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| <b>Policy Name</b>      | Succession Policy       |                        |   |
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| <b>Purpose</b>          | REVIEW & APPROVE        |                        |   |
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| <b>Committee</b>        | Committee of Management |                        |   |
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| <b>Charter Outcomes</b>                                  | <b>Number(s)</b>                                      |
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| <b>The Customer/landlord relationship</b>                | 1. Equalities<br>2. Communication<br>3. Participation |
| <b>Housing quality and maintenance</b>                   |   |
| <b>Neighbourhood and community</b>                       |   |
| <b>Access to housing and support</b>                     |   |
| <b>Getting good value from rents and service charges</b> |   |

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| <b>Department</b> | Housing Management |

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| <b>Notes</b>  |
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| <p>Policy drawn up with reference to:</p> <p>Housing (Scotland) Act 2001<br/>           Civil Partnership Act 2004<br/>           Housing (Scotland) Act 2014<br/>           Social Housing Charter 2012, Reviewed 2016, 2021 Social Housing Charter 2022</p> <p>This policy was originally approved on 10 September 2008<br/>           This policy was reviewed at Committee on 13 June 2012, 14 March 2018, October 2019</p> |

# **ANGUS HOUSING ASSOCIATION LIMITED**

## **TENANCY SUCCESSION POLICY**

### **1. Introduction**

The purpose of this policy is to outline Angus Housing Association's management of succession rights to Angus Housing Association tenancies as prescribed by the Housing (Scotland) Act 2001 (HSA 2001) and amended by the Housing (Scotland) Act 2014 (HSA 2014).

### **2. Definition of Succession**

Succession is the passing of a tenancy from a tenant who has died to another person who becomes the new tenant, known as the *successor*.

### **3. Application to Succeed to a Tenancy**

For there to be a succession to a tenancy, there are two essential conditions:

- The tenant must be deceased
- There is a second condition - there must be a "qualified person" to succeed. A qualified person is described in Schedule 3 to the Housing (Scotland) Act 2001 - see below.

Angus Housing Association will respond to any claim for succession rights to a tenancy in accordance with the qualifying criteria specified in the HSA 2001 & HSA 2014.

### **4. Qualification to Succeed to a Tenancy**

For both of the two succession occasions, there are 3 levels of qualifying priority which Angus Housing Association must consider in sequence:

### **Level 1**

The first level of priority in terms of the HSA 2001 is the priority given to the surviving spouse, co-habitee of either sex or to a joint tenant. The right of this group of successors over-rides the right of succession of other groups who may succeed to a tenancy.

This group may succeed to the tenancy of a property which is specially adapted for wheelchair use or for some other medical condition or disability whether or not they have a medical condition or disability which means they can make use of the facilities. This means in practical terms that where the tenancy has been created in order to provide an adapted property for the deceased tenant, a spouse or partner who does not have particular needs for those facilities may succeed to the tenancy.

### **Level 2**

Should no one qualify or choose to succeed from the first priority group then the next level of priority would be other members of the deceased tenant's family if aged 16 years or over who can demonstrate that the house was their only or principal home at the tenant's death. This group may not succeed to a property which has been adapted for the deceased unless they can demonstrate that they have medical conditions or disabilities which mean they are able to use the adaptations and facilities of the property. If no special adaptations are present and the property is a mainstream house, then they may succeed to the tenancy.

### **Level 3**

Should no one qualify or choose to succeed from the first two priority groups then carers aged at least 16 years will qualify where the house was their only principal home at the time of the tenant's death and where they have given up their previous only principal home to care for the tenant or a

member of the tenant's family. The restrictions upon succession to adapted properties with special facilities are exactly the same as priority group 2 in as much as the carer would be required to demonstrate that they had medical conditions and disabilities which meant that they could utilise the special facilities provided in the property.

## 5. **Succeeding to Tenancy**

### 5.1 *Unmarried Partners*

Section 13(a) and 13(d) of the 2014 Act make changes to the rules on succession for unmarried partners:

- The house must have been the unmarried partner's only or principal home for 12 months before they qualify to succeed to the tenancy (previously this was 6 months); and
- The 12 month period cannot begin unless the Association has been told that the individual is living in the property as their only or principal home. The Association must have been told that by the tenant, a joint tenant, or the person who wishes to succeed to the tenancy.

### 5.2 *Family Members*

Section 13(b) and 13(d) of the HSA 2014 make changes to the rules on succession for family members:

- The house must have been the family member's only or principal home for 12 months before they qualify to succeed to the tenancy (previously there was no qualifying period, the person simply had to be living there at the time of the tenant's death); and
- The 12 month period cannot begin unless the Association has been told that the family member is living in the property as their only or principal home. The Association must have been told that by the tenant, a joint tenant, or the person who wishes to succeed to the tenancy

### 5.3 Carers

Section 13(c) and 13(d) of the 2014 Act make changes to the rules on succession for carers:

- The house must have been the carer's only or principal home for 12 months before they qualify to succeed to the tenancy (previously there was no qualifying period, the person simply had to be living there at the time of the tenant's death and have given up a previous home to provide the care); and
- The 12 month period cannot begin unless the Association has been told that the carer is living in the property as their only or principal home. The Association must have been told that by the tenant, a joint tenant, or the care

5.4 Where there is more than one qualifying person in the Priority 2 Group, they should decide among themselves who will succeed. If this cannot be agreed, the Association may consider a joint tenancy. If this is not appropriate or if the parties do not agree to this, then the Association will decide who will succeed.

5.5 If anybody who is entitled to succeed to the tenancy under the three priority levels declines to accept the offer of the tenancy, it is the Association's responsibility to determine whether or not there may be other qualified parties with lesser priority to succeed to the tenancy. In these instances, we will write to any such person we identify in our investigations to determine whether or not they wish to succeed to the tenancy.

5.6 When succession to a tenancy is verified and confirmed, the Association will grant the succession to the qualifying person by an exchange of letters whereby the Association recognises the rights of the successor and confirms that all of the terms and conditions of the original tenancy have been conferred to the successor, the only exception being that one round of succession has already occurred which leaves one

further round to take place on the death of the successor to the tenancy.  
The successor will indicate their acceptance of the tenancy in writing.

## **6. Termination of Tenancy**

Where no one qualifies to succeed to the tenancy, Angus Housing Association will regard the tenancy as terminated as at the time of the death of the tenant and deal with the property in line with policies and procedures relating to empty properties.

## **7. Appeals Process Where Consent to Succeed is Refused**

Angus Housing Association may not refuse to recognise a succession where a legitimate successor has been identified who meets the provision of the Housing (Scotland) Act 2001. Angus Housing Association is aware from time to time a number of parties may emerge who believe that they have priority to be the sole successor to the tenancy. In these cases, having taken legal advice, Angus Housing Association may have to refuse a successor in favour of another in terms of the Act. Any appeal on a decision to refuse recognition of succession should be made to the Housing Manager in the first instance. This does not prejudice the successor's right to raise a Court action under Part 2 of Schedule 5 of the Housing (Scotland) Act 2001.

## **8. Specially Adapted Properties**

Where the house has been designed or substantially adapted for the use of persons with special needs arrangements for succession will depend on whether it is a first or second succession and the needs of the potential successor. A house that has been designed or substantially adapted for the use of persons with special needs can only pass by Succession in the following circumstances –

At the first succession –

- A person succeeding under *Level 1*, whether or not they have special needs which require accommodation of the kind provided by the house or
- At the first succession, if someone qualifies for the tenancy at *Level 2* or *Level 3* and does not have special needs requiring accommodation of that kind, we will terminate the tenancy and offer that person suitable alternative accommodation.

Until suitable alternative accommodation becomes available, the Association will allow the remaining residents to remain in the property on a Short Scottish Secure Tenancy.

At the second succession –

- At a second succession where someone qualifies at Level 1, Level 2 or Level 3 and does not have special needs requiring accommodation of that kind, we will terminate the tenancy and offer that person suitable alternative accommodation. Until suitable alternative accommodation becomes available, the Association will allow the remaining residents to remain in the property on a Short Scottish Secure Tenancy.

## **9. Civil Partnership Act 2004**

For the purpose of succession to tenancies Angus Housing Association will take into consideration the above legislation where a civil partnership has been registered in the terms of the Act.

## **10. Equalities and Diversity**

In developing and implementing policies covering all aspects of our work, Angus Housing Association will ensure that our strong principles and commitment to equality of opportunity are evident. In line with the Housing (Scotland) Act 2001 the Association operates in a manner which encourages equal opportunities and observes the equal opportunity requirements described in Section 106 of the Act.



The Association also takes account of all applicable legislation, including the Equality Act 2010 and relevant Codes of Practice issued by the Equality and Human Rights Commission -

Our Policy recognises the protected characteristics as defined by the Equalities Act

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Gender
- Sexual orientation

In line with this commitment to equal opportunities, this policy and any summary or information leaflet can be made available free of charge in a variety of formats including large print, translated into another language or on audio tape.

#### **11. Access to Policy Information**

The Association will ensure that its policies are made fully available to all tenants, applicants, members, persons or groups within its areas. Every effort will be made by the Association to support access and promote awareness of its policies by developing summaries, guidance and information leaflets as appropriate.

#### **12. Risk Management and Assessment**

The Association has a detailed Risk Management Policy in place and it will assess the risks to the Association in the implementation of each of its policies as part of its risk management strategy.

#### **13. Review**

This policy will be reviewed within 4 years from the date of implementation, which will be the date the policy is approved by the Committee of Management or earlier if deemed appropriate.