Portsmouth Homes

Portsmouth CITY COUNCIL

Succession Policy

Summary

This policy outlines Portsmouth Homes' Succession Policy, which describes the procedures and law for transferring tenancies after a tenant's death. It aims to ensure a fair, compassionate, and clear process aligned with legal and regulatory standards.

Effective date

10 March 2026

Review

We will review this Policy every 3 years or when there has been an update to legislative, regulatory, best practice or operational changes.

Version

Version 1.0

Succession Policy contents

Scope

This policy explains what happens to a tenancy if the tenant dies. It sets out who might be able to take over the tenancy (this is called 'succession'), what the law is, and how we will make sure the process is handled compassionately, fairly, clearly, and with care for everyone involved.

This policy does not apply to leaseholders or shared owners.

Any reference in this policy to 'we', 'our' or 'us' refers to Portsmouth Homes.

Any reference in this policy to 'tenant', 'customer' or 'resident' refers to a Portsmouth Homes secure tenant.

Purpose

The purpose of this policy is to set out clear, fair, and compassionate procedures for what happens to a tenancy when a tenant dies. The policy explains who may be eligible to take over a tenancy (succession), the types of succession available, and the law that apply depending on the tenancy type and date.

It aims to ensure that all succession decisions are made in accordance with current legislation, regulatory standards, and best practice, while supporting residents through bereavement and periods of uncertainty.

Our Responsibilities

As your Landlord, we understand that bereavement is a very difficult time, especially for family and friends. If you need to ask about taking over a tenancy after someone has died, we will handle your request with care and understanding, and try and make the decision process as smooth as possible.

We treat everyone fairly and consider each person's situation. We are here to support you and will give you clear advice about your rights and what happens next. You can also get independent advice if you wish.

To understand if you can succeed to the tenancy, we will ask you for information and documents to help us check eligibility. Sometimes, we may need to visit the property or check who was living there before the tenant died. If it is not clear to us or there is a lack of evidence or disputed evidence, we will have to check for potential fraudulent claims for succession as part of our normal checks.

While we are carrying out our checks, we may give permission for you to occupy the property on a non secure basis until we identify eligibility of succession.

We will keep you updated throughout the process and will write to you with our decision within a timely manner.

It is our duty as a Social Housing Landlord to ensure that we allocate properties fairly, in accordance with relevant legislation and the relevant Local Authorities Allocations policy.

We will:

- Help you understand your rights and responsibilities if you are eligible to succeed and take over a tenancy (this is called “succession”).
- Explain who might be able to take over a tenancy, the different types of succession, and what law apply depending on your situation.
- Make sure we follow the law and treat everyone fairly, including people who may have additional needs or have protected characteristics.
- Give you guidance if the home is bigger than you need or has special adaptations.

We are committed to supporting you through difficult times, making decisions that are fair and in line with the law and be as supportive as possible to all.

Your Responsibilities

If you think you may have a right to succeed the tenancy:

- Contact us promptly and let us know as soon as possible after the tenant has died, normally within 28 days.
- Provide us with the relevant information we need, so that we can make a decision, this could include documents for example, a death certificate, proof of address, and proof of relationship etc. We will always let you know what information and documents that we may need in order to make a decision.
- If you are living in the property but do not have the right to take over the tenancy, we will have to end the tenancy legally, this may be with an Executor for the Estate giving Notice where there is a Will or via a Public Trustees Notice. As soon as the tenancy has been legally ended, if you are still in occupation, you must pay costs associated with the property ‘use and occupation’ charge, as well as any bills and council tax etc until a decision has been made regarding the succession, you are offered alternative accommodation or you move out.
- Keep us updated and let us know if your circumstances change during the process.
- Work with us throughout the process, if you are offered alternative accommodation (for example, if the home is too big for your needs), co-operate with us to find a suitable new home.
- If you need advice or support, reach out to us or seek independent advice and access available bereavement and wellbeing support available.

What is Succession?

Succession is when someone takes over a tenancy after the tenant dies and they then become the Successor. This usually happens if the person who died was the spouse, partner, or close family member, and you lived with them and they have a legal right to succeed, in line with the Tenancy agreement.

Succession refers to the right to take over a tenancy, but not necessarily the property.

Succession Types

Survivorship (Joint Tenancy)

If you share a tenancy with another person, and they die, their tenancy rights automatically pass to you. This is a legal, automatic process, no application needed. You will retain all the rights and obligations of the tenancy (including any rent arrears or credit). There is no further automatic right of succession and could impact applications for future joint tenancies.

Statutory Succession

A legal right for certain people (spouses, civil partners, cohabitees, or family members) to take over a tenancy when the tenant dies, based on housing law providing they were living with the tenant at the property as their only or principal home for the qualifying period, and that there had not been any previous Successions to the original tenancy.

You do not have to pay any rent arrears that were owed by the person who died. These arrears will be dealt with as part of their estate. However, if there was a court order in place about the tenancy (called a possession order) at the time the tenant died, you must follow the rules of that order. If you do not, you could risk losing your home.

Key points:

- **Pre-April 2012 secure tenancies**: Spouses, civil partners, or other family who lived with the tenant for at least 12 months.
- **On/after April 2012 tenancies**: Only spouses, civil partners, or cohabitees have automatic rights and meet the criteria of having lived with the tenant for at least 12+ months.
- Only **one statutory succession** is allowed in most cases. Exceptions may apply for very old tenancies (before Oct 1980).

Non-Statutory (Discretionary) Succession

This is offered at our discretion to someone who doesn't have a legal right to take over the tenancy. It is only used in exceptional circumstance and reviewed on a case by case basis to support and address unique household circumstances.

We may ask you to pay any rent arrears as a condition of your new tenancy. You can pay these arrears in one go or in instalments, and we will set out the payment plan in your new tenancy agreement.

Who might be considered?

- Long-term carers
- Adult children or other relatives
- Unmarried partners not covered by statutory laws

What's considered?

- Length of time you lived there (as your main and principal home)
- Your relationship to the tenant
- Your housing need (this means that you are likely to be accepted as meeting the criteria to be allocated for Social Housing, based on your own personal circumstances)
- Whether the property is suitable for your needs (whether it has been adapted for a specific need, that you do not have)
- Your financial situation (Could you afford to rent privately)
- Any additional needs or support

As this is not legally a succession, in these cases we will offer a new tenancy rather than transferring the existing tenancy.

We will make you an offer of a new tenancy. This may be at the current property, or a new property. We will make this offer within 12 months of our decision to offer a Non-Statutory (discretionary) succession. If you refuse this offer, we will seek possession of the property.

Who Can Take Over a Tenancy?

- If you are the husband, wife, or civil partner of the person who died and / or lived with the tenant who can prove you have lived there for the last 12 months, you may have the right to take over the tenancy.
- If you are another family member (like a son, daughter, or sibling) and you lived with the tenant for at least 12 months before they died, you might be able to take over the tenancy, depending on when the tenancy started.

What Is the Law?

- If the tenancy started **before 1 April 2012**: A spouse, civil partner, or family member who lived with the tenant for at least 12 months can take over the tenancy.
- If the tenancy started **on or after 1 April 2012**: Only a spouse or civil partner can take over the tenancy by law. Other family members may be considered, but it is not guaranteed.

What If More Than One Person Qualifies?

By law, only one person can take over a tenancy after the tenant dies. The only exception is if there are joint tenants then, the tenancy will pass to the other joint tenant.

- If more than one person asks to take over the tenancy, there are laws about who gets priority. For secure tenancies, a husband, wife, civil partner, or (for tenancies that started on or after 1 April 2012) a spouses, civil partners, or cohabitees who lived with the tenant, will be considered first. If there is no one in these groups, and family members or others cannot agree who should take over, we will make the decision.

A panel will look at the case. None of the staff on the deciding panel will have been involved with your application before, to make sure the decision is fair and impartial.

What If I Don't Qualify?

If you do not have the right to take over the tenancy, we will help you find other housing options and give you advice and support.

- If no one is eligible to take over the tenancy, we will ask for the property to be returned to us. If there is no executor of the late tenants' affairs, we will follow the legal process to end the tenancy.
- If you are living in the property after the tenant has died, and you do not have the right to take over the tenancy, we will support you in finding other housing options. While you are still living in the property, after the original tenancy has ended, you will need to pay a charge for staying there, as well as any bills and council tax, until you move out.
- We understand this is a difficult time. We will always consider requests to take over a tenancy with care and understanding. If a decision could mean someone has to leave their home, a manager will carefully review the case and make sure we consider the needs of anyone within the household, but we have to meet statutory regulations and the requirements of the Regulator for Social Housing.

What Happens If the Home is Too Big?

If you take over a tenancy via succession and the home has more bedrooms than you need, we may not be able to let you stay in that property. We follow the bedroom standards set out in our Housing Allocations Policy to decide what size home is suitable for your needs and make the best use of our stock. We will also refer to our Helping you move to the right home policy.

In this situation, we may also serve you with a Notice of Seeking Possession for under-occupation. This cannot be done until 6 months has passed from the date of the death of the original tenant but must be before 12 months.

If this happens, we will offer you one suitable alternative home that matches your needs. We aim to make this offer within 12 months of confirming you can take over the tenancy. If you stay in the original property while waiting to move, you will need to pay a charge called 'use and occupation' for living there, as well as any bills and council tax. If you choose not to accept the alternative home we offer, we may ask for the property to be returned to us.

What Happens if the home is an Adapted and special accommodation

Sometimes, a home may have been specially adapted (for example, for wheelchair access) or designed for a particular group of people (such as older residents). If you do not need these adaptations, or if you do not meet the requirements for the property (for example, if there is a minimum age and you are too young), we would need to follow the same process as above for the home being too big.

What If I Disagree with the Decision?

You can appeal the decision within 14 working days. You must tell us why you feel our decision is wrong. A manager who was not involved in the original decision will review your case. We will only uphold your appeal if we find the original decision did not follow the law, or this policy.

Case studies

Scenario 1: Statutory Succession

Maria lived with her mother, a secure tenant since before April 2012, for 10 years until her mother passed away. As her only home, Maria qualifies for statutory succession and inherits the tenancy. Since the property is a 4-bedroom house, Maria will be asked to move in accordance with the Helping You Move to the Right Home policy.

Scenario 2: Non-Statutory (Discretionary) Succession

Ahmed moved in with his uncle to help care for him, but he isn't named on the tenancy agreement. Because of Ahmed's role as a carer and the time he has lived there, the landlord might allow a Non-Statutory (discretionary) succession. We will review your situation and aim to allocate our properties according to the Helping You Move to the Right Home policy.

Scenario 3: No Statutory Succession Rights

Jade moved in with her partner 6 months before he passed away. She wasn't married or in a civil partnership, and the tenancy was not updated. She doesn't qualify for succession but may be offered alternative housing.

Scenario 4: Applicant who has additional needs

Liam, a 22 year old, a care leaver not living in the home, applies for housing after his foster parent dies (a tenant). He is exempt from local connection law and may get rehousing priority.

Glossary of Terms

Header	Header
Tenancy Agreement	A legal contract between you and your landlord that sets out your rights and responsibilities as a tenant.
Joint Tenancy	A tenancy shared by two or more people. If one tenant dies, the tenancy usually passes automatically to the other joint tenant(s).
Succession:	When someone takes over a council tenancy after the original tenant dies.
Statutory Succession:	The legal right for certain people (like a husband, wife, or civil partner) to inherit a tenancy when the original tenant dies.
Non-Statutory (Discretionary) Succession:	When the landlord chooses to let someone take over the tenancy, even if they do not have a legal right, usually because of special circumstances.
Secure Tenancy:	A type of tenancy, provided by Local Authorities, that gives strong rights to tenants, including the right for someone to take over the tenancy after the original tenant dies.
Principal Home	The main or only place where a person lives.
Under-occupation:	When a home has more bedrooms than the household needs. This is often reviewed if someone takes over a tenancy.
Successor	The person who takes over the original tenancy after the original tenant has died and succession has taken place.

Your voice

We provide residents a wide range of meaningful opportunities to influence and scrutinise the Landlord Strategies, policies and services, to include participation in regular resident meetings and give feedback on services and policies.

If you would like to be included in future resident engagement focus groups and would like to know how to get involved, please contact us for more information:

You can contact our team by:

- Email: **housing.engagement@portsmouthcc.gov.uk**
- Phone: 02392 834835
- Website: visit the **Resident engagement and community resources on our website**

What have we done to make sure this Policy is fair?

We completed an Integrated Impact Assessment (IIA) to consider the positive and negative impacts this Policy may have on people with protected characteristics under the **Equality Act 2010**. This Policy should have direct and positive equality and diversity impacts.

Regulation and legislation

We recognise the variety of legislation, and we will continue to monitor relevant legal guidance. The list below reflects some of the existing legal framework and relevant publications:

- **Localism Act 2011**
- **Equality Act 2010**
- **Care Act 2014**
- **Social Housing (Regulation) Act 2023**
- **Housing Act 1985**

Related documents

This policy should be read in conjunction with:

- **Portsmouth Homes policies, strategies and reports**
- Tenancy Agreement
- Housing Allocation Policy

How to feedback

If you have any questions around the policy or would like to know more about its application, please contact the relevant service in the first instance.

You can get this policy in large print, braille, audio or in another language by contacting your Housing Office. More information is available **translation, interpreting and audio information**.

Compliments

To help us provide the best service we can. We would like to hear customer views on the services that they use. If the customer is pleased with a member of staff or service, please let us know.

- Telephone: 02392 606383
- Email address: **HNBLandlordComplaints@portsmouthcc.gov.uk**

Complaints

If a customer is unhappy, they can refer to our Landlord Complaints Policy.

- Online complaint form at **Make a housing complaint**
- Telephone: 02392 606383
- Email address: **HNBLandlordComplaints@portsmouthcc.gov.uk**

Housing Ombudsman Service

If a customer is unhappy, they can contact the Housing Ombudsman Service for advice and guidance at any time.

- Online complaint form on **the Housing Ombudsman Service website**
- Telephone: 0300 111 3000
- For more information, visit **Housing Ombudsman's Complaint Handling Code**