

# Death of a Tenant Policy

2020 – 2023

## Document control

<b>Policy approval</b>	Executive Director – Customer Insight, August 2020
<b>Replacing/Updating</b>	N/A, new policy
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<b>Responsible Executive Director</b>	Executive Director – Customer Insight
<b>Author</b>	Head of Customer Relationship Management
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<b>Version</b>	<b>Date of review</b>	<b>Details of review</b>
1	July 2020	New Policy – Written in consultation with Anthony Collins Solicitors.
2	Jan 2021	Policy Rationalisation – new format
3	December 2021	Updated to reflect new staffing structure

## 1. **Introduction**

This policy outlines Livv's approach to dealing with the death of a customer who a tenant of one of our properties.

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.

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.

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.

This Policy sets out how we deal with the practical issues once we become aware that a tenant has died.

This Policy:

- applies equally to assured (non-shorthold) and assured shorthold tenancies;
- does not apply to licences or leaseholders.

## 2. **Scope**

The implementation and scope of the policy applies and is applicable to:

Livv Housing Group	
Livv Homes	
Livv Maintenance	
First Ark Social Investment (Operating as Livv Investment)	
All entities	X

## 3. **Compliance**

The policy is in place in order to support:

Regulatory Compliance, in particular the Tenancy Standard and the Governance and Financial Viability Standard (April 2015)	X
Legislative Compliance, in particular the Housing Act 1998 and the Protection from Eviction Act 1977	X
Best Practice	

The Regulator's Tenancy Standard requires us:

- to let homes to tenants in a fair transparent and efficient way.
- to manage tenancies in accordance with the requirements of relevant legislation.
- to be clear in our policy about our stance on granting discretionary succession rights, taking account of the needs of vulnerable household members.

The Regulator's Governance and Financial Viability Standard (April 2015) requires:

*"Governance arrangements shall ensure registered providers:*

*(a) adhere to all relevant law ..."*

The Housing Act provides tools and measures to enable social landlords to manage tenancies effectively, fairly and in accordance with the law. It provides a statutory framework for allowing customers to succeed to the tenancy of a deceased tenant.

The Protection from Eviction Act provides tenants with protection from unlawful eviction.

This policy ensures that we are compliant with the statutory requirements of both pieces of legislation.

#### **4. Policy Statement**

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):

- 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.

#### **Checking if Someone is a Successor?**

We will determine if an occupant has a right to succeed in accordance with our Succession Policy and Procedure.

Where there is an eligible successor or we allow a discretionary succession, we will follow the Succession Policy and Procedure.

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.

### **Where there is no Successor or Succession is by Grant of a New Tenancy**

A summary of this Section is set out in the flowchart attached at Appendix 1 to this Policy.

The deceased tenant's tenancy should be terminated irrespective of whether anybody is living in the property or not.

### **Termination by Personal Representative**

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.

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

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.

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

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

### **Termination by us Otherwise**

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

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.

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

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 below) in the meantime.

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.

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

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

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

### **Remaining Occupiers**

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.

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.

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.

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

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

### **Vacant Property**

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.

### **The Deceased's Belongings**

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

## **5. Policy Outcomes**

By successfully implementing this policy we will efficiently manage the use of Livv's housing stock when a tenant dies.

The effective implementation of this policy will mean that all Livv customers are treated in a fair and transparent manner, in accordance with our policy, the relevant regulatory standards and applicable legislation.

## 6. **Monitoring and Review**

In order to ensure that the policy is effective and delivering the intended impact, the following Key Performance Indicator's (KPI's) are in place to monitor the performance of the policy:

- 28 day target for completion of all succession applications.

Furthermore, in line with the Group's Policy Framework, this policy is scheduled to be reviewed every 3 years, unless due to a change in Government legislation or regulatory requirements, the review period will be brought forward in order to ensure compliance.

## 7. **Roles and Responsibilities**

The Policy Framework documents the approval routes for all Policies & Strategies, however under this policy the following teams/employees have the following responsibilities.

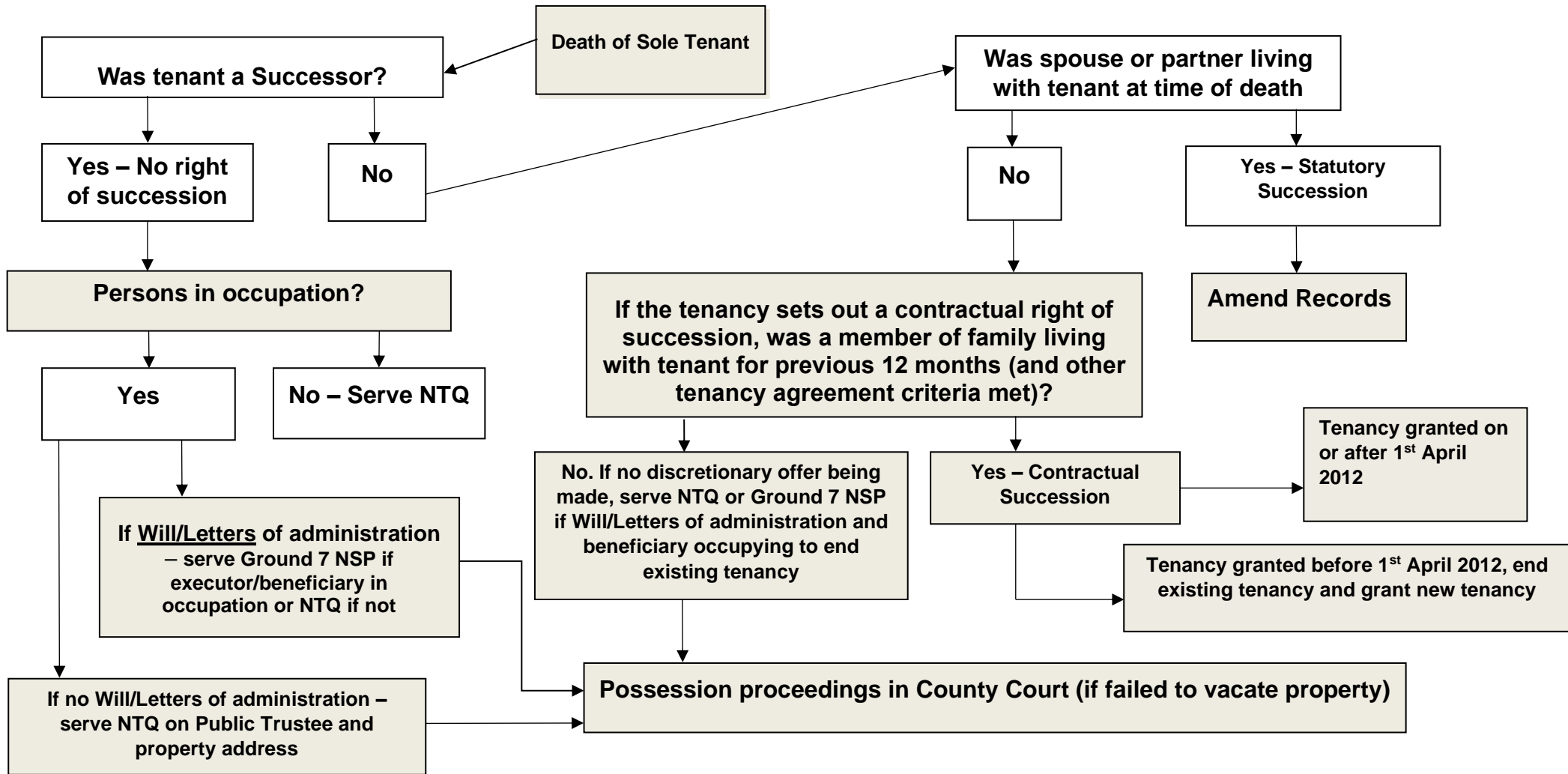
Executive Director's Team (EDT)	Responsible for the approval of the policy
Director of Customer Relationship Management	Ensure operational implementation of this policy
Head of Customer Relationship Management	Ensure key services are delivered in line with this policy and that there are robust performance management arrangements in place. And is responsible for reviewing the policy, amending it accordingly so it supports the associated strategic aims and reflects the service it relates to.
Complex Queries and Complaints Team	Are responsible for implementing the policy at operational level

## 8. **Equality & Diversity**

In order to comply with the Equality Act 2010, an equality analysis (EA) was completed as part of the policy review. Upon completing the EA it was found that the implementation of the policy would support and encourage the aims of the public sector duty. The equality analysis was completed and approved November 2019.

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

(Not applicable were valid notice served on us)



**Appendix 2 – Form NL1**

		For explanatory notes see overleaf <i>Please type complete in BLOCK CAPITALS</i>	<b>For official use only</b>	
		<b>To:</b> The Public Trustee  PO Box 3010  London  WC2A 1AX	<b>Date of Registration</b> .....	
			<b>Registration No.</b> .....	
<b>YOUR NAME</b>	<b>I.</b>	The fee of £40 accompanies this application  <b>Signed</b> .....  <b>Date</b>  <b>Telephone No</b>  <b>Reference</b> .....	<b>THE CURRENT FEE</b>	
	<b>of</b>		<b>YOUR SIGNATURE</b>	
<b>YOUR ADDRESS OR COMPANY ADDRESS</b>	LIVV HOSUING GROUP  LAKEVIEW KINGS BUSINESS PARK PRESCOT KNOWSLEY MERSEYSIDE L34 1PJ  (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		<b>DATE WHEN SIGNED</b>	
			<b>SO WE MAY CONTACT YOU IF REQUIRED</b>	
			<b>YOUR REFERENCE</b>	
	<b>Enter name of deceased</b>	<b>Enter details to which Notice relates.</b>		<b>ADDRESS OF DECEASED'S PROPERTY</b>
<b>DECEASED'S NAME</b>	<b>Forename(s)</b>			
	<b>Surname</b>			
<b>DATE OF NOTICE</b>	<b>Date of Notice</b>			
<b>TYPE OF NOTICE</b>	<b>Description of Notice</b>  NOTICE TO QUIT			



**Appendix 3 – 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      Livv Housing Group  
  
(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.**

**Appendix 4**

**Certificate of service**

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

Position or office held

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

(If signing on behalf of firm or company)

Date / /

Rules relating to the service of documents are contained in Part 6 of the Civil Procedure Rules ([www.justice.gov.uk](http://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)**

<b>Method of service</b>	<b>Deemed day of service</b>
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