

Bereavement of a council tenant who shared their home



Ending a tenancy due to the bereavement of a council tenant who lived alone

Please accept our condolences for your loss.

Coping with the death of a friend or relative is never easy and dealing with their affairs can be complicated and upsetting. This leaflet aims to help you through this difficult time by explaining what you need to do when a council tenant who lived alone dies.

If the tenant did not live alone, please see our leaflet bereavement of a council tenant who shared their home.

Please ask us if there is anything that you are unsure of.

What to do in the first few days after someone has died

- Notify the GP
- Register the death at a register office
- Locate a will (this may have been placed with a solicitor)
- Contact an undertaker
- If the person did not leave a will, you can apply for a grant of representation by contacting the Probate Registry
- Contact the Tell Us Once service (A registrar will do this with you or will give you a unique reference number so you can use the service yourself)

Tell Us Once service

Derbyshire County Council's Tell Us Once scheme passes information collected by the registrar through to other agencies on your behalf. This will help you to get benefits sorted out quickly, avoid the need to send copies of the certificate by post to other organisations. It will also stop you from receiving mail from these agencies addressed to your friend or family member that has passed away.

Relevant information is passed to:

- Department for Work and Pensions
- HM Revenue and Customs (for tax, credits and benefits)
- Identity and Passport Service
- Council Tax offices

You can also request information is passed to:

- Electoral services
- Libraries
- Children's services
- Blue Badge parking scheme
- Driver and Vehicle Licensing Agency

Once these organisations have the details, they will use the information to update records, start or amend benefits and resolve outstanding issues.

You can get more information about the Tell Us Once service on **01629 533073** or from the registrar when you register a death.

Contacting Home Options

Please tell us of your loss as soon as you can. We can be contacted at:

01246 345700

home.options@chesterfield.gov.uk

Customer Service Centre, Town Hall, Rose Hill, Chesterfield, S40 1LP

Our opening times are:

- Monday, Tuesday, Thursday and Friday 9am to 2pm
- Wednesday 10am to 2pm

You will need to tell us:

- Your name, address and phone number
- The name and address of the tenant who has died
- The date that the person died
- What your relationship with the tenant was and whether you are the person responsible for carrying out the terms of their will or administering their estate (the 'estate' is the term used for a person's property and money at the time of death)

We will ask you to:

- Provide a copy of the death certificate
- Information about who was living at the property when the tenant died

If you were living at the property when the tenant died, you may be able to take over the tenancy or you may want to end the tenancy.

We will make arrangements to discuss this further with you at a convenient time. It may be necessary to meet with you at our office or for us to visit you.

Succession to the tenancy

Succession is the legal term used when a person takes over a tenancy when the tenant dies.

There can only be one succession of a secure tenancy. If the deceased tenant was already a successor, then the tenancy cannot be passed on again to another person.

This means that if one joint tenant dies and the other joint tenant succeeds to the tenancy, then this is the one succession allowed by law. A third person (for example, a son or daughter of the joint tenants) cannot then succeed to the tenancy on the death of the other tenant.

Joint tenants

If you have a joint council tenancy, you will succeed to the tenancy in your sole name when your joint tenant dies.

As a tenancy agreement is a legal document, any changes to the tenancy must be made formally. Please contact us if the person who you are in a joint tenancy with passes away so that we can amend the tenancy.

If you have succeeded to the tenancy of a house that is too large for your needs or is unsuitable in some other way, we can help you to move to a smaller home if you wish to do so.

Entitlement to succeed to the tenancy

If your husband, wife or civil partner passes away, and they were the sole tenant, you will succeed to the tenancy as long as it was also your home when they died and provided there has not been a previous succession.

If you are the partner of the deceased tenant but you were not married or registered as their civil partner, you or another member of the deceased tenant's family may inherit the tenancy if they have been living with the tenant continuously for at least one year immediately before their death.

For the purpose of succession, a family member is a:

- parent or grandparent
- child or grandchild
- brother or sister
- uncle, aunt, nephew or niece

Step-relations, half-relations and in-laws are also included.

Case law has decided that foster children are not counted as family members for the purpose of succession.

A carer does not have the right to succeed to a tenancy.

Disputes about who can succeed to the tenancy

The deceased tenant's husband, wife or civil partner will always take priority over anyone else, unless it is a joint tenancy when the tenancy will continue in the name of the other joint tenant.

If there is more than one person who is entitled to succeed to the tenancy, the eligible family members can decide between them who should have the tenancy. If the eligible family members are not able to reach a decision on who should inherit the tenancy, the council will make the decision for them.

Information needed by the council to consider eligibility to succeed to a tenancy

We need the following information to make a decision regarding eligibility to succeed to a tenancy:

- The tenant's death certificate
- Proof of your identity (a birth certificate, passport, driving licence, national insurance card)
- Proof of your relationship to the former tenant (a birth certificate or marriage certificate)
- Proof that you currently live at the property and have done so for at least 12 months. For example, benefit paperwork, bank statements, utility bills, a copy of the electoral roll showing your name, address and a date (unless you are the joint tenant or are the deceased tenant's husband, wife or civil partner)

We will need to check our records to find out what paperwork was completed at the time of any previous tenancy change to confirm that a succession has not already taken place.

If we are satisfied with the information provided, we will write to you confirming the date of your succession to the tenancy. A new tenancy agreement will not be issued as the successor takes over the original tenancy.

As the successor, you take on the rights and responsibilities of the tenancy. This includes responsibility for paying the rent and any arrears. If there is an outstanding court order, the successor also takes on the terms and conditions of the court order.

Succession to a tenancy by a child

A child under the age of 18 can succeed to a tenancy. An adult will need to hold the tenancy in trust until the child is 18 years of age.

Circumstances where we would ask you to leave the property

One of the most common fears of succession is the concern that you may have to leave the property.

If you are the husband, wife or civil partner of the deceased tenant, we may not ask you to leave your home.

If you are not entitled to succeed to the tenancy, you will need to move out of the property. However, please be assured that we will assess your circumstances and try to help you to find alternative housing that is suitable for you.

The council has a duty to use its properties in the most appropriate manner wherever possible and, unfortunately, there are some circumstances where you will not be able to remain in the property even if you have the legal right to succeed to the tenancy. These include:

- **Houses** - if you have succeeded to the tenancy of a house as a family member of the deceased tenant but you do not have any children under the age of 16 as part of your household, we may ask you to move to a property that is more suited to your needs
- **Under-occupation** - if you have succeeded to the tenancy as a family member of the deceased tenant but you are under-occupying the property, we may ask you to move to a smaller property
- **Properties adapted for the disabled** - if you have succeeded to the tenancy of a property that is adapted to accommodate the person who has passed away, then you may be asked to move so that the facilities can be made use of by another tenant in need

In these situations, we will assess your circumstances and provide reasonable alternative accommodation that is suitable for your needs.

We will also offer financial assistance to help you to move.

If you do not accept our reasonable offer of alternative accommodation, the council may seek possession of the property through the court.

Proceedings would commence after six months but less than twelve months from the date of death of the tenant.

Rent

Throughout the process of dealing with tenancy succession, rent or a payment for use and occupation of the property will still need to be paid.

Please contact the Customer Service Centre if you do not know how much to pay.

If the tenant who has died was receiving Housing Benefit, the payment of benefit stops at the date of death. You will need to contact Housing Benefits to ask for your benefit to be reassessed. Housing Benefit will not be paid until this assessment is completed.

If you have concerns about paying your rent or use and occupation charge, contact the Customer Service Centre on **01246 345345**.

Other people you may need to notify of the bereavement

- Gas, electricity and water companies
- Insurance companies about car, travel, medical insurance etc.
- Rental, hire purchase or loan agreement companies
- Pension providers/life insurance companies
- Banks and building societies
- Telephone, internet/TV companies
- Credit card providers/store cards
- Dentist and optician

Dealing with grief

Grief is a natural process, but it can be devastating. If you would like help to deal with grief, Cruse Bereavement Care offers free confidential support for adults and children.

Telephone **01246 550080** or ring the national helpline on freephone **0808 808 1677**.

We hope that we have covered most of the questions which are often raised but please call us if you are still unsure of anything or if you need clarification.

You can seek independent legal advice from a solicitor or from:

Citizens Advice

6-8 Broad Pavement, Chesterfield
Derbyshire, S40 1RP
01246 209 164
0808 278 7843 (advice line)

Derbyshire Law Centre

1 Rose Hill East, Chesterfield, S40 1NU
01246 550674
Freephone 0800 707 6990

Useful contacts

Customer service centre

Environmental services
Rent recovery
Housing benefit
01246 345 345

Reporting repairs

(during office hours)
Freephone 0800 587 5659
Repair.requests@chesterfield.gov.uk

Repairs – emergency only

(out of hours) **01246 345 041**

Tenancy management

01246 345 071
housingmanagement@chesterfield.gov.uk

Tenancy support

01246 345 354
Tenancy.support.referrals@chesterfield.gov.uk

Home options team

01246 345 700
home.options@chesterfield.gov.uk

Homelessness prevention team

01246 345 825
Homelessness.prevention@chesterfield.gov.uk

Homelessness (out of hours)

0808 169 2333

Derbyshire Law Centre

01246 550 674
0800 707 6990

Citizens Advice

01246 209 164
0808 278 7843 (advice line)

Derbyshire Unemployed Workers Centre

01246 231 441
If you are concerned about the welfare of a child or vulnerable adult, call **Derbyshire County Council** on **01629 533 190**