



Death of a Tenant Policy

Revision History

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| Policy | Death of a Tenant |
| Reviewer(s) | Louise McDonald |
| Committee Name | Operations and Performance |
| Number and Date of Meeting | |
| New Policy or Description of Revision | New Policy |
| Equality Impact Assessment Complete | |
| Data Protection Impact Assessment Complete | |
| Health and Safety Risk Assessment Complete | |
| Consultation Complete | |
| Next Review Date | April 2028 |

Introduction

It is the aim of Williamsburgh Housing to deal with cases of death in a sympathetic and professional manner. Whilst taking account of the bereaved family's loss, the Association must ensure that any rent loss is minimised.

The objective of this policy is to clarify the association's position and to give staff guidance when dealing with situations involving deceased tenants.

Objectives

The objectives of this policy are to:

- provide transparency on dealing with tenancies ending due to the death of the tenant.
- provide advice and support to next of kin, in dealing with the tenancy following the death of a family member.
- clarify the Association's position with regard to tenancies ending due to the death of the tenant.
- provide staff with clear guidelines on dealing with situations involving a deceased tenant.

Equal Opportunities

The Association is committed to the principles of equal opportunities and good practice. In this regard, we acknowledge the Scottish Social Housing Charter (2012): 1 - Equalities, which states:

"every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services".

Accordingly, we shall ensure that specifically in regard to the Death of a Tenant Policy, all tenants, current and former are treated equally, irrespective of their sex or marital status, race, disability, age, sexual orientation, language or social origin, or other social attributes, including beliefs or opinions such as religious beliefs or political opinions.

Notification of the Death of a Tenant

The Association may receive notice of the suspicion of a death or a death from different sources, such as Police Scotland, the Local Authority, a neighbour or a relative. When a tenant has passed away the Association will adopt a sensitive approach to the needs of the next of kin or representative dealing with the late tenant's affairs.

When we receive notification of the death of a tenant and where no person qualifies to succeed the tenancy, a period of up to a maximum of 14 days will be allowed for the house to be cleared.

If, however, notification is received in excess of 14 days after the date of death, a period of 48 hours will be allowed to return the keys to the Association, this will be assessed on an individual basis. If keys are not received within this specified period, locks will be changed within 24 hours.

Suspicion of Death in the Property

Where the Association has a concern for a tenant's welfare then contact should be made with the police to request assistance. If a death has occurred, the police will lead the investigation and will contact the local Mortuary, the Crown and any next of kin.

When investigations are complete the police should forward the keys to the next of kin for the removal of personal effects.

If there is no next of kin established then the estate vests in the Crown. A member of the Housing Management team will contact the King's and Lords Treasurer's Remembrancer for instruction.

Homicide or Unexplained Death in the Property

When a homicide or suspicious death has occurred in the home the Association will most often be informed by a third party, such as the police or neighbours.

Where a death in a home is classed as suspicious or unexplained then the police, acting as agents of the Procurator Fiscal, will take control of the property to ensure that all evidence is gathered and all the required examinations take place.

The complexities of the case will dictate how long it is before the keys to the property are forwarded to the next of kin or the Association.

Terminating the Tenancy

In the event of a death of a tenant when there is no qualified person to succeed to the tenancy, the tenancy is terminated on receipt of a death certificate and the keys for the property returned. Where keys are not returned by next of kin or relatives, the Association will force access and change the locks.

Williamsburgh Housing has the discretion to claim the tenant's estate for any rent accrued after the tenant's death if applicable.

If there is a qualified person(s), reference should be made to the Succession Policy. Persons claiming the right to succeed to a tenancy should inform the association within 28 days of the tenant's death.

Persons who fail to meet the eligibility criteria detailed in the Succession Policy to succeed to the tenancy will be informed that they have no legal entitlement to the tenancy and failure to vacate the property and remove their belongings will result in summary court action being taken to recover the property and reclaim loss of rental income. In these circumstances the Housing Officer/Housing Assistant shall advise the Housing Manager who will seek appropriate legal advice as to removing any persons not entitled to succeed to the tenancy.

Next of Kin / Close Relatives

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. The Next of Kin should be providing the Association with I.D. and proof that they are the Executor where a will is in place or by providing the death certificate which will name the Next of Kin.

A Death Certificate is essential to end the tenancy and must be obtained from the next of kin or relatives at the earliest convenience. Where a death certificate is not provided, the Association will purchase one from the local council registration service.

The next of kin or relatives should be asked to clear the property as quickly as possible (maximum period of up to 14 days).

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 therein.

Failure by next of kin/relatives or representatives to return keys for a property on or before 14 days timescale, will result in the Association taking steps to recover the property.

No Next of Kin or Relatives

Where the Association learns of the death of a tenant through a third party, we will check our records for next of kin/relatives details. If no next of kin/relatives, we will contact Renfrewshire Council's Registration Office to obtain an extract of the death certificate and thereafter instruct our maintenance team to arrange a forced entry, locks should be changed on receipt of the death certificate.

Where a forced entry to the property is arranged, two members of staff must be present and the locks changed, where possible with Police Scotland assistance us. Housing Management should compile a full inventory of furniture and personal effects, including photographic evidence illustrating the condition of the belongings / property.

If there is no next of kin established, then the estate vests in the Crown. A member of the Housing Management team will contact the King's and Lords Treasurer's Rememberancer for instruction.

Refunds of Credit Balances

When someone dies, if they have a Will this will say who their Executor is (that is the person entitled to deal with their estate once they have died).

If they do not have a Will, someone should apply to the Court to be appointed as Executor.

The Executor should then lodge an application at Court for 'Confirmation'. This is an order which allows them to gather together the estate, which is listed on the application, including any credit balance on the rent account.

The Association will only authorise a refund to the Executor and where the appropriate proof has been provided or the person who has paid funeral costs and proof has been provided.

Where a substantial credit balance remains on the account, monies will only be paid to the Executor.

In the case of no Next of Kin or Executor then the credit will be written back.

Data Protection

The Association will store personal information provided securely on both our computer and filing systems. At all times we will act in compliance with the Data Protection Act 1998 and the EU General Data Protection Regulation (GDPR).

Complaints

Should any tenant be dissatisfied with the implementation of this policy they should submit a complaint to the Association in order to get the matter resolved.

If, after exhausting the Association's complaints procedure (full details of which are available on our website, from staff or located in our reception) a tenant is still unhappy, they should contact the Scottish Public Services Ombudsman (SPSO):

SPSO
Bridgeside House
99 McDonald Road
Edinburgh
EH7 4NS

(if you would like to visit in person, you must make an appointment first)

Their freepost address is:

FREEPOST SPSO

Freephone: 0800 377 7330

Online contact www.spsso.org.uk/contact-us

Website: www.spsso.org.uk

REVIEW OF POLICY

This Policy will be subject to review every three years, or earlier if required by changes in legislation, guidance or informed by practice.