



Succession and Assignment Policy – Housing

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Contents

Succession and Assignment Policy – Housing	1
Introduction	4
Purpose	4
Policy Commitment	4
Application Support	4
Resources and Contact	4
Scope	5
Glossary of terms	5
Aims and Objectives	6
Legal and Regulatory Requirements	6
Associated Policies	7
Proof of Identity Requirements	7
Proof of Residency	7
Additional Documents (if applicable)	8
Succession	8
How to apply (Succession)	8
Survivorship	9
Statutory Succession	9
Tenancies that started before 1st April 2012 or Introductory Tenancy	9
Tenancies that started after 1st April 2012	10
Succession to a minor	10
Property too large for Successor/Adapted property	10
Discretion to offer a tenancy Statutory Succession	11
No right to succeed	12
Notices & Possession Claims	12
Assignment	12
How to Apply (Assignment)	13
Introductory Tenancies	13

Demoted Tenancies	14
Equality and Diversity	14
Complaints and Feedback	14
Complaints	14
How to complain to the Housing Ombudsman	15
Feedback	15
Review and Version Control	15

Introduction

Purpose

The Purpose of this policy is to provide clear guidance on the legal and procedural framework for succession and assignment of council tenancies managed by Wigan Council. This policy ensures that tenancy changes following bereavement or changes in personal circumstances are handled fairly, sensitively, and in accordance with current legislation.

This policy supports Wigan Council's strategic vision of Progress with Unity by fostering fairness, transparency, and community resilience in housing management. It ensures that tenancies are transferred in a lawful and compassionate manner, supporting residents through significant life changes such as bereavement or family transitions.

Policy Commitment

Wigan Council is committed to supporting residents through tenancy transitions with empathy and respect. We recognise that these changes often occur during emotionally challenging times and aim to provide a compassionate and transparent service. Wigan Council are commitment to working together with individuals and families to build inclusive, supportive communities where everyone can thrive.

Application Support

Applicants will be guided through the succession or assignment process with clear information, appropriate referrals, and tailored assistance. Applications will be considered in line with relevant legislation and policy, and appropriate referrals to support services will be made where necessary.

Resources and Contact

To support applicants, we have created simple guides:

- [Tenancy Succession](#)
- [Guide to Tenancy Assignment](#)
- [Mutual exchange guide](#)

For further support, contact us by phone at 01942 489005 or email myhome@wigan.gov.uk

Scope

This policy clarifies the circumstances in which a person can take over a Wigan Council tenancy following the death of the tenant, this process is legally known as 'Succession'.

The policy also outlines the circumstances in which a secure tenant can assign their tenancy to another person.

The policy ensures that applications to 'Succeed' or 'Assign' are dealt with in accordance with current legislation and the contractual agreements. This policy also outlines how we may use our discretion to support those who may not have succession rights.

Glossary of terms

Succession: Process by which a tenancy can be legally transferred to another person on the death of the original tenant.

Statutory Succession: A legal right to inherit a tenancy, based on housing law.

Non-Statutory Succession: When someone may be offered a new tenancy at the council's discretion, even if they don't have a legal right to inherit.

Assignment: One of the ways a tenancy can be legally transferred from one person to another during the original tenant's lifetime.

Assignee: The person who receives the tenancy through assignment.

Spouse: Married partner or civil partner.

Co-habiting partner: A person living with the tenant as if they were married or civil partners

Family member: Parent, grandparent, child, grandchild, sibling (including half sibling), uncle, aunt, nephews and nieces, step relations.

Survivorship: When a joint tenant automatically becomes the sole tenant after the other joint tenant dies.

Introductory Tenancy: A trial tenancy given to new tenants before they become secure tenants

Demoted Tenancy: A reduced form of tenancy, usually due to serious tenancy breaches such as anti-social behaviour.

Aims and Objectives

This policy sets out the aims and principles which will apply in respect to the transfer of tenancy rights through succession and assignment. The purpose of this policy is to ensure Wigan Council processes all applications for succession and assignment of tenancy, in accordance with current legislation and the contractual tenancy agreement.

The objectives of this policy are:

- To ensure that all applications for succession and assignment of tenancy comply with current legislation and the tenancy agreement
- To ensure that all applications for succession and assignment are treated fairly and efficiently within a given timeframe
- To ensure that all involved receive the support, advice and assistance required when submitting a request to succeed to a tenancy
- To ensure that Wigan Councils' allocations and lettings policies are not open to abuse by individuals taking over properties that they are not entitled to

Legal and Regulatory Requirements

Wigan Council will comply with current legislation and guidance. Government legislation has been considered when formulating this policy and accompanying procedure, legal requirements and regulatory framework.

The following Acts and relevant codes of guidance should be considered as a minimum when assessing applications for succession and assignment:

- Localism Act 2011
- Housing Act 1985
- Housing Act 1996
- Law of Property Act 1925
- Matrimonial Causes Act 1973
- Matrimonial and Family Proceedings Act 1984
- Civil Partnership Act 2004
- Children Act 1989

In addition, the policy aligns with:

- The Regulatory Framework for Social Housing in England, as set out by the Regulator of Social Housing.

- The Housing Ombudsman's Complaint Handling Code, which promotes fairness and transparency in resolving tenant concerns.

Any personal information provided to us regarding customers' personal or financial circumstances will be dealt with in the strictest confidence. All data held in respect of residents will be recorded and processed in accordance with the Data Protection Act 2018.

Associated Policies

- Wigan Council - [Allocations policy](#)
- Wigan Council - [Mutual Exchange Policy](#)

Proof of Identity Requirements

It is Wigan Council policy to check identification held on file. Should this not be available, proof of identification must be obtained. Before any applications are approved, Wigan Council requires:

- General Identification
- Two forms of ID from all parties involved
- One must be photographic

Proof of Residency

You must provide documents that:

- Show your name and the property address
- Are dated at least **12 months prior** to the date of the tenant's death (for succession) or application (for assignment)

Demonstrate that the property was your **main and principal home**

- Acceptable documents include:
- Council tax bill
- Utility bill (gas, electric, water)
- Letters from Bank or building society
- Tenancy agreement (if applicable)
- Benefit award letter

Additional Documents (if applicable)

- Marriage or civil partnership certificate (for spouses)
- Evidence of cohabitation (e.g. joint bills or correspondence)
- Death certificate (for survivorship or succession)

Succession

Succession is the process by which a tenancy can be legally transferred to another person on the death of the original tenant.

This policy identifies Wigan Council's approach in relation to all applications for succession and assignment, in line with current legislation.

In the event of the death of a Tenant, another member of the household may be able to take over the tenancy, provided that the existing Tenant did not:

- Succeed to the tenancy
- Previously hold the tenancy jointly with one or more other people, and the tenancy passed into their name after one of those other people died (this is called survivorship)

All claims to succeed a tenancy should be made in writing or via the online application system, within one month of the death of the tenant, unless there are special circumstances, of which each case will be considered and reviewed separately.

How to apply (Succession)

- Online - [Amending / ending your tenancy](#)
- In writing via email to - myhome@wigan.gov.uk

Once we have received your application, the Neighbourhood Tenant Officer will review. You will be asked to provide evidence to support your application, this will include but is not limited to, photo ID, proof of residency such as a utility bill, council tax bill (documents must include the property address and be dated at least 12 months prior to the death of the tenant and must demonstrate that you have lived at the address as your main and principle home), marriage certificate (if applicable). We have 28 days in which to make a final decision on your request to succeed, this decision will be made to you in writing.

Survivorship

If the tenancy agreement is in joint names and one of the joint tenants dies, the tenancy will continue, with the surviving joint tenant as a sole tenant. This is called the “right of survivorship” and happens automatically on the date of death even if the joint tenant is no longer in occupation of the property.

If you are a joint tenant and your partner dies, and you have not already completed a ‘Tell Us Once’ form with the registrar, then please contact us to make us aware, we ask that you do this either by calling 01942 489005 or in writing via email at myhome@wigan.gov.uk. You will be asked to provide us with a copy of the death certificate for our records, once received we will update your tenancy details and confirm this in writing. You will not be required to sign a new Tenancy Agreement.

Statutory Succession

When a sole tenant dies, the tenancy passes to the person qualified to inherit it. This is a Statutory Succession. Only one person can succeed to the tenancy. Please be aware that in making an application under statutory succession, you are applying to succeed to the tenancy only and not the property.

Your right to succeed does not automatically mean you will be able to remain in the current property. For example, if the property is too big for your needs or has adaptations, we would look to support you to move to a more suitable property. This will be discussed with you in detail before any decision is made. (Further details can be found below on Page 10 in section titled Property too large for Successor/Adapted property).

Should you wish to make an application to succeed a sole tenancy, you must meet the following criteria, to be a qualifying successor. Depending on when the tenancy started can determine whether you have a right to succeed.

Tenancies that started before 1st April 2012 or Introductory Tenancy

The deceased tenant’s spouse or civil partner or cohabitee can succeed if they were occupying the property as their main and principal home at the time of death.

Where there is no spouse or civil partner, a co-habitee or member of the tenant's family succeeds if they: -

- Occupy the property as their only or principal home at the time of the tenant's death
- Resided with the tenant for the 12 months before the tenant's death

Where there is more than one qualifying family member*. They can agree who succeeds among themselves. If they cannot agree, Wigan Council may choose the successor.

(*Qualifying family member includes the tenant's sibling, cohabitee and parent or child. Step relations, half relations and relations by marriage are family members. Foster children are not included in the definition).

Tenancies that started after 1st April 2012

The only persons who have the right to succeed are the tenant's spouse, civil partner, cohabitee (including same sex) and must have been residing at the property as their main and principal home at the time of death.

Succession to a minor

A minor is a person aged under 18 years. If they meet the conditions for succession, they are legally entitled to succeed to a tenancy regardless of how young they are. We will always seek to find an adult to be the trustee to hold the legal interest of the tenancy until the minor reaches 18 years of age. If the deceased tenant had a will, then the executor will be the trustee automatically. If there was no will, we will speak to other adult family members to ask one of them to act as the trustee. Where there is social services involvement, we will work with both the family and social services to try to ensure sufficient support is provided by the family.

Property too large for Successor/Adapted property

Where a succession is completed but the property is not deemed suitable for the successor, a transfer to another property may be offered. Examples of circumstance where the property may not be deemed suitable include where it will be under occupied or is adapted, and occupants of the property do not require the adaptation or where the property is unaffordable.

If, after our initial assessment, we feel the property may not be suitable for the successor's needs, the Neighbourhood Tenant Officer will arrange to meet with the successor, to discuss the situation in more detail. Support will be provided, and officers will be kind and compassionate in their approach and to consider any additional support needs or special circumstances before sending the application to a Senior Officer for decision.

If the decision is made that the property is in fact unsuitable, then Wigan Council will support the successor to find more suitable alternative accommodation. Successor will be able to bid for properties via the housing register however direct offers may also be made. If the successor fails to actively bid on accommodation or refuses a reasonable offer of accommodation from Wigan Council, then Wigan Council may serve the successor with a Notice of Seeking Possession and upon expiration of the notice, may apply to the County Court for possession proceedings.

The Successor will be given a choice of areas in where they would like to live, and property type, they must however qualify under the rules set out in our Allocations Scheme, for example we would not allocate an older person's bungalow to someone who did not meet the age criteria. We will try to find a suitable offer in their preferred area, this will however depend on the availability of stock and therefore we cannot guarantee an offer in their preferred area and may look to offer a property in a different area of the borough.

Discretion to offer a tenancy Statutory Succession

Where there is no statutory or contractual right to succeed, we are under no obligation to offer a spouse, partner, or family member a tenancy of the deceased's property, or any other property. We will, entirely at our discretion, consider offering a new tenancy to an applicant if there are exceptional circumstances, providing that the following minimum criteria are met:

The applicant had lived in the property with the Tenant for the 12 months prior to their death as their only home and are able to provide supporting evidence of this.

The applicant is a qualifying family member. Anyone moving into the property following the death of the tenant shall not be considered

- The property is not considered too large or too small for the applicant and their household, in accordance with our Allocations Policy, at the time of the request. If it is, we may consider suitable alternative accommodation if the remaining criteria are met

- The applicant has sufficient income to pay the rent
- The applicant is 18 years of age or older

No right to succeed

In cases where there are no succession rights and there is/are remaining occupant(s), we will offer support and advice for them to secure alternative accommodation elsewhere. Should occupants refuse to leave when requested, then legal action will be taken to take back possession of the property.

Notices & Possession Claims

The death of a tenant does not automatically end the tenancy, so where there are no statutory succession rights, the tenancy needs to be ended by the service of the appropriate notice.

In cases, where the tenancy cannot be ended voluntarily, the Council may need to apply to the court for possession.

Assignment

There are three ways in which Wigan Council can legally assign a tenancy: -

- Assignment to someone who would be qualified to succeed to the tenancy (see above – succession criteria)
- By court order under family law proceedings
- By Mutual Exchange (see Mutual Exchange Policy)

Wigan Council may also allow secure tenants to assign their tenancy subject to the following criteria: -

The applicant is a qualifying family member

The applicant must have been residing at the property for a minimum of 12 months

- There are no rent arrears
- No reports of anti-social behaviour
- No court orders in place at the property
- No under occupation or overcrowding
- No adaptations at the property
- No age restrictions at the property

Wigan Council does not allow tenancies to be assigned to friends. Once the tenant has assigned their tenancy, they have no right to occupy the property, and we would not approve an application if they intended to remain living at the address.

If an assignment is made to a potential successor, there can be no succession when the assignee dies.

How to Apply (Assignment)

Any applications to 'Assign' your tenancy to a member of your household should be made in writing via email to myhome@wigan.gov.uk or via the online application system via the following link [Amending / ending your tenancy](#). Once received the Neighbourhood Tenant Officer will assess your request.

The person who is requesting to take over the tenancy or the 'Assignee' will be asked to provide evidence to support the application, this will include but is not limited to, photo ID, proof of residency such as a utility bill, council tax bill (documents must include the property address and be dated at least 12 months prior to the date of the application and must demonstrate that the assignee has lived at the address as their main and principle home).

We have 28 days in which to make a final decision on your request to assign your tenancy, this decision will be made to you in writing.

Should you wish to apply for a Mutual Exchange, you will need to apply via the Homeswapper website, once you have found a suitable match. We have 42 days in which to make a decision on your application to exchange. Further details of how to apply for mutual exchange and the process can be found via the attached link [Mutual exchange - swapping your home](#) and within our Mutual exchange policy [Mutual Exchange Policy](#)

Introductory Tenancies

An introductory tenant does not have a right to a Mutual Exchange.

Introductory tenancies can only be assigned in the following circumstances:

- By court order under family law proceedings
- On assignment to a potential successor

Demoted Tenancies

A demoted tenant does not have a right to a Mutual Exchange or to assign to a potential successor.

A demoted tenancy can only be assigned by court order under family law proceedings.

Equality and Diversity

We are committed to fairness and equality for all regardless of their colour, race, ethnicity, nationality, gender, sexual orientation, marital status, disability, age, religion or belief, family circumstances or offending history. Our aim is to ensure that our policies and procedures do not create an unfair disadvantage for anyone, either directly or indirectly.

Our aim is to ensure that our policies and procedures do not create an unfair disadvantage for anyone, either directly or indirectly. Our commitment to fairness and inclusion reflects the Progress with Unity mission to create equitable opportunities for all residents.

Data protection and equality impact assessments have been undertaken in respect of this policy and which identified no negative impact on any person/group with a protected characteristic as a result of this policy.

Complaints and Feedback

Complaints

Unfortunately, we don't always get things right, if a customer is unhappy with the service, they have received from Wigan Council, we ask that they let us know. We are committed to making it easy for anyone who is unhappy with a service, or experience provided by the Council, to tell us about it. Where customers require additional support, we will endeavour to provide a service that seeks to meet the needs of a particular individual or household.

- You can make a complain to us in whichever way is easiest for you.
- Use our online form at www.wigan.gov.uk/contactus
- Email us at complaints@wigan.gov.uk
- Phone us on (01942) 827607

- Write to us at the Complaints and Information team, PO Box 100, Wigan, WN1 3DS
- Call into any public Council office

In cases where we cannot resolve complaints informally, complaints are dealt with in line with Wigan Council Complaints Policy and a Stage 1 and Stage 2 complaints process is followed. If a customer remains unhappy and are not satisfied with our response, they can appeal through the Housing Ombudsman service, the Local Government Ombudsman, or their local MP.

How to complain to the Housing Ombudsman

- Use the online complaint form at [Make a complaint - Housing Ombudsman \(housing-ombudsman.org.uk\)](https://housing-ombudsman.org.uk)
- Phone them on 0300 111 3000
- Email: info@housing-ombudsman.org.uk
- How to complain to the Local Government Social Care Ombudsman
- Use the online complaint form at [Contact us - Local Government and Social Care Ombudsman](#)
- Phone them on 0300 061 0614

Feedback

It is vital we know what our customers think and that is why your feedback and suggestions are important to us. Tell us about any feedback or suggestions you have that might make our services better or more efficient. Let us know if we have given you a good service. This helps us to understand what is important to you and to share good practice so that we can improve our services. Use this link to complete the online form [Give us feedback](#)

Review and Version Control

This policy will be reviewed every two years or sooner if required by legislative changes or operational needs. The Service Manager for Tenancy Management is responsible for coordinating the review process.