



Cloch Housing Association

Death of a Tenant

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| Policy Name | Death of a Tenant |
| Policy Category | Housing Management |
| Policy Number | 041 |
| Approved by | Housing & Property Services Sub-Committee |
| Responsibility of | Director of Customer Services & Communities/Senior Housing Officer |
| Date Adopted | 01/04/2014 |
| Last Review | 15/09/2020 |
| This Review | 13 February 2024 (Board Meeting) |
| Next Review | January 2027 |
| Equalities Impact Assessment Required | Yes |
| Link to other policies | Succession, Void Maintenance |
| Consultation | Internal |
| Need for Procedure | No – Included in Allocations Procedure |

1 INTRODUCTION & AIMS

- 1.1 The objective of this policy is to clarify the Associations position and to give staff guidance when dealing with situations involving deceased tenants. This policy is also for use as an operational document and therefore contains elements of a procedural nature.
- 1.2 Arising from these overall aims, the key objectives of the Death of a Tenant Policy include;
- Ensuring that the Association, always meets its legal obligations and operates in accordance with good practice guidelines.
To ensure that staff are clear in how to manage the situation, with regards to relatives/next of kin and in the case of no next of kin.

2 SCOPE AND PRINCIPLES

- 2.1 The Association aims to deal with cases of death in a sympathetic and professional manner. Whilst taking account of the bereaved family's loss, the Association must remain vigilant of its business needs, and ensure the most effective use of stock and that rent loss is minimised.

3 RISK MANAGEMENT

- 3.1 By having a written detailed Death of a Tenant Policy the Association can ensure that a uniform and professional approach is adopted throughout the organisation and the service delivered is compliant with law, best practice and internal policy. In addition, this policy will help minimise rent loss.

4 LEGAL & REGULATORY CONTEXT

- 4.1 In all aspects of the Death of a Tenant process, the Association will seek to conform and comply with all legislation, performance standards, guidance and good practice that directly or indirectly affect the process.
- 4.2 The key legislation influencing this policy is:
- the Housing (Scotland) Act 2001,
 - Scotland Act 1998,
 - the Family Law (Scotland) Act 2006,
 - the Burial and Cremation (Scotland) Act 2016,
 - the National Assistance Act 1948 and
 - the General Data Protection Regulations.

4.3 Our policy and general approach to dealing with situations involving deceased tenants is based on good practice and the practical advice booklet 'What to do after a death in Scotland' by the Scottish Government. This policy also complies with the following Scottish Social Housing Charter Outcomes:

- Outcome 1: Equalities
- Outcome 2 – Communication
- Outcome 13 - Value for Money

5 TENANCY END DATE

5.1 When we receive notification of the death of a tenant, where no person qualifies to succeed the tenancy, a period of up to two weeks should be allowed for the house to be cleared. The Association recognises the difficulties and sensitivities associated with clearing belongings of a deceased person; therefore, the Senior Housing Officer has the discretion to extend this period, however a timescale should always be set and reasons for doing so.

5.2 In the event of the death of a tenant when there is no qualified person to succeed the tenancy, the tenancy is terminated at the date of death and on receipt of the death certificate. If the tenant is in receipt of Universal Credit or Housing Benefit, the entitlement will normally also end at the date of death. The Association has the discretion to claim the tenant's estate for any rent accrued after the tenant's death, if applicable.

6 TERMINATING THE TENANCY/SUCCESSION TO TENANCY

6.1 If there is a qualified person(s), reference should be made to the policy on Succession (Policy 031). Persons claiming the right to succeed to a tenancy should ideally inform the Association within 1 week of the tenant's death. Applicants will be required to complete the Association's application form, providing all the information and evidence required by the Association to correctly determine the applicant's eligibility to succeed to the tenancy.

6.2 Although not governed by statute; the Association will endeavour to respond in writing to the applicant within 28 days of the completed application, *and all relevant supporting documentation*, being received.

6.3 When a tenant dies and a member of the household applies for the tenancy we will consider them for the tenancy under the provisions of the Housing (Scotland) Act 2001, as amended by the Housing (Scotland) Act 2014.

The law is very clear on who is eligible to be a 'qualified person' and can therefore succeed to a tenancy. It also specifies the order in which each category is given priority.

Where there is a joint tenancy, the tenancy automatically remains with the other joint tenant/s. In all other circumstances the order is:

- a) the tenant's spouse or partner, providing that the house has been their only or principal home at the time of the tenant's death;
- b) if (a) does not apply, then the tenancy may be offered to a member of the tenant's family, providing that it was their only or principal home for at least 12 months, at the time of the tenant's death;
- c) if neither (a) nor (b) applies then the tenancy may be offered to the carer, providing that the carer gave up their only or principal home in order to move in with the tenant before their death.

The type of tenancy given after succession is a full Scottish Secure Tenancy.

However where a house has been designed or substantially adapted for the use of someone with special needs, the law clearly states that only spouses, partners, joint tenants or persons with similar special needs can succeed the tenancy. Others who would otherwise be eligible to succeed to the tenancy would therefore be offered reasonable alternative accommodation.

7 NEXT OF KIN / CLOSEST RELATIVE

- 7.1 In most deaths, the Association are contacted by the next of kin or relatives of the deceased who take control of all the furniture and personal effects left in the property.
- 7.2 A Death Certificate is paramount to end the tenancy and must be obtained from the next of kin or relatives at the earliest convenience. This will also act as proof to the identity of the next of kin and/or relatives. If there is any doubt as to the identity of the person claiming to be the next of kin or relative, further checks must be carried out e.g. provision of photographic ID etc.
- 7.3 The next of kin or relatives should be asked to clear the property as quickly as possible (normally within two weeks, however the Senior Housing Officer has overall discretion on this).
- 7.4 If the next of kin or relatives are unwilling or unable to take responsibility for clearing the property, they should be asked to sign a mandate allowing the Association to clear the property and dispose of any items there.

8 WHEN THERE IS NO NEXT OF KIN OR RELATIVES

- 8.1 If there is no next of kin the estate legally becomes ownership of the Government.
- 8.2 In cases of suspicious death or where no next of kin or relatives are involved, the Police will probably be dealing with this situation, however, if they are not, they must be contacted immediately.
- 8.3 The police are responsible for contacting one or both agencies responsible for funeral arrangements and executing the estate. The agencies referred to are the Local Authority – Environmental Health Department and the National Ultimus Haeres Unit (NUHU) within the King's and Lord's Treasurer's and Remembrancer' (KLTR).
- 8.4 Inverclyde Councils' Environmental Health Department are responsible for dealing with these situations. The contact telephone number for Inverclyde Council is 01475 717171.
- 8.5 If a tenant who has no next of kin dies while they are in hospital, the Hospital Administrator will be responsible for contacting the Housing Provider, along with finalising any other details. The contact telephone number for Inverclyde Royal Hospital is 01475 633777.
- 8.6 If no next of kin has been established, the Police will contact the Local Procurator Fiscal and pass all details to them. The Local Fiscal office will investigate and liaise with the NUHU of the KLTR who in turn will liaise with Cloch Housing Association and the Local Authority. The contact details for the National Ultimus Haeres Unit is 0300 0204196 or 0141 420 8804 (www.kltr.gov.uk).
- 8.7 Once the Local Fiscal has concluded their investigation Cloch Housing Association will be contacted by KLTR with their findings. If a next of kin has been established, they should be encouraged to clear the property as per Section 7 of this Policy. If no next of kin has been established, the KLTR will advise what should happen to the furniture and personal effects that have been left in the property.
- 8.8 The Association will take photographs and compile a full inventory of furniture and personal effects as per Section 9 of this Policy. These cannot be disposed of until authorised by the KLTR.

9 ENTERING THE PREMISES

- 9.1 If the Police or the Association receive information about a suspected death in a property the Police will deal with the situation. They will force access if required and investigate the circumstances of the tenant's death. They will contact any next of kin or relatives and pass the details and/or keys to the Association. If there is no next of kin or relatives the Police will contact the Local Procurator Fiscal who will carry out their own investigations.
- 9.2 When the Police and Local Fiscal/KLTR have concluded their investigations, the Officer who takes entry of the property will complete a full inventory of each room and take digital photographs of any goods found in the property.
- 9.3 Once the inventory has been completed and quantified it must be signed by the Officers who completed it, thereafter the void management procedure should commence.
- 9.4 Should any staff member discover a body within a property, whether this be with Police present or as part of any other process, the staff member will be offered counselling through the Association's available counselling service(s).

10 POLICY REPORTING

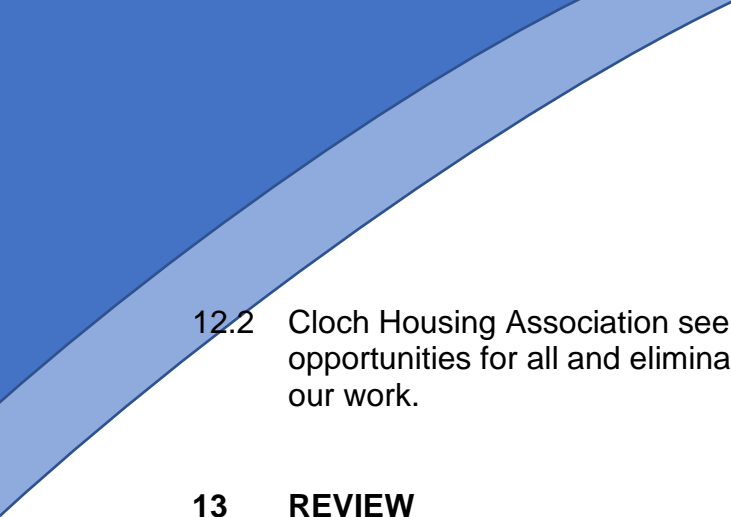
- 10.1 The Housing Officer will register all deaths by updating the SDM computer system. The Director of Customer Services and Communities/Senior Housing Officer will report these and all other void figures at least quarterly to the Housing and Property Services Sub Committee.

11 APPEALS AND COMPLAINTS

- 11.1 Appeals or complaints against our operation of this policy will be processed through the Association's complaints handling procedure, which is available at the Association's office or on our website.

12 EQUALITIES COMMITMENT

- 12.1 Cloch Housing Association is committed to tackling discrimination on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

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- 12.2 Cloch Housing Association seeks to embrace diversity, promote equal opportunities for all and eliminate any unlawful discrimination in all areas of our work.

13 REVIEW

- 13.1 This policy will be reviewed every three years, unless amendment is prompted by a change in legislation, operational requirements or customer feedback.

14 POLICY AVAILABILITY

- 14.1 This policy is available to the public on the Association's website. Copies are also available on request and free of charge from the Association. This policy can also be provided in large print, braille, audio or other non-written format and in a variety of languages, on request.
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