

Inheriting a Tenancy



When a tenant dies, the tenancy can be inherited by certain members of the family living in the property. This right to inherit a tenancy is called SUCCESSION.

Tenants also have the right to transfer their tenancy to a member of the family who would be qualified to succeed them. This right is most often used when parents move out to a retirement home and leave their tenancy to adult children. This right is known as ASSIGNMENT.

Strict rules apply to both succession and assignment. This leaflet outlines those rules. For further details please contact your Housing Officer.

Members of the family qualified to succeed a tenancy

The points below apply to both succession and assignment:

- Husband or wife, parents, grandparents, children, grandchildren, brothers and sisters, uncles and aunts, nephews and nieces and persons living together as man and wife (co-habitees). Step and half relatives are treated as full blood relatives.
- The above family members must satisfy the relevant residency qualifications outlined in the next section and should have no other permanent home.
- A divorced or separated spouse living apart from the tenant has no right to succession or assignment unless they have a Court Order made during divorce or separation proceedings.
- Consideration will be given to the position of carers living with the tenant at the time of death who have no other home. Each case will be looked at on its own merits.

The right of succession

Secure Tenants

- If the deceased was a joint tenant, the surviving joint tenant becomes the sole tenant.
- If there is no joint tenant, the tenancy passes to a husband or wife living with the tenant at the time of death.
- If there is no spouse, then another member of the family has the right to inherit, but only if they have been living with the tenant for at least 12 months before the death.

- If there is more than one member of the family entitled to succeed, they may decide between themselves who should take over the tenancy. If agreement cannot be reached, then the Association will decide.
- In general only one inheritance of a tenancy is allowed. However Arcon will allow a further succession to a qualifying family member after the death of a second joint tenant. In these cases a new assured tenancy will be issued.

Assured Tenant

- If the deceased was a joint tenant, the surviving joint tenant becomes the sole tenant.
- If there is no joint tenant, the tenancy passes automatically to a spouse or a co-habitee living with the tenant at the time of death.
- If there is no spouse or co-habitee, Arcon's tenancy agreement allows for a qualifying member of the family, living with the tenant for at least 12 months before the death to be granted a new assured tenancy.
- In general only one inheritance of a tenancy is allowed. However Arcon will allow a further succession to a qualifying family member after the death of a second joint tenant. In these cases, a new assured tenancy will be issued.

Assignment

Arcon tenants, both secure and assured, have the right to transfer (assign) their tenancy to a qualifying member of the family already living in the home. The rules relating to assignment are as follows:-

- The existing tenant must be prepared to give up all right to the property and rights to rehousing by Arcon.
- The person to whom the tenancy will be transferred (the assignee) must be a qualifying member of the family with the appropriate residency qualifications as detailed for succession above.
- The assignee must be prepared to pay the rent due and keep to all the terms and conditions of the tenancy agreement.
- Assured tenants must seek written approval from the Association before they assign but consent will not unreasonably be refused. Secure tenants are not required to seek approval before they assign.
- Before the formal transfer of the tenancy can take place, both the tenant and the assignee must sign a legal document called a Deed. Copies of the Deed are available from the office. If this Deed is not signed, the transfer will not be legal and could result in eviction.

The above is only a brief outline of the law relating to assignment. All tenants considering assignment should contact their Housing Officer for more detailed information.