

## **What Happens After A Council Tenant's Death?**

### **What should I do when the tenant dies?**

Dealing with the loss of a loved one is a difficult time. Death in itself is distressing and the administrative procedures involved can be an additional burden. The information contained here is designed to provide you with advice and assistance at such a difficult time.

Following the death of a family member who was a council tenant, please contact Local Housing Office or our Customer Service Centre (01506 775000) as soon as possible with the following details:

- Name of deceased;
- Address of deceased;
- Date of death;
- Contact name, address and telephone number of next of kin/executor;
- Estimated date for returning of keys;
- Death Certificate (the member of staff will need to have sight of this and a photocopy will be made)

If you/anyone else was living in the property when the tenant passed away you/they may be able to continue living there. Please contact your local Housing Office for further information.

If you are next of kin, or you have been appointed executor to the late tenant, you should be advised that legally the tenancy ended on the day the tenant passed away. The Council can allow you to have a period of two weeks to have access to the house to remove the late tenant's moveable items and personal belongings. On expiry of the period of two weeks, please return all the house keys to your local Housing Office.

Before handing back the property to the Council, the property should be secured, cleared of all people and possessions and left in a clean and tidy condition. Please be aware that the deceased tenant's estate will be liable for rent until the keys are returned to the local Housing Office. (The tenancy will be terminated on the Sunday following the date the keys are returned.)

There is a local charity called Home Aid West Lothian, which takes good quality, unwanted goods such as furniture, kitchenware and bedding and passes it on to needy people in the area. If you would like to arrange for an uplift call the charity direct on 01506 652230. The Council provides a special uplift service for items of bulky domestic waste. To request a bulky uplift please phone 01506 778000. For more information about this service please see <http://www.westlothian.gov.uk/1210/1054/householdwaste/bulkyuplifts>. If you are unable to clear the property please provide the local Housing Office with a letter authorising them to dispose of any items left in the property.

Regretfully, you must be advised that should you fail to return the keys at the end of the two weeks, we will be required to change the locks and remove any remaining moveable items from the property. Unless we have a letter authorising disposal, any items removed shall be stored for a period of up to 28 days following which they may be offered to local charities or be otherwise disposed.

Where the late tenant received Housing/Council Tax Benefit, you should inform (or ask us to inform on your behalf) Revenues, to cancel the Benefit claim.

### **Can I inherit the tenancy on the death of the tenant?**

A tenancy can be inherited by one of the following people in the following way:

#### *Level One:*

- Tenant's surviving spouse; *or*
- Surviving joint tenant; *or*
- Tenant's cohabitee or same sex partner, provided the house had been their only or principal home for at least 6 months immediately before the tenant died.

#### *Level Two:*

If no-one qualifies at Level One to inherit the tenancy, or a qualifying person does not want the tenancy, it may be inherited by a member of the tenant's family as long as:

- He or she is at least 16 years old at the date of the tenant's death, *and*
- He or she was living in the house as his or her only or principal home at the date of the tenant's death.

If more than one person qualifies for the tenancy under Level Two, they must decide among themselves who should get the tenancy. If they cannot agree, the Council will decide.

#### *Level Three:*

If no-one qualifies at Level One or Level Two, or a qualified person does not want the tenancy, it may be inherited by a carer as long as:

- He or she is at least 16 years old at the date of the tenant's death, *and*
- He or she was living in the house as his or her only or principal home at the date of the tenant's death, *and*
- He or she had given up his or her previous only or principal home before the death of the tenant, *and*
- He or she provided care for the tenant or a member of the tenant's family.

If more than one person qualifies for the tenancy under Level Three, they must decide among themselves who should get the tenancy. If they cannot agree, the Council will decide.

### **What if more than one person qualifies to succeed?**

If more than one person qualifies to inherit the tenancy and they both have the same level of priority, they can either:

- Decide among themselves who should get the tenancy
- Ask for a joint tenancy
- Ask the Housing Manager to decide

### **How do I inherit the tenancy?**

If you think you may qualify to inherit the tenancy, and you would like to do so, you should complete a written application form, which you can get from your local Housing Office. The completed application form should be returned to the Local Housing Office, together with a copy of the death certificate. The Local Housing Office will confirm in writing whether or not you can inherit the tenancy. If you do inherit the tenancy you will be liable to pay the rent from the day after the tenant died.

### **What do I do if I qualify to inherit the tenancy but I don't want it?**

If you qualify to inherit the tenancy but you do not want it, you should tell us in writing within 4 weeks of the tenant's death, and leave the house within 3 months. You will be liable to pay the rent whilst you are living there.

### **Is there a limit to the number of successions?**

The tenancy can only be inherited twice. If the tenancy has already been inherited twice the third death will end the tenancy unless there is a surviving joint tenant, whose Scottish Secure Tenancy will continue. However, if there is still a person in the house who would have qualified to inherit the tenancy if there had not already been 2 successions, they will be allowed to occupy the property on an occupiers agreement for up to 6 months. They will be liable to pay the rent whilst they are living there.

### **Are there special rules for sheltered or wheelchair adapted housing?**

The law says that where a house has been designed or substantially adapted for use by a person with special needs only a husband, wife, cohabitee, joint tenant or person who needs the special features or adaptations in the house themselves can inherit the house.

However, if a member of the family or carer **would** have been entitled to succeed if the house had not been special needs housing, the Council will find *suitable alternative accommodation* for them.

If the person succeeding to the tenancy dies, then it can only be inherited a second time if the person qualifying to succeed needs the special features of the house themselves.

The reason for these rules is to try to make sure special housing is available for people who need the special features.

### **How can I prove I was living in the house as my only or principal home at the time of the Tenant's death?**

Council Officers will look for the following type of evidence

- Benefit books at that address.
- Documents sent to that address, such as bank statements, utility bills.
- On the Electoral register for that address.
- Registered for Council tax at that address.
- Included on any Housing Benefit claim, if the deceased tenant was in receipt of Housing Benefit.
- Recorded as resident during the Tenant Satisfaction Visit.
- Confirmation from neighbours.
- Evidence of occupation e.g. where do they sleep? Are there any of their belongings in the house? Would they make the house overcrowded if they were living there?
- House files - any mention of the person in anti-social complaints, arrears arrangements, application for housing etc.?
- Previous addresses and dates moved out.