

BOLSOVER DISTRICT COUNCIL

Succession Policy

January 2008



This Policy addresses the following Corporate Aims:



COMMUNITY
SAFETY



CUSTOMER
FOCUSED SERVICES



STRATEGIC ORGANISATIONAL
DEVELOPMENT



REGENERATION



SOCIAL INCLUSION

The District of Bolsover Equalities Statement

The District of Bolsover is committed to equalities as an employer and in all the services provided to all sections of the community.

- The Council believes that no person should be treated unfairly and is committed to eliminate all forms of discrimination in compliance with the Equality Strategy.
- The Council also has due regard to eliminate racial discrimination and to proactively promote equality of opportunity and good relations between persons of different racial groups when performing it's functions.

This document is available in large print and other formats from any of the Council Offices or by contacting the Chief Executives Directorate on 01246 242323. Please bear in mind we will need a few days to arrange this facility.

If you need help to read this document please do not hesitate to contact us.

Our Equality and Diversity Officer can be contacted via [Email](#) or by telephoning 01246 242407.

Minicom: 01246 242450

Fax: 01246 242423

Details of Document	
Title	Succession (Housing)
Document type – i.e. draft or final version	Final v3
Location of Policy	L:\housing\policies
Author of Policy	Peter Campbell
Reviewed by Director of Ops.	Paul Parkinson 5/9/07
Risk Assessment completed	Not applicable
Community Safety implications Please indicate any implications in relation to the Crime and Disorder Act 1998	Not applicable
Equality Impact Assessment completed.	Peter Campbell / Deborah Whallett 6 March 2008
Approved by	Executive
Date Approved	14 July 2008
Policy Review Date	2011.

Final version –
reviewed by Director of Operations
v1 – with comments
v2 – with comments PMWG 17/12/07
v3 – with comments PMWG 7/1/08, and definition of vulnerability
v4 – With SMT comments
v5. – Typing error corrected

CONTENTS

- 1. The Introduction**
- 2. The Scope of the Policy.**
- 3. The Principles of the Policy.**
- 4. Responsibility for implementing the Policy**

Introduction

This policy attempts to balance the needs and circumstances of household's with or without statutory succession rights against the size of the property and the demands of other people on the Housing Register.

Scope of the Policy.

The covers housing stock owned or managed by Bolsover District Council.

Principles of the policy.

At all times the council will act within the law. The relevant legislation is Section 87 of the Housing Act 1985. This sets out the statutory rights of family and spouses to succeed.

However, the Council also recognises that there are other situations where, following the death of the tenant, the Council would offer accommodation to surviving members of the household.

The Council recognises the need to ensure all requests for succession are dealt with in a fair and transparent method. This policy provides clarity over circumstances where the Council would allow permit allocations to some people who do not meet the criteria for a statutory succession, and should be considered alongside the allocation policy.

This policy covers both statutory succession, and options for dealing with other succession claims.

Policy Statement

Part A - Statutory succession on death of tenant

A person is qualified to succeed to a secure tenancy if he/she occupies the dwelling –house as his/her only or principal home at the time of the tenant's death and either:

- a. He/she is the tenant's spouse (i.e. husband or wife or a civil partnership)
- b. He/she is another member of the tenant's family and has resided with the tenant continuously throughout the previous twelve months ending with the tenant's death*

Unless, in either case, the tenant his/herself was a successor as defined in section 88 (Housing Act 1985)

*Note evidence of occupancy will need to be provided – (Note; residing with the tenant may include a previous address if the tenancy has not been at the current address for 12 months)

First succession to the spouse, sometimes termed survivorship, will be to the same property unless the property is especially suited or adapted for either a disabled person or an elderly person and the survivor has no such need.

Note that if the tenancy is a joint tenancy, and one tenant dies, the single tenant will succeed to the tenancy i.e. this is counted as a succession and as such there can be no further succession.

No new tenancy agreement should be signed. A letter should be sent to the householder to tell them they have succeeded to the tenancy, and that no further succession is allowed. The Housing Management system should be updated with notes*

Part B – Other circumstances

1. Allocation of the same property to households with no succession rights

In the following cases the authority will allocate members of the household accommodation following the death of a tenant, and when there is no statutory right of succession (for example when the deceased tenant was themselves a successor)

- a. Where the person gave up a Local Authority or Housing Association property to care for the tenant. This care was medically required and lasted for more than 12 months.
- b. Partners and family members (parent, child, grandchild, brother, sister, nephew, niece, uncle or aunt) who have lived as a member of the deceased's household for more than 18 years and constantly lived as a member of the deceased household for more than 10 years.
- c. Where the tenant dies and leaves dependent children and their carer in occupation.
- d. Properties that are not family accommodation and where the person is vulnerable and they would qualify for accommodation under Homelessness legislation.

Any case arising from the above clauses must be confirmed by the HARP panel. The HARP Panel will review the evidence in each case. In making the decision the HARP panel will consider the type and size of the accommodation (see section 3 below)

If confirmed by the HARP panel, the householder will be offered a secure tenancy which will start from the Monday following the death of the tenant.

N.B. If the property is appropriate for the size and needs of the person(s) they will be allocated the property they occupy (ie the home of the deceased tenant). If the property is not of the right size, or if the property is suitable for people with disabilities or for an elderly person, and there is no person with a need in the household, an alternative property will be offered. For this purpose an appropriate property size will be assessed using the same criteria as the allocations scheme.

2. Allocations where the householder has rights of succession but will be offered suitable alternative accommodation

- a. Where the accommodation is particularly suitable for a disabled person and the householder has no need for this type of property.
- b. Where the accommodation is suitable for the elderly and the householder is below the age of 60. This applies to sheltered accommodation. (This is consistent with the Councils Allocations Policy)
- c. Where, within the Council's current allocations system, the household would not be considered for the size of accommodation i.e. the remaining occupants are deemed to be over accommodated (This does not apply if the succession is by survivorship unless the property is suited for elderly or disabled tenants and the household has no such need)

In each of these situations, the case should be referred to the HARP panel who will review the evidence.

No new tenancy agreement is drawn up or signed. The householder must be sent a letter saying the tenancy has been transferred to their name for a period limited to 6 months and that we would work with the tenant to obtain alternative accommodation within that next 6 months. The Housing Management system should be amended accordingly and this must include notes*. They will be offered a new secure tenancy at the new address if it is Council stock.

Note – if the householder refuses to move to an alternative property when offered, a Notice of Seeking Possession will be served on the tenant under Ground 16 of the 1985 Housing Act. Proceeding for possession must be begun more than 6 months but less than 12 months after the date of the previous tenants death.

3. Allocations to alternative accommodation where the householder has no statutory rights of succession

- a. Where the property is larger than needed by the householder, but the tenant is vulnerable and would be accepted under homelessness legislation.

- b. Where the householder is unlikely to be classed as vulnerable but has lived as a member of the deceased's household for more than 18 years and constantly lived as a member of the deceased household for more than 10 years
- c. Circumstances under 1a-d (above) where the property is too large or otherwise unsuitable for the needs of the household/

Any case arising from the above clauses must be confirmed by the HARP panel.

The householder will be advised to make an application as homelessness and should be offered a non-secure tenancy of the current address for a period of up to 6 months whilst their claim is investigated. This must be confirmed in writing together with the reasons for this. They will be offered a new secure tenancy at the new address if it is Council stock.

Notes:

1. HARP Panel – Housing Application Review Panel. This is a panel of Officers who consider issues around the allocation of properties that are not adequately covered within the published allocations policy. When considering issues of non-statutory succession (as covered in this policy) the panel can make one of the following decisions.

- a. to allocate the householder a property (the panel is free to decide if this is an absolute priority or an award of additional points)
- b. to offer no priority to the householder
- c. to request further information and to defer a decision until this is provided.

In each case the panel will write to the householder within 10 working days of making the decision.

2. This policy should be read alongside the following:

- Allocation Policy (2007)
- Mutual Exchange Policy (2008)

3. Vulnerable – Has a specific meaning within housing. This is defined in law in the 1996 Housing Act and the Homelessness (Priority Need for Accommodation) (England) Order 2002 It includes the following.

- a. A pregnant woman
- b. A person with dependent children living with them
- c. A person who is vulnerable as a result of old age, mental illness or handicap or physical disability.
- d. A person who is fleeing domestic violence

(This is not a complete list – any person who may be vulnerable should seek specialist advice)

Responsibility for implementation

Head of Housing