



Succession and Assignment Policy

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| Approved by SMT | 27 th March 2024 |
| Effective date | 1 st April 2024 |
| Review date | 30 th April 2027 |
| Policy developed by | Senior Housing Managers |
| Consultations | N/A |
| Associated procedure | Assignment Procedure and Succession Procedure |

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Introduction

1. Purpose

- 1.1 The purpose of this Policy is to explain and give guidance on the different types of circumstances in which tenancies may change status – succession, assignment and joint to sole /sole to joint tenancy changes. This Policy does not apply to licence agreements.
- 1.2 Scope: The policy applies to the whole of the Group. This means Connexus Homes Limited, (ultimate parent) and all of its subsidiaries.

2. Problem to Solve

- 2.1 This policy sets out the aims and principles which will apply in respect to the transfer of tenancy rights through succession, tenancy assignment and the ending of a tenancy. Some of these rights are granted to customers via their tenancy agreement and Connexus has a number of tenancy agreements in use.
- 2.2 We aim to provide a fair and efficient service when processing requests by:
 - Recognising that the circumstances surrounding an application to succeed to a tenancy are likely to be distressing for the applicant. We will aim to deal with any such request in a sensitive manner.
 - Ensuring that we meet our statutory and contractual obligations.
 - Making the most efficient use of available housing stock.

Definitions

- 2.3 Below are the definitions of some of the common terms used in this policy.
 - **Statutory** succession – where succession rights are granted by law to a spouse/partner/civil partner or a person who has been living together with the tenant as the spouse/partner/civil partner of the assured tenant.
 - **Contractual** succession – where the tenancy agreement, (a contract between the tenant/s and the landlord) gives qualifying family members rights of succession to a tenancy, in certain circumstances.
 - **Survivorship** – when a joint tenant dies and the remaining joint tenant succeeds to the tenancy.
 - **Assignment** – the transfer of a tenancy to a qualifying person. It is only permitted in housing law for assured tenants with the consent of the landlord and if the tenancy agreement allows it.
 - **Spouse or Partner** – a man and a woman living together as husband and wife or, if not married, lives with the tenant as if they were husband and wife. In same sex relationships there is a right of succession for married couples, a registered civil partner, or if the partnership is not registered, for someone who was living with the tenant as if they were civil partners.
 - **Family member** – a parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece.

3. Succession

Right of Survivorship

- 3.1 In the case of the death of a joint tenant, the tenancy automatically passes to the surviving joint tenant through 'survivorship'. Where survivorship takes place it will count as a succession and will usually prevent any further right of succession being exercised (statutory succession) unless the tenancy agreement provides a contractual succession right.

Statutory Succession

- 3.2 The statutory right of succession for assured tenants is set out in the Housing Act 1988, Section 17 and, with effect from 1st April 2012, the Localism Act 2011. There is only one statutory right of succession for an assured tenancy.
- 3.3 On the death of a sole tenant, who is not a successor, the tenancy will pass to the tenant's spouse or civil partner or a person living with the tenant as if they were the tenant's spouse or civil partner.
- 3.4 The spouse or partner must be occupying the property as his or her only or main home at the time of the tenant's death.
- 3.5 Where there has been a previous succession there can be no further succession.
- 3.6 Under the terms of Section 17 of the Housing Act 1988 only a spouse or partner, as defined above, has a statutory right to succeed. There is no **statutory** entitlement for any other family member or other person, even where they have been living with the tenant, however there may be a contractual right set out in their tenancy agreement.

Contractual Succession

- 3.7 The current Connexus tenancy agreements, issued to new tenants since April 2021, contain no additional contractual succession rights.
- 3.8 There are however a number of historical tenancy agreements used across the stock which grant different contractual succession rights. These rights can sometimes mean that qualifying family members and carers may be able to succeed.
- 3.9 Where a potential contractual succession arises, the individual tenancy agreement for the deceased tenant must be considered to establish the extent of the contractual succession rights and to who they apply.

Best Use of Stock

- 3.10 Connexus has a responsibility to ensure the best use of stock, including where properties have been identified for regeneration. If a succession results in a property being under-occupied or the successor does not have a need for that property type then they may be offered a move to more suitable accommodation.
- 3.11 We will always aim to handle any such situations as sensitively as possible, but should a situation arise where a successor is not prepared to move, we may have

no alternative but to seek an Order for Possession of the property. This will not be an option where there has been a Right of Survivorship.

Inheriting an Assured Tenancy

- 3.12 Where there is no statutory succession, a tenancy can pass to another person under a will or intestacy. If the inheritor occupies the property as their only or principal home at the date of death of the tenant, the tenancy will remain assured, however there will be a mandatory Ground for possession against the occupier.
- 3.13 Ground 7 of Schedule 2 of the 1988 Housing Act gives a Registered Provider a mandatory ground for possession where a tenancy has devolved under the will or if a tenant is on the late tenant's intestacy.
- 3.14 This ground for possession is only available up to twelve months after the death of the tenant, or after the date the court accepts that the Registered Provider became aware of the death of the tenant.
- 3.15 The Notice Period for Ground 7 is two months, therefore, a Notice of Seeking Possession will be served before ten months have passed.

Where no succession rights exist

- 3.16 In exceptional circumstances, we may consider the housing need and/or the vulnerability of the remaining members of the household and decide to grant a new tenancy. This decision will be made on a case-by- case basis in line with our Tenancy Policy and Lettings Policy.
- 3.17 If a new tenancy is not granted, any person left in the property, they will be asked to leave. Support and advice will be offered to help them secure alternative accommodation and until they do so, they will be charged an amount equivalent to the total rent for use and occupation of the property. If the person does not leave voluntarily, legal action will be taken to gain possession of the property.

4. Assignment

- 4.1 Assignment is the legal transfer of interest in a property from one person to another during the lifetime of the tenant. Assignment does not create a new tenancy, it merely passes on the existing tenancy to the assignee, who 'steps into the shoes of the outgoing tenant' and occupies under the same terms (except where it is a mutual exchange governed by the Localism Act 2011 – see Mutual Exchange Procedure).
- 4.2 Assured shorthold tenants, including those within the starter period, do not have the right to assign.
- 4.3 There are three instances where a right of assignment may exist:
 - **Assignment to a potential successor** - where a tenancy does allow for a Right of Assignment this will usually allow an assignment to a person who would have been entitled to succeed on the death of the tenant as set out in the tenancy agreement. This includes assignments from joint to sole tenancies.

- **Assignment by Court Order** - if either tenant (or an occupant or tenant's partner) receives a court order the tenancy must be assigned (or transferred under Children Act and some family law proceedings) to them according to the terms of the order.
- **By way of mutual exchange** - where the tenant exchanges their property with another tenant of a housing association or local authority with the permission of the landlord (see Mutual Exchange Policy).

Discretionary Assignment

- 4.4 Where there is no statutory or contractual right to assign, Connexus may consider granting a new sole tenancy to someone who would be a potential successor. There is no obligation for Connexus to do this and agreement to do so is entirely at our discretion.
- 4.5 We will not consider creating a new joint tenancy and will only grant a sole tenancy from an existing joint tenancy where:
- Both existing joint tenants are in agreement
 - The tenants are not subject to legal action by us
 - The assignee agrees to be solely responsible for the repayment of rent arrears that may be on the joint account.
- 4.6 The individual circumstances of each application will be considered on its own merits in line with our Tenancy Policy and Lettings Policy and an affordability assessment may be carried out to ensure that the tenancy is sustainable. Where the assignment is agreed, assignment paperwork will be prepared and must be signed by all parties to confirm that they are aware of the implications.
- 4.7 We will normally only allow one assignment.

Rights to Occupy the Home

- 4.8 A person may have rights, which override housing and property law, depending on whether s/he is married, a civil partner, cohabiting and/or has children.
- 4.9 Rights under Family Law override rights under housing law. For example, a person may be married to someone who is a sole tenant but isn't a named tenant themselves. Even though s/he does not have rights under housing law, they may still have a right to occupy the property should the sole tenant move out (known as "home rights") and the tenancy could potentially be transferred to her/him during divorce proceedings.
- 4.10 This is a complex area of law and tenants must be advised to seek specialist advice from Family Law Solicitors.



Equality Impact Assessment Form

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| Strategy / policy / procedure / service / function / project being assessed | Succession and Assignment Policy |
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| Stage 1 Lead officer | [REDACTED] (Senior Housing Manager) | |
| Date of assessment | 23 rd January 2024 | |
| Date for next review | Upon review of policy | |
| Reason for assessment | Amendments to existing policy | |
| Agreed and signed off by lead officer's line manager | Manager's signature [REDACTED] | Date 16/03/2024 |

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| Stage 2 Aims of the service / function / policy/project under assessment | The Policy explains the circumstances in which tenancies may change status via succession and assignment and outlines how Connexus will fairly and efficiently process requests from customers. |
| Main stakeholders / beneficiaries | The policy applies to all tenancies of properties owned and directly managed by Connexus. |
| Who is likely to be affected by the service/ function/ policy/project? | The Policy will affect customers of general needs homes and independent living schemes. |



| Stage 3 Collect and evaluate the evidence | | | | |
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| Key questions | Positive impact | Negative impact | No specific impact on any one group | Evidence |
| Does the policy or service have a positive or negative impact on any racial groups? Describe how and which. | No | No | Yes | The Policy is intended to ensure that all customers are treated fairly. Some groups, such as established tenants will have more rights than newer tenants but this is reflective of the current legal and policy framework. There would be no specific impact on tenants or applicants with any or all the Protected Characteristics. |
| Does the policy or service have a positive or negative impact on particular minority ethnic communities? Describe how and which. | No | No | Yes | As above. |
| Does the policy or service have a positive or negative impact on individuals where English is not their first language? Describe how and which. | No | No | Yes | As above; where cases are identified that require translation services, this will be undertaken. |
| Does the policy or service have a positive or negative impact on women or men? This includes Transgender people / Trans people. Describe how and which. | No | No | Yes | As above. |
| Is it possible that the service/function/policy could discriminate or unfairly disadvantage Transgender people /Trans People? | No | No | Yes | As above. |
| Does the policy or service have a positive or negative impact on people with disabilities? Describe how and which. | Yes | No | N/A | The policy may have a positive impact on people with disabilities as they may be proportionately more likely to remain in an adapted property following a succession. |

| Key questions | Positive impact | Negative impact | No specific impact on any one group | Evidence |
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| Does the policy or service have a positive or negative impact on people with particular disabilities? Describe how and which. | Yes | No | N/A | See above – customers whose disability needs are met or partially met by adaptations within a property may be proportionately more likely to remain in an adapted property following a succession. |
| Does the policy or service have a positive or negative impact on people of a particular age? (e.g. children, young people, older people). Describe how and which. | No | No | Yes | The policy would have no specific impact; a person's age will not affect their rights to succession or assignment. |
| Does the policy or service have a positive or negative impact on people with particular sexuality / sexual orientation? Describe how and which. | No | No | Yes | The policy would have no specific impact; a person's sexual orientation will not affect their rights to succession or assignment. |
| Does the policy or service have a positive or negative impact on people in terms of marriage/civil partnership status? Describe how and which. | Yes | No | N/A | The policy explains that the rights under family law override rights under housing law. Spouses and civil partners will have a statutory right of succession that will not apply to any other partnership status. This positive impact is led by legislation though rather than the policy. |
| Does the policy or service have a positive or negative impact on people with a particular religion or belief? Describe how and which. | No | No | Yes | The policy would have no specific impact; a person's religion or belief, or that they have none, will not affect their rights to succession or assignment. |
| Does the policy or service have a positive or negative impact on people in terms of pregnancy/maternity? Describe how and which. | No | No | Yes | The policy would have no specific impact; being pregnant or with a child(ren) will not affect their rights to succession or assignment. |
| Is it possible that the service/function/policy could discriminate or unfairly disadvantage those that do not have access to digital equipment? | No | No | Yes | The policy would have no specific impact; information can be provided via a number of routes and not solely via electronic methods. |

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| Is it possible that the service/function/policy could discriminate or unfairly disadvantage or cause an individual/community financial hardship? | No | Yes | N/A | The policy states that in certain circumstances an affordability assessment may be undertaken to ensure any future tenancy granted via an assignment is sustainable. |
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| Outsourced services | |
| If delivery of your strategy, policy, project or service is partly or wholly provided by external organisations / agencies, please list any arrangements you plan, to ensure that they promote equality and diversity. | The policy is wholly delivered by Connexus; if there is a requirement to involve outside agencies then this will be done within data sharing guidelines |
| Relations between different equality groups | |
| Does your assessment show that a policy, project or service may have a differential impact between any discrete groups? If yes, please explain how this issue is going to be tackled. | In all instances our response to a request for succession or assignment will be driven by the relevant legislation and the terms of the tenancy agreement. Where an affordability assessment is needed Connexus will ensure that support is offered to maximise a household's income. |

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| Stage 4 – Summary of replies from individuals and stakeholders consulted, including any previous complaints on equality and diversity issues about the policy or service |
| The components of the Succession and Assignment Policy have been discussed with a Customer Involvement Panel as part of the policy review. No specific concerns were raised around equality and diversity issues. |

Stage 5 – Options resulting from this equality impact assessment, including measures necessary to minimise or remove any adverse impact and better promotion of equality and diversity. Consider any alternative solutions

To closely monitor the delivery of the policy to minimise negative impact.

Stage 6 – Arrangements for regular monitoring of the impact of the policy, project or service

As outlined in the policy.