

Death of a Tenant Policy

2020 – 2023

Document Control

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Replacing/Updating	N/A, new policy
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Author	Head of Neighbourhoods
Responsible Executive Director	Executive Director – Customer Insight
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Version	Date	Author(s)	Notes on Revisions
1	July 2020	Head of Neighbourhoods	New Policy – Written in consultation with Anthony Collins Solicitors.

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1. Purpose and Scope

- 1.1. We recognise that following the death of a tenant, their family members will be grieving and that any queries in relation to the tenancy need to be handled with sensitivity and care.
- 1.2. When a sole tenant dies, the tenancy does not automatically come to an end. A valid legal notice needs to be served either by us or by the deceased tenant's personal representative to end the tenancy.
- 1.3. If someone is still occupying the home, they may succeed to the tenancy and be entitled to either take over the existing tenancy or be granted a new tenancy. See our Succession Policy for more details.
- 1.4. This Policy sets out how we deal with the practical issues once we become aware that a tenant has died.
- 1.5. This Policy:
 - applies equally to assured (non-shorthold) and assured shorthold tenancies;
 - does not apply to licences or leaseholders.
- 1.6. As with all policies and procedures, we shall ensure compliance with our Equality and Diversity Policy in operating this Policy.

2. Risks

- 2.1 This Policy aims to ensure that the correct policy approach is used to end a tenancy where a sole tenant dies and there is no successor to the tenancy, and to avoid any potential claims against us for doing otherwise. A separate Succession Policy outlines the policy approach when there is a joint tenancy.

3. Legal and Regulatory Framework

- 3.1 The key relevant legislation is:
 - Housing Act 1988; and
 - Protection from Eviction Act 1977.
- 3.2 The Regulator's Governance and Financial Viability Standard (April 2015) requires:

“Governance arrangements shall ensure registered providers:

 - (a) *adhere to all relevant law ...”*

4. What do we do if a tenant has died?

- 4.1 Once we become aware that a tenant has died, we will within 5 working days (and usually immediately upon receipt of notification of the death):

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- Request a copy of the death certificate from whoever contacts us to report the death of the tenant. If there is nobody to provide a death certificate, we can request one from the General Register Office (for which a fee is payable). If necessary, request a certified English translation of an overseas death certificate.
- Ask for a copy of any Will.
- Confirm if there are any officially appointed representatives (i.e. an executor or an administrator) with the necessary authority to serve a notice to quit to the organisation to end the tenancy
- Ask for a copy of the Grant of Probate or any Letters of Administration (acknowledging that these may not be immediately available).
- Read the tenancy agreement to see what succession terms apply.
- Check any relevant information on the tenant's file, in particular to see if there has been a previous succession.
- Check if anyone was living in the property with the deceased tenant at the date of death. If yes, check if they are vulnerable and make appropriate referrals.

5. Checking if someone is a successor

- 5.1 We will determine if an occupant has a right to succeed in accordance with our Succession Policy and Procedure.
- 5.2 Where there is an eligible successor or we allow a discretionary succession, we will follow the Succession Policy and Procedure.
- 5.3 Where the succession will take place via the grant of a new tenancy (see the Succession Procedure for details), we will need to end the tenancy of the deceased tenant before granting the new tenancy. We will follow Section **Error! Reference source not found.** of this Policy to do this.
- 5.4 If there is no eligible successor and we do not allow a discretionary succession, we will follow Section **Error! Reference source not found.** of this Policy.

6. Procedure where there is no successor or succession is by grant of new tenancy

- 6.1 A summary of this Section **Error! Reference source not found.** is set out in the flowchart attached at **Appendix 1** to this Policy.
- 6.2 The deceased tenant's tenancy should be terminated irrespective of whether anybody is living in the property or not.

6.3 Termination by Personal Representative

6.3.1 Only a personal representative that has been officially appointed (i.e. an executor or an administrator) has the necessary authority to serve a notice to quit on us to end the tenancy.

6.3.2 In that situation, shorter notice (i.e. less than 28 days' notice) may be agreed between us and the personal representative.

6.3.3 A next of kin does not have necessary authority to end the tenancy so notice to terminate should not technically be accepted from them, unless they are an authorised representative.

6.4 Termination by us: If there is a Will and the Executor is living in the Property

6.4.1 Where there is a Will and the executor is living in the property, then we should serve a Notice Seeking Possession relying on Ground 7 of Schedule 2 of the Housing Act 1988 if it is agreed that the person should not remain in the property.

6.5 Termination by us Otherwise

6.5.1 This Section 6.5 applies in all other scenarios except where there is a Will and the executor is living in the property.

6.5.2 For periodic assured or assured shorthold tenancies, then a notice to quit should be served, addressed to “The Personal Representative of the [tenant’s name] Deceased of [last known address for the tenant who died]”. A notice to quit is the relevant form of notice because the tenant (for very obvious reasons) is no longer living in the property as their only or main home and therefore the tenancy ceases to be assured.

6.5.3 If there is a Will, then the notice should be served on the executor named in the Will.

6.5.4 If there is no Will, but a family member has been appointed an administrator under Letters of Administration, then the notice should be served on the administrator(s). However, obtaining Letters of Administration can be a slow process, so if they have not yet been issued serve notice on the Public Trustee (see Section 6.5.5 below) in the meantime.

6.5.5 Where there is no executor or administrator, the notice to quit must be served on the Public Trustee together with any form the Public Trustee office requires and any fee payable (presently £40) (presently NL1 found at: <https://www.gov.uk/tenancy-agreements-a-guide-for-landlords/if-your-tenant-dies-without-an-executor-or-a-will>). An example NL1 form is set out at **Appendix 2**. The documents and fee should be posted to The Public Trustee, PO Box 3010, London WC2A 1AX.

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6.5.6 An example notice to quit is set out at **Appendix 3**.

6.6 Service of Notices

6.6.1 All notices should be served in accordance with the notice provisions set out in the tenancy agreement.

6.6.2 The Housing Officer should also complete a Certificate of Service, an example of which is set out at **Appendix 4**.

6.7 Remaining Occupiers

6.7.1 If occupiers remain in the property when the notice seeking possession or notice to quit has expired, then it will be necessary to issue possession proceedings to obtain lawful possession.

6.7.2 Where Ground 7 is being relied upon, possession proceedings should be issued within 12 months of the tenant's death (or, if the court directs, within 12 months of when we should have become aware of the tenant's death.) Rent (and any other term of the tenancy) should not be changed in the meantime.

6.7.3 In all other cases, a use and occupation/mesne profit account should be set up and the occupier asked to pay use of occupation/mesne profit charges.

6.7.4 In both cases, the occupier(s) should also be notified that possession proceedings will commence.

6.7.5 We will offer advice to the occupier(s) on finding suitable rehousing

6.8 Vacant Property

6.8.1 If the property is vacant following expiry of the relevant notice, we may take possession of the property. It will not be necessary to issue any possession proceedings.

7. The deceased's belongings

7.1 The deceased tenant will inevitably have personal belongings left in the property. We will comply with our Abandoned Goods Procedure in this respect.

8. Relevant documents

- Succession Policy and Procedure
- Abandoned Goods Procedure
- Appendix 1 – Summary flowchart
- Appendix 2 – Form NL1
- Appendix 3 – Notice to Quit
- Appendix 4 – Certificate of Service

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9. Responsibilities

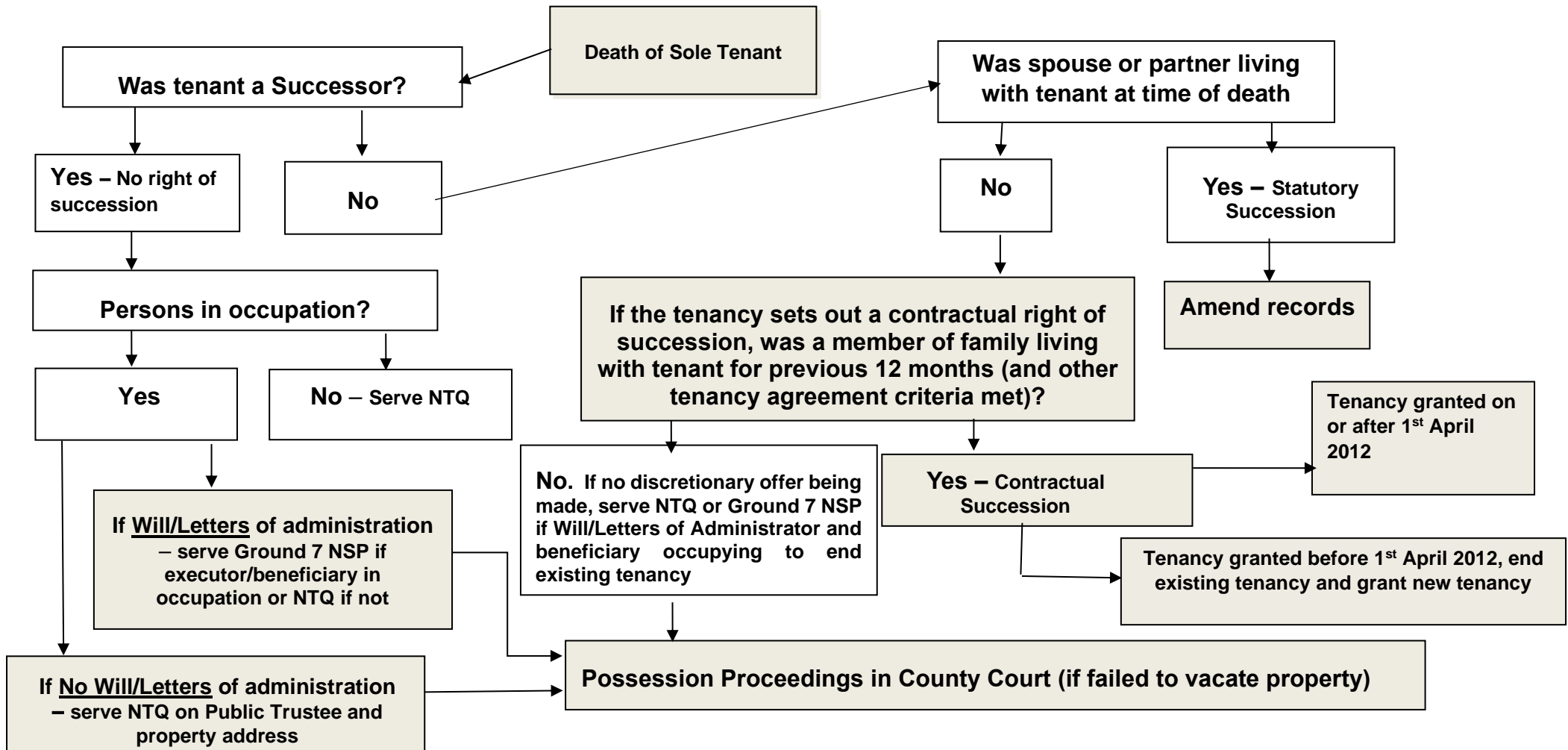
9.1 The Head of Neighbourhoods is responsible for ensuring effective monitoring and review of this Policy

10. Review

10.1 The next planned review of this Policy will be July 2023. However, it will be reviewed sooner if there is any change in the relevant legal and regulatory framework.

Appendix 1 – Flowchart about which Notices to Serve and Grounds to use when

(Not applicable were valid notice served on us)



For explanatory notes see overleaf <i>Please type complete in BLOCK CAPITALS</i>	For official use only
To: The Public Trustee PO Box 3010 London WC2A 1AX	Date of Registration Registration No.

YOUR NAME	I.	The fee of £40 accompanies this application	THE CURRENT FEE
	of		
YOUR ADDRESS OR COMPANY ADDRESS	KNOWSLEY HOUSING TRUST LAKEVIEW KINGS BUSINESS PARK PRESCOT KNOWSLEY MERSEYSIDE L34 1PJ	Signed Date	YOUR SIGNATURE
	(enter name and address of person or firm making app) apply for registration against the name of the deceased person referred to below of the attached Notice in respect of the land	Telephone No	DATE WHEN SIGNED
		Reference	SO WE MAY CONTACT YOU IF REQUIRED
		Enter details to which Notice relates.	YOUR REFERENCE
DECEASED'S NAME	Enter name of deceased Forename(s) Surname		ADDRESS OF DECEASED'S PROPERTY
DATE OF NOTICE	Date of Notice		
TYPE OF NOTICE	Description of Notice NOTICE TO QUIT		

The Notice to Quit Etc
(Prescribed Information)
Regulations 1988

NOTICE TO QUIT

BY LANDLORD OF PREMISES LET AS A DWELLING

(a) Name of Tenant **To** (a)

(b) Address of **Of** (b)
Premises

(c) Name of Landlord **Knowsley Housing Trust**

(d) Address of **Of Lakeview, Kings Business Park, Prescot, Knowsley, Merseyside L34**
Landlord **1PJ**

HEREBY GIVE YOU NOTICE TO QUIT AND DELIVER UP POSSESSION TO THE LANDLORD OF YOUR PREMISES

ON _____

Or at the end of the period of your tenancy which will end next after the expiration of four weeks from the date of service upon you of this notice.

Dated the

On behalf of

PRESCRIBED INFORMATION FOR TENANT/LICENSEE

- 1. If the tenant or licensee does not leave the dwelling, the landlord or licensor must get an order for possession from the Court before the tenant or licensee can lawfully be evicted. The landlord or licensor cannot apply for such an order before the notice to quit or notice to determine has run out.**

- 2. A tenant or licensee who does not know if he had any right to remain in possession after a notice to quit or notice to determine runs out can obtain advice from a solicitor. Help with all or part of the cost of legal advice and assistance may be available under the Legal Aid Scheme. He should also be able to obtain information from a Citizens' Advice Bureau, a Housing Aid Centre or a rent officer.**

Certificate of service

Name of court	Claim No.
Name of Claimant	
Name of Defendant	

On what day did you serve? / /

The date of service is / /

What documents did you serve?
 Please attach copies of the documents you have not already filed with the court.

On whom did you serve?
 (If appropriate include their position e.g. partner, director).

How did you serve the documents?
 (please tick the appropriate box)

- by first class post or other service which provides for delivery on the next business day
- by delivering to or leaving at a permitted place
 by personally handing it to or leaving it with
 (.....time left, where document is other than a claim form) (please specify)
- by other means permitted by the court (please specify)
- by Document Exchange
- by fax machine (.....time sent, where document is other than a claim form) (you may want to enclose a copy of the transmission sheet)
- by other electronic means (.....time sent, where document is other than a claim form) (please specify)

Give the address where service effected, include fax or DX number, e-mail address or other electronic identification

- Being the**
- claimant's
 - defendant's
 - solicitor's
 - litigation friend
- usual residence
 - last known residence
 - place of business
 - principal place of business
 - last known place of business
 - last known principal place of business
 - principal office of the partnership
 - principal office of the corporation
 - principal office of the company
 - place of business of the partnership/company/ corporation within the jurisdiction with a connection to claim
 - other (please specify)

I believe that the facts stated in this certificate are true.

Full name

Signed
 (Claimant) (Defendant) ('s solicitor) ('s litigation friend)

Position or office held
 (If signing on behalf of firm or company)

Date / /

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Rules relating to the service of documents are contained in Part 6 of the Civil Procedure Rules (www.justice.gov.uk) and you should refer to the rules for information.

Calculation of deemed day of service of a claim

A claim form served within the UK in accordance with Part 6 of the Civil Procedure rules is deemed to be served on the second business day after the claimant has completed the steps required by CPR 7.5(1).

Calculation of the deemed day of service of documents other than the claim form (CPR 6.26)

Method of service	Deemed day of service
First class post or other service which provides for delivery on the next business day	The second day after it was posted, left with, delivered to or collected by the relevant service provider provided that day is a business day; or if not, the next business day after that day
Document exchange	The second day after it was left with, delivered to or collected by the relevant service provider provided that day is a business day; or if not, the next business day after that day
Delivering the document to or leaving it at a permitted address	If it is delivered to or left at the permitted address on a business day before 4.30pm, on that day; or in any other case, on the next business day after that day
Fax	If the transmission of the fax is completed on a business day before 4.30pm, on that day; or in any other case, on the next business day after the day on which it was transmitted
Other electronic method	If the email or other electronic transmission is sent on a business day before 4.30pm, on that day; or in any other case, on the next business day after the day on which it was sent
Personal service	If the document is served personally before 4.30pm on a business day, it is served on that day; or in any other case, on the next business day after that day

In this context 'business day' means any day except Saturday, Sunday or a bank holiday; (under the Banking and Financial Dealings Act 1971 in the part of the UK where service is to take place) includes Good Friday and Christmas Day.