

1. Assignment and Succession Policy

2. Reference Number 3.7.2

3. Statement of intent including cross-reference to bdht's Directorate and corporate objectives

- 3.1 In line with Corporate and Directorate objectives this policy commits bdht to operating in a fair, equal and proportionate way and to delivering continuous improvement to a high-quality service.
- 3.2 bdht aims to continually improve services based on customer needs, clear service standards and costs.
- 3.3 bdht aims to deal with all applications from prospective tenants for succession and assignment sensitively and efficiently.
- 3.4 bdht will support tenants to exercise their Right to Manage, Right to Transfer or otherwise exercise housing management functions, where appropriate.
- 3.5 bdht will endeavor to adjust our service/ processes to meet the needs of that individual based on the information we have. For more information, please refer to our Customer Care and Access to Services Policy
- 3.6 Customers and prospective customers are welcome to bring advocates, representatives, or support workers along to any interactions they have with bdht.

4. Legal and Regulatory Requirements

4.1 Legislation

- Housing Act 1988
- Housing (protection of Right To Buy) Regulations 1993
- Family Law Act 1996
- Civil Partnership Act 2004
- Localism Act 2011

- Matrimonial Causes Act 1973
- Equality Act 2010

4.2 Regulation

- The regulators Tenancy Standard Allocations & Mutual Exchanges

5. Assignment - Policy Statement

- 5.1 A tenant has the right of assignment where it is expressed in their tenancy agreement. A tenant does not have a right of assignment if it is not a term of their tenancy unless they have a right under the relevant legislation.
- 5.2 **Assignment by Request** – If the tenant is not a transferring tenant, then subject to the eligibility criteria set out in 5.6, they will only be able to assign if the following criteria is met:
- Has lived at the property for a minimum of 12 months as the only principal home
 - Is either a spouse, civil partner or individual living as if spouse or civil partner.
- 5.3 **Transferring Tenant** – A transferring Tenancy Agreement express as a term that they have a right of assignment but only where they would pass on their tenancy to a person who could take it over if they died. Therefore, we would apply the relevant succession criteria as determined in section 6 of this policy.
- 5.4 **Court Order** - Where a court has ordered that the tenancy be assigned as a result of court proceedings, bdht will accept the assignment as decreed by the court and arrange for the assignment to be effective from the date decreed by the court.
- 5.5 **Mutual Exchange** – Assignments by the way of a mutual exchange is not defined in this policy. All policy terms regarding Mutual Exchanges are outlined in the Mutual Exchange policy.
- 5.6 **Eligibility** – A tenant will not have the right to assign if they have any of the following tenures:
- Demoted Tenancy
 - Tenancies granted under homeless legislation.

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When considering an application for assignment we may not grant permission unless the following criteria is met:

- Any outstanding debt owed to bdht is cleared.
- No eviction action has been taken.
- The person being assigned the property meets the allocation policy and any Local Letting Plans criteria for the property. For example, in properties with specialist adaptations to meet the housing need of persons with disabilities, these would be restricted to a criteria that the person being assigned the property would have to require these types of adaptations. Another example would be where a property has an age restriction attached to it; the person who is being assigned the property must meet this age restriction criteria.

The above restriction may be waived if there are exceptional circumstances where the Head of Sustainable Homes will have the discretion to grant an assignment.

- 5.7 **Application** - bdht will deal with all applications for assignment promptly, fairly and efficiently. Where an application is made by a tenant to assign their tenancy, bdht will obtain all relevant evidence to confirm length of continuous residence and the reasons for the application.
- 5.8 Where an application for assignment is agreed, bdht will make the necessary administrative changes promptly. A deed of assignment will be signed by both the original and new tenant. Where an application is refused, we will inform the applicant in writing giving the reason for refusal

6.0 Succession - Policy Statement

- 6.1 Succession occurs upon the death of a tenant. Only specified people have the right to succeed to the tenancy. Whether a person has a right to succeed a tenancy will depend on the type of tenancy.
- 6.2 **Survivorship** - Following a death of a joint tenant, survivorship is an automatic and immediate transfer of the tenancy to the surviving joint tenant.
- 6.3 **None Transferring Tenants** – The tenancies that are covered by these terms are:
- Assured (Non- Shorthold)
 - Assured Shorthold (Fixed Term).

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- 6.4 An automatic succession will occur if
- A spouse, civil partner or someone living as a spouse.
 - Living in the property as the only or main home at the time of the tenant's death.
 - The tenant was not already a successor.
- 6.5 If no one meets the automatic succession criteria set out in 6.4 then the following individuals can be considered for succession to the property if they meet all of the following criteria:
- A relative - Parents, children, grandparents, grandchildren, brothers, sisters, half-brothers, half-sisters, uncles, aunts, nephews, nieces, stepchildren, and adopted children
 - The relative was living at the property as their only or main home for a minimum period of 12 months before the death of the tenant.
 - The property will not be under or over occupied.
 - The property is not specially adapted and the relative does not require this type of adaptation.
 - All of the terms of the tenancy agreement have been met.
 - The tenant wasn't already a successor
- 6.6 **Transferring Tenants** – The tenancies that are covered by these terms are:
- Transferring Assured Tenancy
- 6.7 An automatic succession will occur if:
- A spouse, civil partner or someone living as a spouse.
 - Living in the property as the only or main home at the time of the tenant's death.
 - The tenant wasn't already a successor (Unless this succession took place prior to stock transfer where a second succession will be granted).
- 6.8 If no one meets the automatic succession criteria set out in 6.7 then the following individuals can be considered for succession to the property if they meet all of the following criteria:
- A relative - Parents, children, grandparents, grandchildren, brothers, sisters, half-brothers, half-sisters, uncles, aunts, nephews, nieces, stepchildren, and adopted children
 - The relative was living at the property as their only or main home for a minimum period of 12 months before the death of the tenant.

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- The property will not be under or over occupied.
- The property is not specially adapted and the relative does not require this type of adaption.
- All of the terms of the tenancy agreement have been met.
- The tenant wasn't already a successor (Unless this succession took place prior to stock transfer where a second succession will be granted).

- 6.9 **Devolution by will or intestacy** – The passing of a sole tenancy to an individual by will or intestacy. If the individual would not have qualified for the tenancy in accordance with the tenancy agreement or succession policy, then we will consider the termination of the tenancy.
- 6.10 **Discretionary succession** - is the grant of a new tenancy to an individual following the death of a sole tenant where there is no right to succeed but where we consider that exceptional circumstances warrant it. This decision would be made by the Head of Sustainable Homes.
- 6.11 **No Rights of Succession** - Tenancy agreements used in the temporary accommodation to discharge local authority obligations to the homeless, do not contain rights of succession.
- 6.12 **Application** - To succeed to a tenancy a request must be received from the individual so that bdht can recognise whether, survivorship, statutory succession, contractual succession, or devolution has occurred or previously requested the granting of any contractual succession or discretionary succession. This should be done promptly and should be made within 6 months of the death of the tenant.
- 6.13 **Multiple Eligible Successors** – A succession can only be granted to one individual. Where there are a number of eligible successors and they have equal rights to succeed to the tenancy, bdht will request that the applicant agree themselves who will succeed to the property. Where agreement by the parties cannot be reached then bdht will make the decision who will succeed unless it is an assured tenancy where the courts will decide.
- 6.14 **Alternative Accommodation** – Where an individual has the right of succession in some instances it may be necessary to provide alternative accommodation. Where we determine that the property is too large for the household, or they do not have a need for adaptations then we may offer alternative accommodation. bdht may do this to ensure we use our stock to meet the local housing demand. We will

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require a statutory or contractual successor to move to a suitable property where the law allows us to do so. We will support the successor to move voluntarily but will seek a court order compelling them to do so should they fail to cooperate. We will require a devolution successor to move to a more suitable property and will seek possession should they fail to do so.

- 6.15 **No rights of succession** - Where an individual residing in the property has no right to succeed, we will treat them as an unlawful occupant and seek possession of the property. We will deal with this circumstance via our illegal occupier procedure.
- 6.16 **Rent Arrears** - A survivorship successor will remain liable for any rent arrears under the tenancy. A statutory, contractual, devolution or discretionary successor will not be liable for rent arrears or other debts owed by the deceased tenant, nor due any credit on account. The deceased tenant's estate will be liable for any arrears and due any credit.

7. Summary of Service Standards

- 7.1 Service standards accompany this policy and are published in leaflet form to give easy-to-read information to tenants.

8. Priorities

- 8.1 It is essential for the effectiveness of this policy, that all stages are given equal priority.

9. Policy Implementation

9.1 Procedure

- 9.2 The implementation of this policy will be detailed in the following procedures:

- Mutual Exchange Procedure
- Assignment Procedure
- Succession Procedure

9.3 Training

All staff will be trained in the implementation of this policy. bdht will train staff in responding sensitively to tenants applying for the succession of a tenancy. bdht will ensure that staff are aware of the implications of all relevant legislation and regulatory guidance

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10. Links to associated external Documents

- The regulators National Standards

11. Link to associated internal Documents

- Service Standard Dealing with Assignments & Succession
- Service Standard Mutual Exchanges
- Mutual Exchange Procedure
- Assignment Procedure
- Allocation & Tenancy Policy
- Tenancy Agreements
- Lettings Procedure
- Succession Procedure
- Customer Care and Access Policy
- Safeguarding Policy Child and Adult

12. EMT Approval was gained

12.1 EMT approved this policy on 26th September 2024

13. Review Date

13.1 This policy will be reviewed again in 2027

14. Responsibility for implementing the policy

14.1 The Director of Housing & Communities is responsible for the implementation of this policy.

15. Date Issued

15.1 September 2021

16. Equality Policy Statement

16.1 At bdht, we are proud to serve and work within a diverse society. We recognise that some individuals and communities face systemic barriers, disadvantage, and discrimination, including those related to socio-economic background, caring responsibilities, and the impact of intersectionality.

16.2 We believe that discrimination in any form is unacceptable. In all our areas of work we are committed to ensuring that our policies, practices, and services promote fairness, equity, and respect for

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all. We aim to reduce inequalities, promote respect, and create an equitable culture within our organisation.

- 16.3 bdht fully complies with the Equality Act 2010 and all relevant statutory and regulatory guidance, including that issued by the Regulator of Social Housing, Homes England, the Government Equalities Office, and our funding partners.
- 16.4 We believe that equality of opportunity is fundamental to delivering excellent services and building vibrant communities together. Our commitment is underpinned by clear policies, regular monitoring, and continuous review, all of which are actively supported by our Board and Teams.

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