

Can I pass on my tenancy if I die?

This factsheet is the second of two that considers whether your tenancy can be passed to someone else in the event of your death.

This factsheet looks at the position if you are a housing association tenant.

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Note for advisers

Information contained in this publication is correct at the time of going to press. Please check details before use.

If you are a housing association tenant, the right for your tenancy to be passed on to someone else when you die (this is known as 'succession') depends upon the type of tenancy you have. It can also depend upon what your tenancy agreement says.

Succession can only happen once, so if you succeeded to the tenancy yourself no one else can take over the tenancy when you die, unless your tenancy agreement allows for more than one succession (but this is rare).

If you have a joint tenancy, the other joint tenant will take over the tenancy when you die (and this counts as a succession).

If you are not sure what type of tenancy you have, you can ask your housing officer, look at your tenancy agreement, or get further advice (see below).

Assured or assured shorthold tenant

Most housing association tenants are assured tenants, although if you are in the first year or two of your tenancy, you may have an assured shorthold tenancy.

If you are an assured or assured shorthold tenant, your tenancy can be passed on to your wife, husband, civil partner, or co-habitee if your home was also their 'only or principal home' at the time of your death. The successor will inherit the same type of tenancy you had and have the same rights to remain in the property as you.

If you are not married, registered as a civil partner or living with a co-habitee (or your home wasn't their 'only or principal home' when you died) you can leave your tenancy to someone in your will but your landlord will be able to get a court order to evict that person.

Former council tenant

If you used to be a council tenant and your property was transferred from the council to a housing association, other members of your family may also have the right to succeed to your tenancy, but only if they

have been living with you for at least one year. You need to check your tenancy agreement to be sure.

A member of your family is a parent, grandparent, child, grandchild, sibling, uncle, aunt, nephew or niece. Step-relations, half-relations, and in-laws are also included, but foster children are not.

If you moved into your present home during the year prior to your death, time spent living with you in your former home counts.

If your tenancy agreement allows for a family member to succeed to your tenancy, your wife, husband, civil partner, or co-habitee will have priority and will succeed (as long as they lived with you). Where there is more than one family member who is entitled to succeed, your family can agree among themselves who is to succeed. If they cannot agree, the housing association will decide for them.

Secure tenant

If your tenancy began before 15 January 1989, you may well have a secure tenancy, in which case, see the previous factsheet that looks at the position if you are a council tenant, as it sets out the details of who can succeed to your tenancy.

Further advice

You can get further advice from Shelter's free* housing advice helpline (0808 800 4444), a local Shelter advice service or Citizens Advice bureau, or by visiting shelter.org.uk/advice

* Calls are free from UK landlines and main mobile networks.