

Can I pass on my tenancy if I die? (2)

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.

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 use the online Shelter tenancy checker *What are my tenancy rights?*

Assured tenant

Most housing association tenants are assured tenants, although some tenants will have an assured shorthold tenancy (see below).

If you are an assured tenant, your tenancy can be passed on to your wife, husband, civil partner, or co-habitee if your home was also their 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 had.

If you are not married, registered as a civil partner or living with a co-habitee (or your home wasn't their home when you died) your tenancy can only be passed to someone else, if your tenancy agreement allows for this to happen. This is normally restricted to other members of your family who have been living with you for at least one year. If you moved into your present home during the year prior to your death, time spent living with you in your former home should count.

A member of your family normally means a parent, grandparent, child, grandchild,

sibling, uncle, aunt, nephew or niece. Step-relations, half-relations, and in-laws are usually included, but foster children are not. You will need to check your tenancy agreement to be sure.

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, a court will decide.

Assured shorthold tenant

If you have a fixed-term assured shorthold tenancy that is for a period of at least two years, your tenancy can be passed on in the same way as if you had an assured tenancy (see above).

If you have a fixed-term assured shorthold tenancy for a period of less than two years (many new housing association tenants have 'starter tenancies' for short periods), no one has a right to succeed to your tenancy. 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.

Secure tenant

If your tenancy began before 15 January 1989, you may well have a secure tenancy. If so, see the factsheet *Can I pass on my tenancy if I die (Council tenants)* 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.



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