

HOUSING CABINET MEMBER MEETING

Agenda Item 79

Brighton & Hove City Council

Subject:	When a tenant dies – customer care, succession and people left in occupation		
Date of Meeting:	6 January 2010		
Report of:	Director of Adult Social Care and Housing		
Contact Officer:	Name:	Helen Clarkmead	Tel: 293271
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Key Decision:	No		
Wards Affected:	All		

FOR GENERAL RELEASE.

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The council grants introductory and secure tenancies. This policy confirms the council's succession policy when a secure or introductory tenant dies.
- 1.2 The council recognises that this is a sensitive area of tenancy management, and is committed to making consistent, fair decisions and implementing this policy sensitively.

2. RECOMMENDATIONS:

- 2.1 That the Cabinet Member for Housing confirms the policy in respect of tenancy succession and action in respect of people left in occupation upon the death of a tenant who do not have succession rights.
- 2.2 That the Cabinet Member for Housing notes the customer care work undertaken around bereavement.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

3.1 Succession

- 3.1.1 There can be one succession to a secure tenancy.
As long as the deceased tenant was not themselves a successor:
Their joint tenant succeeds as a sole tenant
Their spouse or civil partner succeeds to the tenancy
Their cohabitee of 12 months or longer may succeed

If there is no spouse, civil partner or cohabitee, a family member to whom the property has been their main home and have resided there with the tenant for the 12 months preceding the death of the tenant may succeed.

3.1.2 The spouse, civil partner or cohabitee may continue to reside in the property even if it is substantially too large for their needs or has specialist adaptations.

3.1.3 If another family member succeeds, then the council can require that they move to a smaller property or one without adaptations if that would meet their needs. This will always be managed sensitively. Unless the successor moves on a voluntary basis that the Council would have to seek a possession order from the Court, and the court may grant possession only if it considers it reasonable to do so, and that suitable alternative accommodation is available.

3.1.4 If the deceased was a successor, then there can be no further succession

3.2 People left in occupation with no right to succeed

3.2.1 Where someone is left in the property after a tenant dies but has no right to succeed, then the council will consider their needs. As there is exceptional demand for affordable housing in the city, it is not possible house most people who are left in occupation with no right of succession. However, the council is committed to managing this sensitively and in a supportive way.

3.2.2 If it is likely the council would have a duty to provide accommodation for the person left in occupation, if they are exceptionally vulnerable or there are other exceptionally compelling circumstances, then they will, if the property is suitable, be offered a new tenancy. To ensure citywide consistency, this decision will be confirmed by the Business Improvement Manager for Tenancy Services.

If the property is not suitable, then they will be required to bid for a suitable alternative using Homemove. Officers will manage this sensitively and be supportive.

3.2.3 Where the person left in occupation is not deemed to be vulnerable, there are no exceptionally compelling circumstances and the Council is unlikely to have a duty to accommodate them, then they will be asked to leave. Their Housing Officer will provide advice and assistance with future housing options and negotiate a reasonable period of time for them to find alternative accommodation.

If the person has not secured accommodation within that period, the council will review the case and either offer an extended period with more intensive support, or start court proceedings to recover the property. To ensure citywide consistency, this decision will be made by the Business Improvement Manager for Tenancy Services.

3.3 Review of customer care around bereavement

3.3.1 Following repeated complaints about lack of consistency and sensitivity around bereavement, a group of managers representing different teams within housing Management reviewed process, procedure and guidance for staff

- 3.3.2 The review group evaluated complaints and worked with the council's bereavement service to formulate a more sensitive approach with greater understanding of customer needs at the time of bereavement.
- 3.3.3 Standard letters have been re written to demonstrate greater sensitivity, offer more support and officers issued with guidance about sensitive timing when issuing letters and generally when working with the bereaved. Officers will make every effort to speak to bereaved people before sending letters.
- 3.3.4 Bereavement customer care is now an established feature of induction programmes for front line staff and for ongoing training.
- 3.3.5 Allowing a reasonable interval of some months, officers will seek feedback form bereaved people. Managers will use this to further review and improve services in this area of work.

4. CONSULTATION

- 4.1 This report was presented to Housing Management Consultative Committee for consultation on December 7 2009, where an indicative vote supported recommendations.
- 4.2 There appears to be general concern that the council has not always acted consistently or with sensitivity in the past, and tenants are keen that this is addressed.
- 4.3 Tenants accept there is a shortage of affordable housing in the city and tend to agree that succession should be limited and that multi generational discretionary succession would not be sustainable or equitable.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 There are no direct financial implications from the recommendations in this report.

Finance Officer Consulted: Susie Allen *Date:* 20 May 2009

Legal Implications:

- 5.2 Sections 87 to 90 of the Housing Act 1985 provide a comprehensive code dealing with succession to secure tenancies. Similar provisions can be found in sections 131 to 133 of the Housing Act 1996 for introductory tenancies. By section 167 Housing Act 1996, the Council must have an allocation scheme. It cannot allocate accommodation except in accordance with that scheme. An authority allocates accommodation when it selects a person to be a secure or

introductory tenant. Officers need to ensure that any allocation of the sort referred to paragraph 3.2.2 is lawful.

Lawyer Consulted: Liz Woodley Date: 27/08/2009

Equalities Implications:

- 5.3 This proposal will not significantly benefit or disadvantage any specific group

Sustainability Implications:

- 5.4 There are none

Crime & Disorder Implications:

- 5.5 There are none

Risk and Opportunity Management Implications:

- 5.6 There are none

Corporate / Citywide Implications:

- 5.7 There are none

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 Consideration was given to relaxing policy for people left in occupation of property too large for their needs , but in order to make best use of council housing stock the recommendation is that the council continues to require successors who are not the spouse, civil partner or joint tenant of the deceased tenant to move to smaller or non adapted property.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 To confirm clear policy that meets the council's objectives of fair law enforcement and making best use of the council's housing stock, and to implement this sensitively.

SUPPORTING DOCUMENTATION

Appendices:

None

Documents In Members' Rooms

None.

Background Documents

None