

Proposed changes to succession rules

One of the most significant proposed changes to the tenancy agreement is to amend the rights to succession. It is necessary for the policy to be brought in to line with the Localism Act 2011 and the tenancy agreement needs to be changed to reflect this.

The idea behind this change is to allow councils to ensure that they house those in the most need.

To understand the changes, the existing and new proposals are set out below.

The old rules (pre April 2012):

Succession is the ability to inherit a tenancy when the tenant dies.

When a tenant dies, the tenancy passes to the tenant's husband, wife, or partner, as long as they were living together as a couple (this includes couples of the same sex); and they were living in the property as their only or main home when the tenant died.

If the tenant was not married, other family members could succeed as long as they lived in the property for the previous 12 months.

In law there has only ever been one succession to a tenancy, but City of York Council policy allows for a 'second' succession. As the law does not recognise a second succession, this complicates matters.

The first succession is to the property in question but the second one could be to a property of a more suitable size if it was too large or adapted for someone with disabilities.

The new rules available since April 2012

The Localism Act 2011 has, since 1 April 2012, amended the statutory succession rights of **new** secure tenants. Statutory succession to a secure tenancy entered into after 1 April 2012 in England, only applies to the spouse or civil partner of the deceased tenant.

The rights of existing secure tenants at 1 April 2012 (and the succession rights of people living with them) are also, as yet, unaffected by the changes in the law.

Proposed changes

To limit succession as outlined in the Localism Bill to succession to a spouse or civil partner. In addition, limiting the number of successions to 'one' tenancy.

It would still be possible to help customers with housing and social need through other policies. Customers who cannot succeed can be accepted as 'at risk' of homelessness, where they are in priority need (for example, they have children, are pregnant, suffer severe ill health or are vulnerable); and housed elsewhere through the North Yorkshire Home Choice lettings policy, or by providing other suitable accommodation.

Where customers cannot succeed because they are not the husband, wife, or civil partner, we are able to offer a property on a discretionary basis. This could be made in cases where it is proven that the circumstances are exceptional e.g. the person(s) in question have lived at the property for a considerable portion of their lives; have been a carer for the deceased tenant, or are vulnerable in some way.