



South Cambridgeshire District Council

Assignment & Succession Policy (Housing)

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1. Introduction

- 1.1 This policy sets out South Cambridgeshire District Council (SCDC)'s approach to assignment (where the tenancy is transferred to another person) and succession (where the tenancy is transferred upon the death of a tenant).
- 1.2 This policy should be read in conjunction with the Council's [Tenancy Policy](#), [Lettings Policy](#) and [Mutual Exchange Policy](#).

2. Scope and purpose

- 2.1 This policy applies to all SCDC social housing tenants. It does not cover Leaseholders, Shared Ownership or Non-Secure/Temporary tenancies.
- 2.2 The purpose of this policy is to:
- Provide transparency and clarification on our approach to how we deal with assignment and succession of tenancies.
 - Offer clear guidance to both staff and tenants during potentially life-changing periods, helping them to understand their rights and options
 - Refer to best practice
 - To explain the factors that will come into consideration when we are making decisions on succession and assignment
- 2.3 This policy does not go into detail about mutual exchanges but does discuss assignment in relation to exchange. Please read our [Mutual Exchange Policy](#) and associated guidance for full information about exchanges.
- 2.4 Any individual who knowingly provides false or misleading information in connection with a succession or assignment application may be committing a criminal offence. Such actions could result in the loss of the tenancy and may lead to legal proceedings.



3. What is assignment?

- 3.1 Assignment is the legal process of passing over tenancy rights & responsibilities to another person.
- 3.2 In some circumstances, it may be possible for an SCDC tenant to pass their tenancy on to someone else. The process effectively sees the assignee receive the tenancy held by the assigning tenant; this is not the granting of a new tenancy. There are criteria and restrictions on who a tenancy can be assigned to, as set out in legislation.
- 3.3 When a tenancy is assigned, the assignee (the incoming tenant) takes over the existing tenancy. This means for example if the person assigning the tenancy has caused damage to a property, the assignee will be responsible for putting this right.
- 3.4 [Section 91 \(3\) of The Housing Act \(1985\)](#) states that a secure tenancy can only be assigned in 3 situations:
- By way of mutual exchange (see [section 6](#))
 - To someone that would be eligible to receive the tenancy under succession rules (see [section 5](#))
 - By way of a court order (see [section 7](#))
- 3.5 Assignments are only valid once a 'Deed of Assignment' (a specific legal document, see [section 4](#)) has been carried out, or by way of a court order.
- 3.6 The permission of SCDC must be received prior to the completion of an assignment. If this is not done, then it will be viewed as a breach of tenancy and SCDC could begin possession proceedings.
- 3.7 A tenancy can only be passed over to someone else once (through either assignment or succession). This restriction does not apply to mutual exchanges however, as these can be carried out as many times as required.
- 3.8 Tenants are advised to carefully consider the decision to assign a tenancy and SCDC are available to provide support and answer any questions. It is also recommended for tenants to take legal advice from a solicitor or the Citizens Advice Bureau (CAB).



4. Deed of assignment

- 4.1 Assignments are only deemed as valid once a deed of assignment has been completed (unless it is assigned by a court order).
- 4.2 A deed of assignment is a legal document that should be signed by both the assignee and the assignor and witnessed by an independent person.
- 4.3 When an assignment has been approved, the SCDC Housing Services Officer (HSO) will arrange a mutually convenient time for both parties to come into the SCDC offices to sign the relevant paperwork.
- 4.4 Either person(s) can change their mind about completing an assignment, up to the point of the deed of assignment being signed. Once this has been completed, it becomes a legally binding agreement.
- 4.5 It is highly important for each person(s) to ensure that they are happy with everything and are aware of any tenancy changes, rights and responsibilities that come with carrying out an assignment. It is recommended for tenants to take legal advice from a solicitor or the Citizens Advice Bureau (CAB).
- 4.6 Once the deed of assignment has been signed, the new tenant should keep the original copy and both the original tenant and SCDC should retain a copy. SCDC will ensure this is then held electronically and placed onto the relevant storage system.

5. Assignment by choice of tenant under succession rules

- 5.1 Some SCDC tenants may have the right to assign their tenancy to another person, if the assignee would be eligible to receive the tenancy under succession rules. These successions are known as statutory successions and are outlined in the [1985 Housing Act](#) and amended by the [2011 Localism Act](#).
- 5.2 Who can be assigned the tenancy depends upon the type of tenure that the current tenant has:

Secure Tenancy (signed up prior to 1st April 2012)

Here the tenancy can be assigned to a spouse or registered civil partner or another qualifying family member (such as children, parents, co-habiting partners).



Secure / Fixed-Term / Introductory Tenancy (signed up after 1st April 2012)

The tenancy can only be assigned to the tenant's spouse, civil partner or cohabiting partner (see [Localism Act 2011](#)).

- 5.3 If the assignee is eligible and the assignment is completed, this will count as use of the statutory succession right and there will be no further opportunity for the tenancy to be assigned (either through assignment or succession).
- 5.4 Whilst we will assess the individual circumstances of each case, assignment requests may be refused if:
- The property would not be suitable for the assignee (see [Lettings Policy](#))
 - The succession right has previously been utilised
 - The assignee does not qualify to have the tenancy assigned to them
 - There are arrears on the tenancy
 - The tenancy is subject to legal action
- 5.5 The person, to whom the tenancy is being assigned, must have lived in the property (as their main/principal home) for a minimum of 12 months prior to the assignment being carried out.
- 5.6 Tenants are advised to carefully consider the decision to assign a tenancy and SCDC are available to provide support and answer any questions. It is also recommended for tenants to take legal advice from a solicitor or the Citizens Advice Bureau (CAB).
- 5.7 Any requests to assign a tenancy must be put in [writing](#) to the Council.

6. Assignment by way of mutual exchange

- 6.1 The process of assignment is also used when completing mutual exchanges.
- 6.2 As mentioned, this document does not go into detail about mutual exchanges, but this section does discuss assignment in relation to exchange. For full information, requirements and for an overview of the general process relating to mutual exchange, please visit our [website](#). A paper copy of the mutual exchange application form can also be provided upon request.



- 6.3 When two parties wish to exchange, and consent has been provided by both landlords, the HSO will arrange a mutually convenient time for both tenants to come into the SCDC offices and sign a 'deed of assignment' (see [section 4](#)).
- 6.4 Assignments by way of mutual exchange are not counted as the use of the right of succession, therefore there are no limits on the number of times someone can carry out a mutual exchange.
- 6.5 Succession and assignment rights are linked to the tenancy itself. This means that if someone takes part in a mutual exchange with a tenant who has already used their right to assign or succeed the tenancy, they will not gain new statutory succession rights for that tenancy.

7. Assignment by way of a court order

- 7.1 A tenancy can also be assigned by way of a court order, called a 'Property Adjustment Order'.
- 7.2 Examples of when this might take place include (but are not limited to):
- A divorce
 - A separation
 - A marriage annulment
 - Assigning the tenancy to a particular parent.
- 7.3 The court may make an order to transfer the tenancy under the following:
- [Matrimonial Causes Act \(1973\)](#), Section 24;
 - [Matrimonial and Family Proceedings Act \(1984\)](#), Section 17(1);
 - [Children Act \(1989\)](#), paragraph 1 of schedule 1;
 - [Civil Partnership Act \(2004\)](#), part 2 of schedule 5 or paragraph 9(2) or (3) of schedule 7.
- 7.4 As a landlord, SCDC will be notified when an application for tenancy transfer has been made. Although the court will consider the viewpoint of the Council, the final decision will be made by the court. The Council will abide by the decision of the court.



- 7.5 Once a decision has been made, both parties should contact their HSO and arrange to sign the deed of assignment. The Council will require proof of the decision by the court to order the assignment.

8. Joint tenancies and relationship breakdowns

- 8.1 If joint tenants experience a relationship breakdown, the usual avenue to assign the tenancy to one of the tenants is through a court order (as described in [section 7](#)).
- 8.2 SCDC cannot simply take someone off a tenancy, even if both joint tenants are in agreement. This must be done through the courts and the granting of a court order.
- 8.3 **Joint to sole tenancy without a court order**

Secure Tenancies

If one part of a joint tenancy gives notice, this will bring the entire tenancy to an end.

Flexible Fixed-Term Tenancies

For a flexible fixed-term tenancy to be brought to an end, a formal written offer surrendering the tenancy (giving four weeks' notice) would need to be made, with both joint tenants signing the surrender offer.

Should the other joint tenant(s) wish to remain at the property, the Council may (in some circumstances) consider using discretion to give them a new tenancy. This would depend upon if the property was suitable to the needs of the tenant, as outlined in the [Lettings Policy](#) (e.g. size of property, adaptations etc.). Even if it is agreed that the remaining tenant is eligible for a new tenancy, they should be aware that they may be offered an alternative property.

Tenants should be aware that the type of tenancy they would receive may not be the same as they had held previously, as they would be classed as a new tenant. It is advised that tenants consult with their HSO for advice on this.

All new tenancies will be placed on to a 'target social rent' or affordable rent, dependent on the previous rental for the property.



8.4 Sole to joint tenancy

If a sole tenant wishes to add another person to the tenancy and make it a joint tenancy, they must put their request in writing to the Council. SCDC would require proof that the proposed additional tenant has been living at the property for a minimum period of 12 months and will send out a letter requesting some further information.

The Council would review the request and approve it wherever possible. The occasions whereby this may be declined are under the following circumstances:

- Not all parties are in agreement
- The person(s) has not been living at the property for 12 months or more
- There are outstanding rent arrears
- The tenancy is subject to legal action
- The property would not be suitable for the joint tenancy (e.g. size, adaptations etc.)
- Where one or more of the persons are not eligible for social housing
- The person(s) has interest in another property/properties.

The person that the existing tenant wishes to add to the tenancy would also need to provide identification and show that they have permanent residence in the UK.

Husbands, wives or civil partners are not required to provide the Council with all of this information; all SCDC would need to process the request would be a marriage certificate or a civil partnership certificate.

The Council would review the request, considering all the above criteria and will provide a decision. If approved, the newly added tenant must sign the tenancy agreement.

9. What is succession?

- 9.1 Succession is the name given to the process that sees a Council tenancy passed on to another person when the original tenant passes away. Section 87, [Part IV Housing Act 1985](#) (the Act) provides the basis on which a tenancy can be passed on (succeeded) to another person. SCDC require to be notified and provided with evidence, such as a death certificate or an interim death certificate; this can be done [online](#) through the 'Tell us Once' process.



- 9.2 The [Localism Act 2011](#) changed the legislative framework as to who is eligible to succeed to a tenancy. Therefore, the tenancy rights for succession are dependent on when the tenancy was granted. The statutory right of succession to family members (other than spouse/civil partner/partner) no longer applies to tenancies granted after 1st April 2012.

Secure Tenancy (signed up prior to 1st April 2012)

Here the tenancy can be succeeded to by a spouse or registered civil partner or another close family member (such as children, parents, co-habiting partners etc.), as long as they are living at the property as their principal home at the time of death.

Secure / Fixed-Term / Introductory Tenancy (signed up after 1st April 2012)

The tenancy can only be succeeded to by the tenant's spouse, civil partner or cohabiting partner.

- 9.3 Only one statutory succession is allowed, as outlined within the [Housing Act \(1985\)](#). Therefore, when the tenancy has been succeeded once, it cannot be assigned or succeeded to again.

Where the tenant has moved into a care home

- 9.4 Under the Housing Act 1985, a secure tenancy requires the tenant to occupy the property as their only or principal home. Where a tenant has **permanently** moved into a care home and ceased to occupy the property, the tenancy may lose its secure status. Succession rights apply only if the tenant dies while still holding the tenancy. If the tenancy has ended prior to death (for example, following service of a notice to quit), there is no statutory right of succession.
- 9.5 In such circumstances, the Council may use its discretion, depending on the individual circumstances, to grant a new tenancy to a family member or carer who has been residing in the property, subject to eligibility criteria and housing need (see [Section 13](#) below).

9.4 **Joint Tenancies**

If the succession right has not previously been used, a joint tenancy will automatically transfer to the remaining tenant (this is called survivorship). After this has taken place, there is no further opportunity for the tenancy to be either succeeded or assigned.



9.5 Sole Tenancies

Sole tenancies work slightly differently, as there are certain eligibility criteria that the proposed successor must meet to take on a tenancy. The criteria, as discussed above, will also differ depending on type of tenure and when the tenancy was signed up to.

9.6 Those that succeed a sole tenancy must sign a tenancy agreement to confirm that they accept the tenancy terms and conditions. A new tenancy will not be created, but this will declare that they agree to the terms of the existing tenancy that they are succeeding to. Successors to a joint tenancy will not have to carry this out, as they will have already signed the original agreement.

9.7 Wherever there is more than one person that has the right to succeed a particular tenancy, the family should decide between themselves who will take on the tenancy. If an agreement cannot be made, a court or SCDC will make the final decision.

9.8 Type and size of property

Whilst each case will be assessed individually, SCDC may may not grant succession to the existing property if:

- The home is too big for their needs
- It has been specially adapted, but they don't require those adaptations
- It's designed for older people, and they are too young

In these cases, SCDC will assess the person's housing needs and help them find more suitable accommodation. This approach helps make sure social housing is used fairly and efficiently, in line with the Council's [Lettings Policy](#).

Whilst suitable housing is being identified, the person may be allowed to stay in the existing property temporarily under a licence agreement. They'll be expected to actively engage in the rehousing process.

10. Succession and minors

10.1 Minors (this being anyone under the age of 18) have the same rights to succeed a tenancy as anyone over the age of 18.



- 10.2 SCDC will assess each case individually, but the general procedure will be as follows:

Minors between 16 and 18

If a tenancy is passed to someone who is 16 or 17 years old, SCDC will require a guarantor for the minor. The tenancy will be held in trust for the minor until they turn 18, at which point it will fully transfer to them. The minor must follow the tenancy conditions, and all correspondence will be sent to both the guarantor and the minor until the minor turns 18.

The guarantor may be an individual or a voluntary/child services organisation.

Minors under 16

If the tenancy statutorily succeeds to a person that is aged 15 or under, then a carer must be in place to be there for the minor until at least their 16th birthday. The same conditions as outlined in the 'Minors under 18' section will be in place, but a carer must move into the property to be a guarantor and take custody. The tenancy will be granted in trust to the guarantor until the minor's 18th birthday, at which time the full tenancy will become theirs.

11. Introductory tenancies

- 11.1 Since April 2012, all new Council tenants are given an 'Introductory Tenancy'.
- 11.2 Introductory tenants have the right to assign their tenancy, if the person would be eligible to receive the tenancy under succession rules or if a court order has been granted.
- 11.3 Succession rights and rules also apply during an introductory tenancy.
- 11.4 If the successor is eligible to succeed to an introductory tenancy, they will take over the terms of the agreement and will remain an introductory tenant for the remaining period. For example, if the successor takes on the tenancy after 8 months, they will remain on an introductory tenancy for at least a further 4 months.
- 11.5 Introductory tenants will not usually have the ability to exchange their property, but SCDC may consider using discretion in certain circumstances to allow an exchange



to proceed (for more information, see section 3 of the Introductory Tenancy Procedure).

12. Demoted tenancies

- 12.1 Demoted tenancies are given when ordered by the court. The Council may apply to have a tenancy demoted if:
- There has been anti-social behaviour
 - The property has been used for illegal purposes
- 12.2 Assignment, exchange and succession (along with other tenancy rights) apply differently if a tenant holds a demoted tenancy.
- 12.3 Usually a demoted tenant would not have the right to carry out a mutual exchange or be able to assign their tenancy through their own choice.
- 12.4 The right to succeed would still be in place; however, the eligible successor would take on the demoted tenancy until such time as it is restored to the original tenancy that it was demoted from (provided the terms have been adhered to).

13. Persons left in occupation (sometimes referred to as Non-statutory successors)

- 13.1 If the tenancy has already had a succession (or there is no one that is legally eligible to succeed the tenancy), but an ineligible person remains in occupation, SCDC may begin proceedings to gain possession of the property.
- 13.2 In some circumstances SCDC will consider allowing persons left in occupation to remain in the property and be granted a new tenancy. This is entirely at the discretion of the Council and any decision will be based upon individual circumstances. In making this decision, the Council would consider if the person:
- Is suitable for the property (e.g. adaptations and size of property)
 - Cannot feasibly afford to source accommodation in the private rental sector or through homeownership
 - Does not have interest in another property or properties



- The person has been living at the property as their principal home for at least 12 months
- The Council would also consider the relationship between the tenant and the ineligible person
- Their circumstances would also be considered (children, vulnerability, health etc.)

Generally, a new tenancy would only be granted if the person is suitable for the property and the Council's allocations procedure (as outlined in the [Lettings Policy](#)) is not contradicted.

In such cases, and in contrast to statutory successions, if a person left in occupation is allowed to remain in the property, they would need to sign a new tenancy agreement.

- 13.3 If the person remaining in occupation would qualify for housing support through SCDC's [Lettings Policy](#), but the property they are currently in is not suitable for them, the Council would support them in finding alternative accommodation.
- 13.4 In these circumstances the person would be placed on to a 'Licence' for a maximum period of 12 months, enabling them to have this time to source a suitable property. They will need to register on Home-Link and be actively bidding on properties. SCDC may also offer anything suitable during this time, by way of a direct let.
- 13.5 After 11 months, if the person has not been successful in finding a suitable property, a final property offer will be made by the Council.
- 13.6 If a suitable alternative property is offered, but is unreasonably refused, the Council will begin proceedings to seek possession of the property.

14. Timescales

- 14.1 We aim to complete successions and assignments within 28 days, once all paperwork has been provided by the tenant. However, we will be flexible and work with tenants at an agreed pace to meet their needs. Please note, this timescale does not apply to Mutual Exchanges, please see the [Mutual Exchange Policy](#).



15. Glossary

Assignee

The person a tenancy is being assigned to.

Assignment

The legal process of passing over tenancy rights and responsibilities to another person.

Assignor

The person assigning a tenancy.

Property Adjustment Order

Orders given by the courts to transfer property rights.

Survivorship

The automatic process that sees one joint tenant take over the tenancy solely upon the passing of the other joint tenant.

16. Accessibility and inclusion

- 16.1 SCDC is committed to engaging with tenants and residents in line with the [Equality Act 2010](#). Reasonable adjustments will be made to ensure services are accessible to all. This may include:

- Contact preferences
- Offering home visits
- Use of advocates or interpreters
- Alternative communication formats, such as large print or translated materials
- Adjusting appointment times
- Adjusting locations to accommodate mobility or health needs



17. About this policy

- 17.1 This policy will be reviewed every 5 years. However, earlier reassessment may be required following tenant feedback, further guidance or where there are changes in operations and/or legislation etc.
- 17.2 This policy has been produced in consultation with tenant representatives. If you are interested in getting involved in shaping our housing service, we would love to hear from you; please visit our website for more information and to get in touch.



18. Service Requests and Complaints Process

- 18.1 Tenants should report initial service requests, such as changes to their tenancy, through the designated channels:

General Queries: Tel: 01954 713 000
E-mail duty.housing@scambs.gov.uk

Repairs: [Online](#) via the Council's website
By phone via the Repairs Hotline: 0800 0085 1313

The [Communications Charter for tenants and leaseholders](#) sets out detailed guidance on how to contact the Council and the service standards that can be expected in relation to communication and responsiveness.

- 18.2 SCDC aims to provide excellent customer service, but we recognise that mistakes can happen. If you are dissatisfied with the service you have received following a service request, you can make a complaint in accordance with the Council's Complaints Policy. To make a complaint, please visit our [website](#) or telephone 01954 713000 or email housing.complaints@scambs.gov.uk.



19. Our values

Ambitious

We are proactive and take a forward-thinking approach to addressing challenges.
We create smart solutions and reach our goals with determination and a clear vision.

Collaborative

We foster a culture of teamwork and open communication.
We work with and involve stakeholders, to improve how the organisation works and serves the public.

Compassionate

We prioritise empathy and understanding in decision-making and service delivery.
We consider the wellbeing of people and communities in everything we do and we replicate this when we talk to our colleagues because we know that when we support each other, we all do better.

Accountable

We take responsibility for our actions and decisions.
We own up to mistakes and make sure we fulfil our commitments.