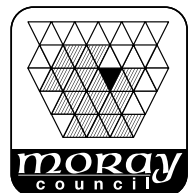

Succeeding to a Scottish secure tenancy



If you need information from Moray Council in a different language or format, such as Braille, audio tape or large print, please contact:

إذا كنتم في حاجة إلى معلومات من قبل مجلس موراي وتكون بلغة مختلفة أو على شكل مختلف مثل البراي، أسطوانة أوديو أو أن تكون مطبوعة باستعمال حروف غليظة فالرجاء الإتصال ب

Je pageidaujate tarnybos Moray tarybos teikiamą informaciją gauti kitokiu formatu, pvz., Brailio raštu, garso įrašu ar stambiu šriftu, kreipkitės:

Jeśli potrzebują Państwo informacji od Rady Okręgu Moray w innym formacie, takim jak alfabet Braille'a, kasyety audio lub druk dużą czcionką, prosimy o kontakt:

Se necessitar de receber informações por parte do Concelho de Moray num formato diferente, como Braille, cassette áudio ou letras grandes, contacte:

Ja Jums vajadzīga informācija no Marejas domes (*Moray Council*) citā valodā vai formātā, piemēram, Braila rakstā, audio lentā vai lielā drukā, sazinieties ar:

اگر آپ کو مورے کونسل سے کسی دیگر زبان یا صورت میں معلومات درکار ہوں مثلاً "بریلے، آڈیو ٹیپ یا بڑے حروف، تو مہربانی فرما کر رابطہ فرمائیں:

Housing and Property
PO Box 6760
Elgin
IV30 1BX

0300 123 4566
housing@moray.gov.uk

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We review our leaflets regularly to make sure you have the most up-to-date information. However, the content of this leaflet is only correct at the time it is published.

What is succession?

Succession is the transfer of a tenancy, and the tenancy rights, to another person when a tenant dies. This right only applies to people in Scotland who have a secure tenancy. The person taking over the tenancy 'succeeds' to the tenancy.

How do I take over a tenancy through succession?

Only certain people can take over a tenancy when a tenant dies. These people are grouped into three levels of priority and must be 16 or over and the property must have been their only or main home.

First priority

Surviving joint tenant(s)

Tenant's spouse or civil partner

Cohabitees

- Must have been only or main home at the time of tenant's death
- Must have been their only or main home for 12 months prior to tenant's death; and
- We must have been notified at the time they moved into the property

Second priority

Member of the deceased tenant's family:

- Parent
- Grandparent
- Children and grandchildren (including stepchildren)
- Foster children
- Brother or sister
- Aunt or Uncle
- Nephew or niece
- Must have been their only or main home for 12 months prior to tenant's death; and
- We must have been notified at the time they moved into the property

Third priority

A carer, provided that:

- the house was the carer's only or principal home at the time of the tenant's death; and
- the carer has given up their only or principal home to care for the tenant, or member of the tenant's family.
- Must have been their only or main home for 12 months prior to tenant's death; and
- We must have been notified at the time they moved into the property

How to apply

If you want to succeed to a tenancy, you must apply to us for permission.

You can get an application form by:

- visiting our website:
www.moray.gov.uk/housing
- phoning us:
0300 1234 566
- visiting your local access point:
please find our contact details at the end of this leaflet

We may ask you to give us other information for example, proof that the property was your main home. We will write back to you within one month, telling you whether you can take over the tenancy.

What is a main home?

Your main home is somewhere you have a major connection with. It does not mean you must live there all of the time. If you spend periods of time away from the home, it may still be your only or main home.

If you are a student living away, your parent's home may still be seen as your main home, as long as you plan to return.

What if I am already a joint tenant?

A tenancy does not end when one joint tenant dies and another tenant continues to live in the home. The tenancy will continue. You will have to continue paying rent including any missed rent payments or other debt relating to housing, such as the cost of repairs.

What if the tenancy has already been passed on by succession?

Under the Housing (Scotland) Act 2001, a tenancy can only be handed on **twice** through the right of succession.

If you would have been able to take over the tenancy, but you can't because there have already been two successions, you will be allowed to stay in the property for up to six months after the date the tenant dies but you will have to pay rent. This is to allow you time to find somewhere else to live, which we may be able to help with.

Example

Mr Brown and his wife moved into a house 10 years ago. Mr Brown had a sole Scottish secure tenancy. Sadly, he was taken ill and died a few years later. The tenancy passed to his wife (this was the first succession). Mrs Brown's daughter and grandson moved in with her and had been living with her for several years when she died. The tenancy passed to her daughter (this was second succession). Mrs Brown's daughter can now live in the house for as long as she wants, but she will not be able to hand on the tenancy if she dies because it has already been 'succeeded twice'.

Are there any other restrictions to taking over a tenancy?

Yes, if a house or flat has been designed or adapted for someone with special needs to use, it can only be handed on to a husband, wife, civil partner, joint tenant or partner. It cannot be passed to members of their family or carers unless they have special needs. If they do not, they have the right to be offered another suitable home.

Can my partner take over the tenancy if I die and we are not married?

Yes, if you and your partner have lived together in your home for at least 12 months and you notified us that they are living in the house, they will be able to take over your tenancy. Your home must be your partner's only or main home for 12 months before they apply to succeed the tenancy.

Can I put down in my will who I want to take over the tenancy when I die?

No. The law says who has the right to take over your tenancy if you die.

What happens if there is more than one person who qualifies to take over the tenancy?

They legally have four weeks from the date of the death (or the date we tell them they may qualify, if this is later) to decide between themselves who will take over the tenancy. If they do not reach a decision within this timescale, we will decide for them. Our decision will be final.

What if someone living in my home does not want to take over the tenancy after I die?

If someone qualifies to take over your tenancy but chooses not to, they must decline the succession. They must give us four weeks' notice in writing and leave the home within three months.

What if someone living in my home does not qualify? What rights do they have to take over my tenancy?

None, if someone living in your home does not qualify to take over your tenancy (for example, a lodger or subtenant), they will have to leave your home in the event of your death.

What if I am not satisfied with your decision?

If you are not satisfied with the decision, you can appeal in writing to:

**Housing Services Manager,
Moray Council,
PO Box 6760,
Elgin
IV30 1BX**

They will review the original decision and will notify you of the outcome within four weeks of receiving your request.

More information

For more information, please contact us. Contact details are on the back page.

For additional advice about succession you may want to get independent legal advice.

Contacts

Housing and Property
PO Box 6760
Elgin
IV30 1BX

0300 123 4566
housing@moray.gov.uk

Access Points

Buckie Access Point

13 Cluny Square
Buckie
AB56 1AJ

Forres Access Point

Auchernack
High Street
Forres
IV36 1DX

Elgin Access Point

Council Office
10 High Street
Elgin
IV30 1BY

Keith Access Point

The Resource Centre
26 Mid Street
Keith
AB55 5AH

