

Property Succession Policy



Sandwell
Metropolitan Borough Council

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Purpose	<i>This policy sets out how Sandwell Council will manage and apply the rights of succession for our council housing tenants. It outlines what those rights are and the information that anyone wishing to make a succession claim will need to provide.</i>		

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1. Purpose

- 1.1 Sandwell Council is committed to ensuring that the rights of succession for council housing tenants are applied fairly, consistently, and in line with legislation and tenancy agreements. The purpose of this policy is to provide clear guidance on who may succeed to a tenancy and the process for assessing and managing succession requests.

2. Scope

- 2.1 This policy applies to all tenancies issued by Sandwell Council and managed directly by our Housing Service, including secure, introductory, and demoted tenancies. It also covers succession rights for all these tenancy types, and applies to introductory tenants who may become secure tenants following the successful completion of their introductory period.
- 2.2 This policy does not apply to any other type of tenancy or licence issued or managed by Sandwell Council, which may be governed by different legislation or policies.
- 2.3 Under the Localism Act 2011, eligibility to succeed to a secure tenancy granted on or after 1 April 2012 is restricted to the deceased tenant's spouse or partner, or a person who was living with the tenant as if they were married or civil partners, and who occupied the property as their only or principal home at the time of the tenant's death.
- 2.4 For tenancies that commenced prior to 1 April 2012, a family member, as defined by the Housing Act 1985, is also entitled to succeed, provided they resided with the tenant for at least 12 months prior to the tenant's death. Succession can only occur once. If the deceased tenant was already a successor, no further statutory succession is allowed.
- 2.5 Where a tenancy commenced after 1 April 2012, a family member may only succeed if the tenancy agreement expressly permits it.

Sandwell Council's tenancy agreements do not allow family members to succeed.

- 2.6 If a person succeeds to a property and the property is deemed unsuitable, for example it has been specifically adapted for a disabled person or it is under-occupied then the person will be supported to move to more suitable accommodation, or the Council will seek to recover possession through the Courts.

3. What is Property Succession to Sandwell Council?

- 3.1 Property succession is the process by which a council tenancy is legally passed to another person when a tenant dies. Succession ensures that, in certain circumstances, a spouse, partner, or qualifying family member may take over the tenancy, provided that the legal and tenancy-agreement conditions are met. Succession can only occur once.
- 3.2 Succession rights are determined by a combination of legislation, tenancy agreement terms, and the individual circumstances of the household. Sandwell Council will assess each request for succession carefully and consistently to ensure that the correct legal framework is applied.
- 3.3 Below are simple explanations of the key terms used within this policy:
- **Statutory Right to Succession**
The legal process by which a secure tenancy passes to another person upon the tenant's death, as set out in the Housing Act. Only one statutory succession is allowed during the lifetime of a tenancy.
 - **Contractual Right to Succession**
A right granted through the express terms of a tenancy agreement as permitted by Section 86A(2)(b) of the Housing Act 1985. Succession only applies if there is an express term of the tenancy agreement that identifies specific persons (other than a spouse or civil partner) who may qualify to succeed the tenant. No further

statutory or contractual succession will be available following this succession.

- **Survivorship**

Where a tenancy is held jointly and one tenant dies, the survivor automatically becomes the sole tenant. Under Section 88(1)(b) of the Housing Act 1985, this survivor is legally defined as a successor, and no further statutory succession may occur.

- **Spouse or Civil Partner**

This includes a husband, wife, civil partner, or a cohabiting partner who was living with the tenant as if they were married or in a civil partnership at the time of the tenant's death.

- **Qualifying Member of the Family**

Family members as defined by the Housing Act 1985—including a child, parent, grandchild, grandparent, sibling, aunt, uncle, niece, nephew, step-relation, or half-relation. To qualify, the person must have been living with the tenant at the time of their death and for at least the 12 months immediately before. This right applies only to secure tenancies that began before 1 April 2012.

4. Policy Statement

- 4.1 When applying this policy, Sandwell Council will balance the need to respond to housing demand and manage our housing stock responsibly with the need to treat bereaved households with sensitivity and fairness.
- 4.2 Statutory succession occurs automatically by operation of law, however, potential successors should notify the Council in writing within 28 days of the tenant's death, unless there are extenuating circumstances, to ensure that they meet the eligibility requirements for succession and that tenancy records can be updated.
- 4.3 Applicants must provide evidence to support their succession claim. Tenants must notify us in writing of any long-term change to the household. We will check whether the information provided covers the full period needed to establish eligibility.
- 4.4 We will also verify other supporting documentation to confirm the applicant's family connection, length of residence, and that the

property was their only or main home. Evidence required will include:

- Death certificate of the tenant
- Applicant's full birth certificate
- Passport, driving licence, or other photo identification
- Proof of residence (at the date of death for a spouse/partner, and for at least the previous 12 months for a qualifying family member), e.g. bank statements, electoral registration records
- Proof of family relationship

4.5 Where the information provided does not reasonably establish eligibility, Sandwell Council may request further evidence or carry out additional investigations. Ultimately it is the responsibility of the applicant to prove they are eligible, and thus if eligibility is not clearly established, the Council will not consider the application any further.

4.6 Before making any decision, we will always check the tenancy agreement and tenancy history, including whether any previous succession or assignment has already taken place.

4.7 If a family member under 18 is eligible to take over a tenancy (for agreements started before April 2012), a "Trustee" (usually a parent, guardian, or relative) will hold it for them as a minor cannot legally hold a tenancy. If no relative is available, the Council will involve Social Services. The minor is granted an "equitable tenancy," meaning they have the right to live at the property. Once the successor reaches 18, the tenancy is officially transferred into their name, as long as they are still living there as their main home.

4.8 Where someone has been living with the tenant but has no statutory or contractual succession rights, Sandwell Council is not normally able to grant a new tenancy for the same property due to high housing demand and limited stock. Instead, Sandwell Council will provide support to find suitable alternative accommodation.

4.9 However, there are some limited circumstances in which Sandwell Council can consider using discretion to grant a new Introductory

tenancy at the same property, as reflected in our Allocations Policy.

4.10 If the tenancy was introductory or demoted at the time of the tenant's death, it will remain in that status for the successor until the required period has been satisfactorily completed. Sandwell Council may extend an introductory tenancy where appropriate.

4.11 Even where a person qualifies to succeed, they may still be required to move to more suitable accommodation. Sandwell Council will seek possession under the following grounds of Schedule 2 of the Housing Act 1985, provided suitable alternative accommodation is available:

- Ground 13 – the property has been specially adapted for a disabled person
- Ground 15 – the property is designed for an elderly person (e.g., sheltered housing)
- Ground 15A – the successor is under-occupying the property and is not the spouse, civil partner, or surviving joint tenant.

A Notice of Seeking Possession will be served on the successor no earlier than six months and no later than twelve months after the death of the tenant (or the date the Council became aware of the death).

4.12 **Note:** If the court grants possession and the successor accepts the alternative property offered by Sandwell Council, they will remain a successor in their new tenancy.

4.13 If more than one person applies to succeed and each meets the qualifying criteria, the applicants must decide between themselves who will take the tenancy. If they cannot reach agreement, Sandwell Council will make the final decision.

4.14 The deceased tenant's rent account continues to run until the tenancy legally ends. Where there is a statutory succession, the tenancy does not end. The successor becomes responsible for rent from the Monday following the tenant's death. Although a successor "steps into the shoes" of the deceased tenant, they do not take over the former tenant's arrears as that falls onto the

deceased's estate. Unless they were a joint tenant and succeeded through survivorship as when they were joint tenants they were jointly and severally liable for the rent.

4.15 If there is no one eligible to succeed and no will, the Council must serve the Notice to Quit (NTQ) on the Public Trustee to legally end the tenancy.

4.16 **Succession and the Right to Buy**

The Right to Buy (RTB) reforms introduced in 2025 expanded eligibility and access to discounted home ownership for qualifying secure tenants. Where a secure tenant has exercised the Right to Buy, the legal status of the home and the nature of occupation change fundamentally. As a result, statutory succession rights no longer apply once a property has been purchased under the Right to Buy.

Upon completion of a Right to Buy purchase, the tenancy ends and is replaced by either:

- a long leasehold interest (for flats and maisonettes), or
- freehold ownership (for houses),
- subject to the terms of the sale and any relevant covenants.

4.17 **Right to Buy Effects on Succession Rights**

Succession rights under the Housing Act 1985 apply **only to secure tenancies**. Once a property has been purchased under the Right to Buy:

- There is no statutory or contractual right of succession to the former council tenancy.
- Occupation and future rights to the property are governed by property law, not housing legislation.

4.18 Any right to remain in or inherit the property will depend on:

- the terms of the lease (where applicable), and/or
- the owner's will, intestacy rules, or other legal arrangements.

4.19 Sandwell Council has **no discretion** to grant a succession or a new council tenancy in respect of a property that has been purchased under the Right to Buy.

4.20 Applications Made Following the Death of an RTB Purchaser
Where a former secure tenant dies after completing a Right to Buy purchase:

- The property does not revert to Sandwell Council.
- Family members or household members cannot succeed to the former tenancy.
- Any disputes regarding occupation, inheritance, or ownership must be resolved through private legal processes.

4.21 The Council will provide general housing advice where appropriate, including information on housing options, but it cannot intervene in matters of ownership or succession to privately owned property.

4.22 **Right to Buy Applications in Progress at the Time of Death**

Where a secure tenant dies before completion of a Right to Buy purchase:

- The RTB application will be treated in line with relevant legislation and guidance in force at the time.
- A family member who is not entitled to succeed to the tenancy (because a succession has already occurred) can still complete the purchase if they were validly joined to the RTB application before the tenant died. The family member must have lived in the property as their only or principal home at the time of the death to remain eligible.
- If no statutory succession occurs, the Right to Buy application will normally lapse.
- Each case will be assessed on its individual facts, having regard to the tenancy status, eligibility for succession, and the stage reached in the RTB process.

4.23 **Right to Buy Housing Advice and Support**

Where the death of a tenant who has exercised, or was in the process of exercising, the Right to Buy results in housing insecurity for household members, Sandwell Council will offer advice and signposting in line with its wider housing options and homelessness duties. This does not include granting succession or a replacement tenancy where no legal right exists.

4.24 **Monitoring**

- We will implement this policy through our Succession procedure and in conjunction with Sandwell Council's Allocations Policy.
- We will monitor the implementation through a series of internal checks to ensure that the policy is applied and administered correctly, and in line with required timeframes.

4.25 **Complaints**

Sandwell Council is committed to providing a clear, fair, and supportive service when dealing with succession requests. If a tenant, household member, or applicant is unhappy with how their succession case has been handled, we encourage them to raise their concerns.

You can contact us through the following routes:

- **Online:** via MySandwell
- **Email:** customer_services@sandwell.gov.uk
- **Phone:** 0121 569 7867
- **In writing:**
Customer Feedback Team
Sandwell Council
Roway Lane
Oldbury
B69 3ES

We will always try to resolve concerns quickly. If this is not possible, the matter will be managed under our formal complaints procedure, beginning at Stage 1.

Sandwell Council values all feedback. We regularly review complaints and customer satisfaction data to identify service improvements. Where appropriate, we engage with tenants on proposed changes to policies, standards, or processes to ensure they reflect resident needs and expectations.

4.26 **Supporting Applicants and Household Members with Additional Needs**

Sandwell Council is committed to ensuring that no applicant or household member is disadvantaged when accessing information, submitting a succession request, or communicating with us during

the succession process. We will make reasonable adjustments where needed to ensure the process is fair, accessible, and responsive to individual needs.

Reasonable adjustments may include:

- Providing information in alternative formats (e.g., large print or easy-read)
- Adapting communication methods to meet individual needs
- Using plain, clear language when explaining the process or decisions
- Ensuring that online policy documents can be accessed in various ways, including:
 - Adjusting colours, contrast levels, and font sizes
 - Using zoom functions up to 300% without loss of content
 - Viewing documents from a smartphone, tablet, laptop, or PC

Residents can request reasonable adjustments in any of the following ways:

- In person
- In writing (email, post, or text message)
- By telephone
- Through a family member or representative, where permission has been provided
- On the suggestion of a staff member, where doing so would support the customer's needs

Further information is available in [Sandwell Council's Reasonable Adjustments Policy](#).

4.27 **ST*R Model**

Sandwell Council applies the ST*R practice model to its Succession Policy to ensure our approach is fair, inclusive, and centred on the needs of applicants and households:

- **Strengths-Based** – We work collaboratively with applicants, recognising the knowledge and experience they bring to their situation.
- **Trauma-Informed** – We understand that bereavement and housing uncertainty can cause distress, and we respond with sensitivity and care.
- **Relationship-Based** – We build trust through clear communication, respectful engagement, and guidance throughout the succession process.

This model helps ensure that our service is supportive, empathetic, and respectful of individual circumstances.

5. Development of Policy

- 5.1 Sandwell Council recognises the importance of clear, consistent communication when setting out how succession rights are applied. We are committed to ensuring that our approach is transparent, fair, and informed by the experiences of our tenants and residents.
- 5.2 As part of this commitment, we will invite tenants and leaseholders to review and comment on this policy before it is finalised. Opportunities for feedback will be offered both online and in person, allowing residents to participate in whichever way suits them best.
- 5.3 By involving residents in shaping the policy, we aim to ensure that the final version reflects the needs, priorities, and lived experiences of the people and communities it affects.

6. Related Documents

- 6.1 This Succession Policy aligns with Sandwell Council's wider policies, strategies, and housing management frameworks. It also informs and supports a range of related procedures and guidance documents.
- 6.2 This alignment ensures that our approach to managing tenancies is consistent, lawful, and embedded within a broader commitment to delivering high-quality services and well-managed homes. Related documents include:
 - [Sandwell Council Plan 2024 – 2027](#)
 - [Housing Revenue Account 30 Year Business Plan 2023 - 2053](#)
 - [Housing Asset Management and Compliance Strategy 2025 - 2030](#)
 - [Sandwell Housing Strategy 2023 – 2028](#)
 - [Housing Allocations Policy](#)

- [Tenant Handbook](#)
- [SMBC Tenancy Conditions](#)
- [Reasonable Adjustments Policy](#)

7. Legal Framework

- 7.1 Sandwell Council is committed to meeting all relevant legislation, regulations, and national standards relating to tenancy management, including the legal rights that govern succession to secure tenancies.
- 7.2 This Succession Policy reflects statutory requirements under the Housing Act 1985, Localism Act 2011, and other legislation that defines how and when a tenancy may pass to another person following a tenant's death.
- 7.3 This policy helps ensure compliance with the following legislation and regulatory standards, where relevant:
- [Landlord and Tenant Act 1985](#)
 - [Localism Act 2011](#)
 - [Data Protection Act 2018 / UK GDPR](#)
 - [Equality Act 2010](#)
 - [Regulator of Social Housing Consumer Standards:](#)
 - [Safety and Quality Standard](#)
 - [Transparency, Influence and Accountability Standard](#)
- 7.4 This policy will be reviewed regularly to ensure it reflects current law, case law, and best practice.
- 7.5 Further detailed information about legal duties relating to tenancy management is available in Sandwell Council's Tenancy Conditions, Allocations Policy, and Tenant Handbook.
- 7.6 As part of ongoing regulatory compliance, Sandwell Council will continue to meet the expectations of the Regulator of Social Housing by:
- Providing a fair, accessible, and timely service
 - Ensuring tenancy decisions are accountable, transparent, and well-evidenced

- Supporting residents to maintain their tenancies wherever possible
- Ensuring decisions are made correctly the first time, whenever practicable

8. Equality and Diversity

- 8.1 Sandwell Council is committed to ensuring that all residents have fair and equal access to succession processes and related services.
- 8.2 We understand that individual households may have differing needs. Where necessary, we will make reasonable adjustments and provide additional support to enable residents to participate fully in the succession process.
- 8.3 All applicants and household members will be treated fairly, with dignity and respect, regardless of background, circumstances, or protected characteristics.
- 8.4 All Sandwell Council staff receive training in Equality, Diversity and Inclusion. This ensures that officers understand how to recognise and respond appropriately to individual needs, in line with the Equality Act 2010 and the Council’s Equality, Diversity and Inclusion Framework.

9. Monitoring and Review

- 9.1 This policy will be reviewed every three years, or sooner if required due to changes in legislation, regulatory guidance, or recommendations from the Regulator of Social Housing or Housing Ombudsman.

10. Policy Document Version Control

Version	Date	Description	Updated By	Approved By

0.1	26/11/2025	First draft of policy for review.	Louis Bebb	
0.2	18/12/2025	Second draft of policy for review.	Jim Brennan	