



ADVICE ABOUT SUCCESSION RIGHTS FOR PROTECTED TENANTS ON NEWINGTON TRUST ESTATE/ TRINITY VILLAGE

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TNRA has tried to ensure the accuracy of the information on this leaflet, but the law on protected tenancies is complex and this leaflet can only state it in general terms. You should check to see that the information is correct for you before relying on it.

Trinity Newington Residents' Association

the association for residents of Newington (Trust) Estate/Trinity Village

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This advice answers the following questions:

What happens when the current tenant dies?

Can the tenancy be passed on to a surviving husband, wife, partner or other member of the family?

How many times can a tenancy be passed on?

Definitions

PROTECTED TENANCIES (also called regulated tenancies or Rent Act tenancies)

These are usually tenancies which began before 15 January 1989. They are regulated by the Rent Act 1977. If the original tenancy was for a fixed term which has run out, the tenant is 'holding over' under a statutory tenancy on the same terms as the original tenancy.

A protected tenancy gives the tenant two important rights:

- A protected tenant can usually remain for life (unless the tenant breaks the terms of the tenancy or the landlord can satisfy one of the very few circumstances that allows the court to make a possession order).
- The right to have the rent registered by the Rent Officer as a 'Fair Rent'. The registered rent is usually much lower than the market rent would be for the same property.

SUCCESSION/SUCCESSOR

Succession is passing on a tenancy to another person when the tenant dies. A successor is a tenant who has already succeeded to (taken over) a tenancy after the death of the original tenant.

SPOUSE OR 'PERSON LIVING WITH THE TENANT AS HUSBAND AND WIFE'

This means one of a married couple, a civil partnership, an unmarried couple (heterosexual or same sex) – if they can show that their relationship has permanence and is in the nature of a marriage.

MEMBER OF THE FAMILY

This includes a son, daughter, grandchild, parent, brother, sister, nephew, niece, step-relation and relation by marriage. It can include people who are not related in any technical sense but who share each other's lives and depend upon each other.

The right to succeed to a tenancy

When a tenant dies, two possible classes of people can succeed to the tenancy, if they exist. The first of these is:

A SURVIVING SPOUSE or person living with the tenant as husband and wife (see above), who was living with the tenant at the time of death.

This person succeeds to a **STATUTORY TENANCY BY SUCCESSION**, which is still a protected tenancy (see above).

If there is no such spouse, the second class of person is:

A MEMBER OF THE TENANT'S FAMILY (see above) who lived with the tenant at the time of his/her death and was living with the tenant for **AT LEAST TWO YEARS** immediately before the tenant's death.

This person succeeds to an assured tenancy under the Housing Act 1988. An assured tenancy is almost as secure as a protected tenancy (see above), but the rent is no longer a Fair Rent. The landlord can now charge a market rent. So the rent may go up considerably.

More than one succession

If the first successor is a surviving spouse (or person living with the tenant as husband and wife), when that person dies, the tenancy can pass on to a person who was a member of the original tenant's family and the successor's family and who has lived with the successor for at least two years. There cannot be more than two successions.

FLOW CHART SHOWING THE QUESTIONS TO BE ASKED ON THE DEATH OF A PROTECTED TENANT AND ANY SUCCESSORS, AND THE RESULTS

