

Broadway Living RP

Succession Policy

1. Policy Scope

- 1.1 This policy sets out Broadway Living RP's position in relation to the rights of a person to take over a tenancy on the death of a tenant. Succession is the transfer of a tenancy following the death of a sole or joint tenant.

2. Policy Objectives

- 2.1 To ensure the best use of our homes.
- 2.2 To ensure that Broadway Living RP meets its legal, regulatory and contractual obligations in relation to succession of a tenancy.

3. Background

- 3.1 Broadway Living RP only grant Assured Tenancies so the legislation which applies to Secure Tenancies does not apply. The statutory rights to succeed to an Assured Tenancy are contained in the Housing Act 1988. Additionally, Broadway Living RP has included a contractual right to succeed as part of the standard Broadway Living Tenancy Agreement.

4. Types of succession

- 4.1 **Joint Tenancies** - Following the death of a joint tenant, the surviving tenant continues the tenancy as a sole tenant under the law of survivorship. Succession by survivorship counts as one act of succession to a tenancy. The surviving tenant takes on any responsibility for outstanding debt and there are no Right to Rent checks required.
- 4.2 **Assured Tenancies** – The Broadway Living tenancy provides the same succession rights as statute (Housing Act 1988). As such, the statutory and contractual right of succession is only available to a spouse/civil partner or somebody living with the tenant as such. The spouse/partner has to be living in the property as their only or principal home at the date of the deceased tenant's death and the deceased tenant must not have been a successor him/herself.
- 4.3 **Starter Tenancies** – These are periodic assured shorthold tenancies and as such they have the same succession rights as assured tenancies (see 4.2)
- 4.4 **Discretionary Succession** - This is where there are no rights to succeed, but we make a decision to let someone have a new tenancy because we consider the circumstances to be exceptional.

- 4.5 Broadway Living have an absolute right of discretion in deciding whether to grant a discretionary tenancy. In all cases of discretionary succession, the remaining occupant(s) will need to demonstrate housing need and must have lived at the property as their only or principal home at the time of the tenant's death. The person(s) housing need will be based on the hypothetical presumption that they have been asked to vacate the property and the likelihood of them qualifying for social housing. The letting will count as a letting to a true void for the purposes of the Local Authority nominations agreement.
- 4.6 Examples of factors that we may take into account when making our decision regarding a discretionary succession may include, but will not be limited to the following:
- The length of time the applicant has shared the former tenant's home
 - The vulnerability and housing needs of the applicant and other household members and subsequent impact on health, safety or wellbeing of our decision
 - Whether the applicant and other adult household members have a Right to Rent
 - Other sources of housing available to the applicant or their family
 - The financial resources of the applicant
 - Whether there are or have been any children who are children of both parties or for whom both parties have or have had parental responsibility
- 4.3 Where discretionary succession is approved, it may be to the property being occupied or another property within our stock or that of another housing provider. We will not allow someone to remain in the original property they are under-occupying by more than one bedspace. Only one offer of an alternative property will be made in these circumstances and we will re-possess the property being occupied if this is refused.
- 4.4 A minor (i.e. a person under 18 years old) can succeed to an assured tenancy provided that all the relevant conditions are satisfied. If successful, this would result in an equitable tenancy being granted as a minor cannot hold a legal interest in property. The legal tenancy would have to be held on trust by a suitable Trustee who is not Broadway Living RP.

5. **Disputes and appeals**

- 5.1 Where there is more than one potential successor, we will ask them to decide on who will succeed the tenancy. Where a decision is not made, Broadway Living RP or its agents will make the decision.
- 5.2 If the deceased tenant leaves his/her tenancy in their will to somebody who does not meet our qualification criteria for a succession then we will use Ground 7 (which is a mandatory ground) to recover possession of the property.

- 5.3 Any person who remains in the property is liable to pay charges for their ‘use and occupation’ of the property pending a decision as to whether to allow them to succeed or recover possession.
- 5.4 A possession order made before the succession can be enforced against the successor. If there is a suspended possession order, it will be necessary to apply to the court for an order substituting the new tenant as defendant in the proceedings.
- 5.5 People can appeal against a decision regarding succession within 10 working days of being told the outcome of a claim. The appeal can be made verbally or in writing and must explain the reasons for the appeal. The appeal will be reviewed by a senior member of staff and the outcome will be communicated to the resident within 10 working days. This will be the final decision.
- 5.6 The resident has the right to go to the Housing Ombudsman however action may be taken to re-possess the property following the final decision of Broadway Living.

7. Review

- 7.1 This Policy will be reviewed as necessary and formally on a three yearly basis.

Check	Date completed	By whom
Risk map	25/3/21	John Baldwin
Regulatory compliance	21/4/21	Devonshires
Equalities Impact Assessment	25/3/21	John Baldwin

Date policy approved: May 2021

Date policy due to be reviewed: May 2024