

# SUCCESSION POLICY

Succession means that when a tenant dies, someone else has the right to take over their tenancy. This can happen because of the law or because it says so in the tenancy agreement.

This policy explains how we deal with succession and ensures that if someone has the right to take over a tenancy, it is done fairly and follows the law and the rules in the tenancy agreement.

The policy also explains the different kinds of succession and what rights customers have, depending on their type of tenancy. It tells you what happens to the new tenant, who can take over, and when someone cannot take over a property.

This policy may include some unfamiliar words and phrases, so we have provided a description of what they mean on page 7.

If you need any help understanding the information in this document, please give us a call on **0300 555 0600**, send us a message on WhatsApp to **07418 344 603** or send an email to **customerservices@onward.co.uk**.

Linked documents	Tenancy Policy, Adaptations Policy, Tenancy and Neighbourhood Management Policy, Lettings and Allocation Policy.
Date implemented	December 2025
Policy lead	Andrew Lord, Head of Neighbourhood Services
Approved by	Executive Team
Approved on	16 December 2025
Date of next review	December 2027
Version	4
Reference number	SUCC04
Document replaces	SUCC03

# FULL POLICY.

## 1. Aim:

- 1.1. This policy sets out Onward Homes' approach to successions to ensure that any statutory or contractual succession rights are exercised in a fair and proportionate manner, and in accordance with the law and the tenancy agreement.

## 2. Scope

- 2.1. The policy applies to Onward's tenants with secure and assured tenancies.
- 2.2. The legal rights of Onward's tenants are set out in their tenancy agreement and in statute. This policy does not create any additional rights. This policy does not apply to shared owners or leaseholders.

## 3. Introduction

- 3.1. Succession is a right, whether that be by statute or by contract (tenancy agreement), for a tenancy to be transferred to (taken over by) someone else when the tenant dies. This right is restricted by the tenancy type held and the relationship with the tenant. Under most tenancy types there is only one legal right of succession. There are rules for different tenancy types about who can succeed.
- 3.2. Where there is no right to succeed we will work with the individuals involved in conjunction with our local authority partners to support them with their rehousing options. Through our lettings policy we also retain the ability to let some homes outside local authority schemes by way of direct lets. This option may be used where there is no right to succeed in exceptional circumstances. In doing this we will take into account the needs of vulnerable household members.
- 3.3. Our succession procedure sets out the process through which we process succession requests, the information required and how we assess whether or not to grant it.

## 4. Types of succession

### 4.1. Survivorship

In the case of a joint tenancy, when one tenant dies the surviving joint tenant will take over the tenancy. This is called survivorship and will count as a succession of the tenancy. Survivorship will happen automatically. Survivorship takes precedence over statutory succession. Where survivorship has occurred there is no further succession right.

### 4.2. Statutory Succession

A statutory succession is the transfer of a tenancy to another person on the death of the tenant. As long as the potential successor meets the eligibility criteria set out in statute, the transfer is immediate and automatic upon the death of the tenant. Where there is a statutory succession a new tenancy is not created.

### 4.3. Non-statutory succession

Onward have contractual provisions in place in some of our tenancy agreements that allow for the tenancy to be 'passed on' to someone who does not qualify as a statutory successor.

#### 4.4. Will/Intestacy

It is possible for a tenant to leave a contractual tenancy by will to another person, and it is also possible for tenancies to pass to a successor by way of the intestacy rules. If the tenancy is a periodic tenancy and there is a person who qualifies for succession, this will prevail.

### 5. Tenancy types

#### 5.1. Secure tenancies

- 5.1.1. Secure tenants who entered into their tenancy agreements before 1st April 2012 have the right reflected in section 87 Housing Act 1985 (as amended) for succession to:
- a. A spouse or civil partner residing with the tenant at the property as his/her only or principal home at the time of the tenant's death.
  - b. A family member (as defined by section 113 of the Housing Act 1985 and including those ) or cohabitee (a person residing with the tenant as though they are a spouse or civil partner) residing at the property as his/ her only or principal home at the time of the tenant's death and who lived with the tenant for at least 12 months prior to the tenant's death (n.b. the 12 month residence qualification period is not restricted to the tenancy in question).
- 5.1.2. The Localism Act 2011 amended the Housing Act 1985 (by way of section 86A Housing Act 1985) to restrict statutory succession for a secure tenancy entered into from 1st April 2012 to the spouse or civil partner or cohabitee of the deceased tenant who is residing in the property as their only or principal home at the time of the tenant's death.
- 5.2. If there has been an assignment to a potential successor no 'further' successions are possible. There will be no right to succeed if the tenant was themselves a successor (including where the tenancy has been transferred by way of survivorship).

#### **Assured tenancies (assured non shorthold, protected assured non shorthold and assured shorthold tenancies).**

#### 5.2.1. Statutory succession for assured tenancies

- a. For assured tenancy agreements entered into either before 1st April 2012 or from 1 April 2012, under Section 17 of the Housing Act 1988, provides a succession right to a spouse/ civil partner or cohabitee residing at the property with the tenant, as though they were the tenant's spouse or civil partner.
- b. There is no statutory right of succession to a family member for assured tenancies entered into before 1st April 2012.
- c. The Localism Act 2011 granted Registered Providers the right to grant more generous statutory succession rights in relation to tenancy agreements commencing from 1 April 2012 but this right has not been taken up by Onward.
- d. This right to succession will not usually apply if the deceased tenant was themselves a successor other than in some cases where a stock transfer has occurred.

### 5.2.2. Non- statutory succession for assured tenancies

- a. For assured tenancies entered into before 1st April 2012, some tenancy agreements provide non-statutory succession rights for family members within the tenancy agreement. In all cases the tenancy agreement must be checked and the terms of the tenancy agreement applied.
- b. In most cases assured tenancies entered into from 1st April 2012 do not give non-statutory/ contractual succession rights to family members. Only a spouse, civil partner, or common law equivalent who is not already a successor will have the right to succeed. Other family members do not generally have a contractual right to succeed in the absence of a resident spouse, civil partner or cohabitee. Some tenancy agreements provide additional rights. The tenancy agreement should be checked in all cases.

## 6. The effect of succession

- 6.1. Where there is a statutory succession, no new tenancy is created. The new tenant (successor) takes over the existing tenancy of the deceased tenant and:
  - 6.1.1. Any existing rent arrears become the successor's responsibility if there is a suspended possession order. Existing rent arrears where there is no suspended possession order will be owed by the tenant's estate.
  - 6.1.2. All rights relating to the tenancy apply to the successor.
  - 6.1.3. The successor inherits any statutory rights to compensation for the previous tenant's improvements.
  - 6.1.4. A possession order made before the succession can be enforced against the new tenant. If there is a suspended or postponed possession order in place it will be necessary to apply to court for an order substituting the new tenant as defendant in the proceedings. We would encourage a successor to seek independent legal advice before taking on a possession order.
  - 6.1.5. Injunctions and legal orders (other than possession orders) obtained against the deceased tenant and/or notices served against the deceased tenant are not enforceable against the new tenant.

## 7. Order of succession

- 7.1. The following order of succession applies to both secure and assured tenancies:
  1. Joint tenancy – to surviving tenant by survivorship, regardless of the relationship between the joint tenants (technically survivorship rather than succession)
  2. Spouse or civil partner residing at the property with the tenant as their only or principal home at the date of the tenant's death.
  3. For secure and pre 1st April 2012 assured tenants only: Family members residing at the property as their only or principal home at the date of the tenant's death and for a minimum of 12 months before the tenant died.

## **8. Unsuitable property – Under Occupation or Adapted**

### **8.1. Secure Tenancies**

- 8.1.1. If the property is too big for the successor (who is not the deceased's tenant's spouse or civil partner and was not cohabiting with them as though they were spouses or civil partners), Ground 15A of Schedule 2 Housing Act 1985 may be available to seek possession against the successor. For this ground to apply the tenant's death must have been on or after 1 April 2012. Ground 15A may also be used in circumstances where a cohabitee did not reside with the tenant as if they were spouses or civil partners or had succeeded to the tenancy because of a contractual term within the tenancy agreement
- 8.1.2. If the property has been specially adapted and the statutory successor has no need of those adaptations it may be possible to seek possession against the statutory successor by using Ground 13 or Ground 15 Schedule 2 Housing Act 1985.
- 8.1.3. In order to make an order for possession in such cases, the court would have to be satisfied that suitable alternative accommodation was available for the statutory successor and find that it is reasonable to make a possession order.

### **8.2. Assured Tenancies**

In cases where the property is too large for a Successor/the successor is under-occupying the Property and/or has been adapted and the successor does not require the adaptations, and/or the Property is sheltered/ or supported and/or the property has been designed or built for person(s) with particular needs, Onward may use Ground 9 Schedule 2 Housing Act 1988 to seek possession. Again, the court would have to be satisfied that suitable alternative accommodation was available and that it was reasonable for a possession order to be made.

## **9. Responsibility and monitoring**

- 9.1. Onward Directors will be responsible for ensuring the policy is complied with.
- 9.2. This Policy will be reviewed every 2 years and as required by the introduction of new legislation, changes in regulatory standards or as a result of system audits.

## GLOSSARY.

<b>Succession</b>	Succession is a right, whether that be by statute or by contract (tenancy agreement), for a tenancy to be transferred to (taken over by) someone else when the tenant dies.
<b>Assured tenancies</b>	This is a type of tenancy that is now offered to most of Onward's customers. In an assured tenancy you can normally live in your home for the rest of your life if you wanted to, as long as you do not break certain conditions. This type of tenancy provides significant security.
<b>Secure customers/tenancies</b>	This is a type of tenancy that is now offered to most of Onward's customers. With an assured tenancy you can normally live in your home for the rest of your life if you wanted to, as long as you do not break certain conditions such as not paying rent, causing antisocial behaviour or conducting tenancy fraud This type of tenancy provides significant security.
<b>Under occupying</b>	Under-occupying means having more bedrooms in a home than are considered necessary for the size and composition of the household, particularly in a council or housing association home.
<b>Intestacy</b>	Intestacy is the condition of the estate of a person who dies without a legally valid will, resulting in the distribution of their estate under statutory intestacy laws rather than by their expressed wishes.
<b>Assignment</b>	Assignment is when the legal interest in a property (the tenancy agreement) is transferred from one person to another.
<b>Joint tenancy</b>	A joint tenancy is where two or more adults sign the tenancy agreement and are collectively and individually responsible for the tenancy and its conditions.

<b>Possession order</b>	<p>This is an order made by a court directing that the possession of property is to be given to the owner or another claimant. A possession order is obtained by Onward in cases when we are pursuing an eviction. There are two types of possession orders, an outright one which sets a date for possession and a suspended one which lets the customer stay in the home so long as they comply with certain conditions that are set out in the order.</p>
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## GET INVOLVED.

Members of our Customer Engagement Community help to improve the services you receive by sharing their concerns, views and ideas, as well as taking part in activities to improve your neighbourhood and local area. The Community also works with us to shape our policies and helped to make this one easier to understand.

If you are interested in joining our Customer Engagement Community, please visit our website ([onward.co.uk/get-involved](https://onward.co.uk/get-involved)), call **0300 555 0600**, or email [customerengagement@onward.co.uk](mailto:customerengagement@onward.co.uk).

If you need any help understanding this document, please give us a call on **0300 555 0600**, send us a message on WhatsApp to **07418 344 603**, or send an email to **customerservices@onward.co.uk**.

Jeśli potrzebujesz pomocy w zrozumieniu tego dokumentu, zadzwoń do nas na numer 0300 555 0600, wyślij nam wiadomość na WhatsApp na numer 07418 344603 lub wyślij e-mail na adres **customerservices@onward.co.uk**.

إذا كنت بحاجة إلى أي مساعدة في فهم هذه الوثيقة، فيرجى الاتصال بنا على 0300 555 0600، أو أرسل رسالة إلينا على **customerservices@onward.co.uk** رقم الواتس 07418 344603 أو أرسل رسالة بريد إلكتروني إلى

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Haddii aad u baahan tahay in lagaa caawiyo fahamka dokumentigan, fadlan naga soo wac lambarkan 0300 555 0600, farriin noogu soo dir lambarkan WhatsApp-ta 07418 344603, ama email noogu soo dir **customerservices@onward.co.uk**.

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ئەگەر پێویستت بە یارمەتی هەبە بۆ تێگەیشتن ئەم بەڵگەنامەیە، تکلیف پێیونیدیمان پێوە بکە بە ژمارە تەلەفۆنی 03005550600، لە واتسنەپ پەیامێکیمان بۆ بنێرە بە ژمارە تەلەفۆنی 07418 344603 یان ئیمەیلیکیمان بۆ بنێرە بۆ **customerservices@onward.co.uk**.

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