shall be agreed between the qualified persons or, in the absence of agreement, shall be selected by Ipswich Borough Council)

5.5 Provided the deceased tenant was not themselves a successor as defined by section 88 of the Housing Act 1985, and provided the property is suitable for the person applying to succeed, Ipswich Borough Council will grant a contractual succession. Remaining at the property will not be suitable if it is too large in accordance with the Allocations Policy and / or unaffordable, IBC will work with the successor to downsize.

5.6 As in survivorship the rules included in 3.3 apply.

5.7 Only one succession can take place.

6.0 Discretionary Succession

6.1 In the case that a previous succession has occurred, or where the tenancy does not allow a contractual succession, Ipswich Borough Council may grant a discretionary succession. In deciding whether to exercise this discretion Ipswich Borough Council will take the following points into consideration:

- If the person has a priority need for housing in respect of their vulnerability as defined in the Housing Act 1996 (as amended.) This includes vulnerability as a result of, old age, mental illness or handicap or physical disability or other special reason.
- The length of time that the person has lived in the property as their only or principle home.
- Any financial and/or support given by the person to the previous tenant.
- Whether the person has been proven to have caused any anti-social behaviour at the property or in the locality of the property or had previous rent arrears

6.2 These are not intended to be an exhaustive list of things that Ipswich Borough Council will take into account, and Ipswich Borough Council can take into account any circumstances that they consider to be relevant.

6.3 Ipswich Borough Council is entitled to require evidence of the applicant's relationship with the deceased tenant, and of their residence at the property. If such information is not provided or if the information is not considered sufficient, Ipswich Borough Council may issue legal action.



6.4 In the case that a discretionary succession is agreed, this will create a new tenancy.

7.0 Suitability of the Accommodation

7.1 In all cases involving contractual and discretionary successions, consideration should be given to the suitability of the property for the successor. In cases where the successor would not be entitled to the property under Gateway to Homechoice, (Choice Based Lettings) Allocation Policy, Ipswich Borough Council will take the following points into consideration:

- If the person has a vulnerability as defined in The Housing Act 1996 (as amended) and moving to alternative accommodation would be detrimental to their health as a result of this vulnerability. This is vulnerability as a result of; old age, mental illness or handicap or physical disability or other special reason.
- Any other protected characteristics under The Equality Act 2010.
- The length of time that the person has lived in the property as their only or principle home.
- Any financial and/or other support given by the person to the previous tenant.
- The prevailing demand for accommodation in the area.
- Whether the property has adaptations which are suitable for the needs of the successor.

7.2 In the case that Ipswich Borough Council determines that the property is unsuitable for the successor, the successor must transfer to alternative accommodation. The successor will be given advice on how best to secure alternative accommodation which will include applying for housing via the Housing Register. In exceptional circumstances Ipswich Borough Council may consider offering a managed move, to ensure we are managing the housing stock effectively. The successor will be given a period of six months to complete this and vacate the property. Ipswich Borough Council may initiate court proceedings after this period if alternative accommodation has not been agreed, using Ground 15A of the Housing Act 1985 (as amended).

8.0 No right of succession

8.1 If there is no right of succession a Notice to Quit will be served and the occupant will be asked to leave the property.



9.0 Statutory and regulatory requirements

9.1 The Housing Act 1985 governs the rules of statutory succession. Other successions rights must be expressly stated in the tenancy agreement.

10.0 Equality and diversity

10.1 An equality impact screening exercise was carried out for this policy and it identified positive impacts for the following protected characteristic.

Disability - as consideration will be given if the successor requires an adapted property and the property in question has already had those adaptations made, where the successor would not be entitled to the property under Gateway to Homechoice, (Choice Based Lettings) Allocation Policy.

11.0 Appeals

11.1 An applicant who disagrees with a decision made in the application of this policy may request a review of that decision within 21 days of receiving the written decision from the Council. A request for a review should usually be made in writing although the Council may also consider verbal requests for a review to be undertaken.

11.2 The applicant should clearly outline the reasons that they have formally requested a review and a different officer at the Council will review the original decision. In some cases, the Council may need to request further information from the applicant in order to make a decision. The Council will respond to the review request in writing within 8 weeks.”