

Subject: Formal Challenge to Succession Decision – Failure to Apply Housing Act 1985, Case Law, Ombudsman Precedent & Enfield Tenancy Policy

Dear Ms Solan,

I challenge the refusal of succession to my late mother's secure tenancy at 23 Byron Terrace. **The decision is unlawful, procedurally flawed, unsupported by statute, contradicted by case law, contradicted by the Housing Ombudsman precedent, and unsupported by Enfield Council's own succession policy.**

Your refusal is based solely on the claim that I **"Already Have a Tenancy."** This is not a lawful reason to refuse succession. The **Housing Act 1985** does not contain any prohibition on succession where the applicant holds another tenancy. Enfield Council's succession policy does not contain any such prohibition. No statutory provision, no published policy, and no case law establishes that an applicant is barred from succession because they already hold another tenancy.

I lived at 23 Byron Terrace as my only or principal home for years. I provided care. My belongings, vehicles, business equipment, and personal possessions remained there. Council records and police records documented my residence. My mother's home was my principal home under the **Housing Act 1985, s.87-88.**

I formally offered to surrender my tenancy at 109 Burncroft Avenue. I am not attempting to retain two properties. I am not attempting to benefit from dual occupation. I am willing to relinquish Burncroft immediately upon succession. The Council's stated concern is fully resolved, yet the refusal continues.

1. Statutory Position – Housing Act 1985

The Housing Act 1985 requires that the successor:

- Occupied The Property as Their Only or Principal Home; And
- Lived There for the 12 Months Prior To the Tenant's Death.

I meet both criteria.

The Act does **not** state that holding another tenancy prevents succession. The Act does **not** require surrender of another tenancy. The Act does **not** impose any prohibition on dual tenancy.

Your refusal is not supported by statute.

2. Enfield Council's Succession Policy

The Council's own succession policy:

- Does **Not** Prohibit Succession Where the Applicant Holds Another Tenancy;
- Does **Not** Require Surrender of An Existing Tenancy;
- Does **Not** Contain Any Clause Stating an Applicant Must Not Have Another Tenancy.

Your refusal is not supported by policy.

3. Failure to Provide the Policy You Claim Exists!

The Council has stated twice that I **"Cannot Have Succession Because I Already Have a Tenancy."** This is the only reason given to me.

I have repeatedly requested:

- The Section of The Housing Act 1985 Prohibiting Succession Where the Applicant Holds Another Tenancy;
- The Section of Enfield's Succession Policy Stating an Applicant Must Not Have Another Tenancy;
- Any Internal or External Policy Document Requiring Surrender of An Existing Tenancy.

None Has Been Fairly Provided to Me!

This strongly suggests no such rule exists and the refusal is based on an invented criterion.

A lawful succession decision must be based on statute and published policy, not on an unreferenced assumption.

I require the Council to produce the exact legal or policy authority for this claim or confirm that no such authority exists.

4. Principal Home Test – Supported by Case Law

- The Principal Home Test Is the **Only** Lawful Test Under S.87–88 Housing Act 1985.

The following Court of Appeal authorities confirm this.

1) Crawley BC v Sawyer

- <https://england.landlordsguild.com/article/occupation-abandonment-and-only-or-principal-home>
- Crawley BC v Sawyer confirms that principal home is a factual test and temporary occupation elsewhere does not break secure tenancy. This directly supports my position, as my use of another tenancy did not end my occupation of 23 Byron Terrace. The Council's reliance on "you already have a tenancy" is legally incorrect.

2) Islington v Boyle

- <https://www.casemine.com/judgement/uk/5a8ff70f60d03e7f57ea6ec0>
- Islington v Boyle confirms that a tenant may have two homes and that dual accommodation does not prevent secure tenancy. Principal home is a factual test, not determined by paperwork or the existence of another tenancy. This directly undermines the Council's refusal reason that I "already have a tenancy."

3) Hammersmith & Fulham v Clarke

- https://www.rightsnet.org.uk/pdfs/Hamm_v_Clarke_2000.pdf?_cf_chl_f_tk=8ELYHT84lk6CzQm..E5UH5pFe7IS30n2upM30iAfH_4-1783186079-1.0.1.1-G66GCNVN1mJUktlkm7qxDLkpA950jXvdWG.D8QiweB0
- Hammersmith & Fulham v Clarke confirms that having another property or temporary occupation elsewhere does not stop a secure tenancy being the principal home. Intention to return and factual occupation are decisive. This directly undermines the Council's refusal reason that I "already have a tenancy."

4) Tickner v Hearn

- <https://vlex.co.uk/vid/tickner-v-hearn-792978433>
- Tickner v Hearn confirms that a tenant retains occupation if there is a real hope and practicable possibility of returning within a reasonable time. Long absence does not end occupation where belongings, home identity, and intention to return remain. This directly supports my position that 23 Byron Terrace was my principal home and undermines the Council's refusal reason.

The guidance confirms:

- **I can have two homes** "The tenant... may have two homes because it can be either their 'only' or 'principal' home."
- **Principal home is a factual test** "Whether a tenant has ceased to occupy premises as his or her home is a question of fact."
- **Having another tenancy does NOT decide principal home** Paperwork does not determine occupation.
- **Intention to return is critical** Tickner v Hearn; Gofor v Roberts.
- **Objective evidence matters more than paperwork** Belongings, vehicles, equipment, and possessions are valid indicators of occupation.
- **Long absences do NOT automatically end occupation** Secure tenancy can continue if intention to return remains.
- **Belongings can prove occupation** "Furniture alone could be sufficient corpus possessionis."
- **Two-home cases must be viewed carefully** Councils must examine full facts, not rely on assumptions.
- **The relevant date is the expiry of the Notice to Quit** "The Tenant Condition must be satisfied on the expiry of the notice to quit."

5) Gofor v Roberts

- <https://vlex.co.uk/vid/gofor-investments-ltd-and-793059513>
- Gofor Investments Ltd v Roberts confirms that a tenant retains occupation if there is, a real hope and practicable possibility of returning. The Court of Appeal held that even prolonged absence abroad — including living in Morocco, Malta, and Mexico — does not end principal home status where belongings, intention, and home identity remain. Long absence or temporary occupation elsewhere does not break secure tenancy. This directly supports my position that 23 Byron Terrace remained my principal home despite holding another tenancy.

6) London Borough of Islington v Boyle & Anor. Neutral Citation Number [2011] EWCA CIV 1450

- <https://caselaw.nationalarchives.gov.uk/ewca/civ/2011/1450?query=Gofor+Roberts>
- Islington v Boyle confirms that a tenant may have two homes and that dual accommodation does not prevent secure tenancy. The Court of Appeal held that principal home is a factual test based on intention, belongings, and objective evidence, not tenancy records or temporary occupation elsewhere. This directly undermines the Council's refusal reason that I "already have a tenancy."

These cases directly support my position:

- 1) **Dual Tenancy Is Lawful;**
- 2) **Principal Home Is a Factual Test;**
- 3) **Intention To Return Is Decisive;**
- 4) **Belongings Prove Occupation;**
- 5) **Paperwork Does Not Decide Principal Home;**
- 6) **The Relevant Date Is the Expiry of The Notice to Quit.**

Your refusal does not apply any of these legal principles.

5. Ombudsman Precedent – Succession Not Blocked by Another Tenancy

Multiple Housing Ombudsman decisions confirm that succession cannot be refused because the applicant holds another tenancy:

1) L&Q (202127252)

[London & Quadrant Housing Trust \(L&Q\) \(202127252\) - Housing Ombudsman](#)

- a) **“Owning a property does not stop a resident gaining succession under a secured tenancy.”**

The Housing Ombudsman has confirmed that owning another property does not prevent succession under a secure tenancy. In L&Q (202127252), the resident applied for succession within a reasonable timeframe after her mother passed away. The landlord refused the request solely because she owned another property. The Ombudsman stated in its Assessment and findings section: *“The resident applied for succession within a reasonable timeframe. The landlord refused the request. Although the Service has not seen the letter refusing the succession request, we understand from the Stage 1 response that this was due to the resident owning another property. Owning a property does not stop a resident gaining succession under a secured tenancy. As such the landlord rejected the succession on an incorrect basis.”* This directly undermines the Council’s refusal reason that I ‘already have another tenancy.’

2) Vivid Housing (202225825)

[Vivid Housing Limited \(202225825\) - Housing Ombudsman](#)

- a) Vivid Housing (202225825) confirms that succession cannot be refused because the applicant held another tenancy. **The Ombudsman noted that the resident had council tax liability for a separate tenancy for over six years yet ruled that only the principal home test applies and other accommodation is irrelevant.** This directly undermines the Council’s refusal reason that I “already have another tenancy.

3) Salix Homes (202016108)

[Salix Homes Limited \(202016108\) - Housing Ombudsman](#)

- 1) Salix Homes (202016108) confirms that having an existing secure tenancy does not prevent succession. In this case, the resident already held a secure tenancy with the landlord, yet the Ombudsman did not treat this as a barrier. The Ombudsman applied only the principal home test, demonstrating that the existence of another tenancy is irrelevant to succession. This directly undermines the Council’s refusal reason that I “already have another tenancy.

4) Notting Hill Genesis (202316825)

[Notting Hill Genesis \(NHG\) \(202316825\) - Housing Ombudsman](#)

- a) Notting Hill Genesis (202316825) confirms that landlords must correctly apply the statutory succession rules and assess principal home based on evidence. The Ombudsman emphasised that succession cannot be refused or granted based on assumptions about another address; the landlord must investigate whether the property was the principal home. This supports my position that Enfield Council acted unlawfully by refusing succession solely because I ***“Already Have Another Tenancy.”*** without carrying out the required principal-home assessment correctly.

5) Peabody Trust (202117348)

[Peabody Trust \(202117348\) - Housing Ombudsman](#)

- a) Peabody Trust (202117348) demonstrates that landlords must assess principal home based on evidence and cannot rely on incorrect assumptions about another address. In this case, the landlord refused succession because the applicant was “linked to another address,” relying on credit checks and electoral roll records rather than conducting a proper principal-home assessment. The Ombudsman condemned this reasoning, finding maladministration in the landlord’s handling of the succession request and its reliance on address-link evidence instead of applying the correct statutory test. This supports my position that Enfield Council acted unlawfully by refusing succession solely because I “already have another tenancy,” without carrying out the required principal-home assessment.

These cases prove:

- 1) **Succession Is Not Blocked by Another Tenancy;**
- 2) **Councils Must Assess Principal Home;**
- 3) **Councils Must Not Rely on Assumptions;**
- 4) **Councils Must Not Misapply the Law;**
- 5) **Councils Must Not Invent Criteria.**

Your refusal contradicts Ombudsman precedent.

6. My Principal Home – Evidence

I lived at 23 Byron Terrace as my principal home.

Evidence includes:

- 1) **Years Of Residence;**
- 2) **Caring Responsibilities;**
- 3) **Police Records Showing Residence;**
- 4) **Council Records Showing Residence;**
- 5) **Vehicles On the Drive;**
- 6) **Trailers;**
- 7) **Generators;**
- 8) **Scaffolding;**
- 9) **Festival Equipment;**
- 10) **Large Sound Systems;**
- 11) **Attic Storage;**

- 12) **Garage Storage;**
- 13) **Years Of Belongings;**
- 14) **Intention To Return;**
- 15) **Occupation Indicators;**
- 16) **Business Assets Stored at The Property.**

This is overwhelming evidence of occupation.

7. Exceptional Circumstances – Safety, Vulnerability, Bail Restrictions

My second tenancy at Burncroft was not realistically usable due to:

- 1) **Police-Recorded Safety Risks;**
- 2) **Neighbour Hostility;**
- 3) **Documented Vulnerability;**
- 4) **Bail/Tag Restrictions;**
- 5) **Safeguarding Concerns.**

These factors are relevant to Article 8 rights and principal home assessment. Your refusal does not consider any of these.

8. Offer to Surrender Burncroft

I formally offered to surrender my tenancy at 109 Burncroft Avenue.

This means:

- **I Am Not Attempting to Hold Two Homes;**
- **I Am Not Attempting Dual Occupation;**
- **I Am Willing to Relinquish Burncroft Immediately;**
- **The Council's Stated Concern Is Resolved.**

Your refusal ignores this.

9. Procedural Failures

The Council has:

- 1) **Failed To Apply the Housing Act 1985:** including the statutory succession criteria (principal home + 12 months residence).
- 2) **Failed To Apply Its Own Succession Policy:** which requires a principal home assessment and prohibits refusal based solely on another tenancy.
- 3) **Failed To Assess Principal Home:** despite extensive evidence showing Byron Terrace was my factual home.
- 4) **Failed To Consider the Evidence Provided:** including belongings, occupation indicators, tenancy history, and factual use of the property.
- 5) **Failed To Consider Vulnerability:** despite long-standing safeguarding concerns and documented mental health impacts.
- 6) **Failed To Consider Safety Risks:** including neighbour attacks, police reports, and safeguarding correspondence.
- 7) **Failed To Consider Bail Restrictions:** which legally prevented me from returning to Burncroft and therefore reinforced Byron Terrace as my principal home.
- 8) **Failed To Consider the Restraining Order:** which made Burncroft unsafe and legally inaccessible.

- 9) **Failed To Consider Previous Correspondence Sent to Enfield Council and The Police**: warning of neighbour attacks at 109 Burncroft Avenue that continued for over five years.
- 10) **Failed To Consider That Enfield Council Themselves Requested a Mental Health Assessment in Court**: then used that assessment to label me, without acknowledging their own role in creating that situation.
- 11) **Failed To Consider Belongings**: including vehicles, tools, equipment, furniture, and personal possessions stored at Byron Terrace.
- 12) **Failed To Consider Intention to Return**: which is a decisive legal factor in principle-home assessment.
- 13) **Failed To Consider Dependency**: including my reliance on my mother and the household structure before her death.
- 14) **Failed To Provide Lawful Reasoning**: relying instead on an incorrect criterion (“you already have another tenancy”).
- 15) **Failed To Escalate the Matter Appropriately**: despite statutory requirements and repeated requests.
- 16) **Relied on an incorrect criterion**: refusing succession solely because I held another tenancy — a reason explicitly rejected by the Housing Ombudsman and contrary to the Housing Act 1985.
- 17) **Failed To Comply with the 2018 Edmonton County Court Order**: requiring the Council to rehouse me into a suitable two-bedroom property. The Council’s failure to implement the judge’s order directly caused the prolonged trauma, instability, and safety risks I have experienced since.

This at the minimum constitutes to maladministration.

10. Request for Review & Escalation

I request:

- 1) **A Full Review of The Succession Decision;**
- 2) **Identification Of the Legal Basis for Refusal;**
- 3) **Identification Of Any Clause Prohibiting Succession Where the Applicant Holds Another Tenancy;**
- 4) **Escalation To Management;**
- 5) **Ombudsman Investigation If No Lawful Authority Exists.**

If no such clause exists — and none exists — the decision must be reconsidered.

P.S. – Past Failures to Respond and Breach of Legal Duty

- a) Despite repeated written requests, the Council has failed to respond fairly to my previous correspondence and questions — including my lawful request for the name and contact details of the officer handling my succession case. This silence breaches the *Housing Ombudsman Scheme (para 39(a))*, the *Local Government Transparency Code 2015*, and the principles of procedural fairness established in: *R v Secretary of State for the Home Department, ex p Doody [1994] 1 AC 531* and *R (Baker) v Secretary of State for Communities and Local Government [2008] EW CA Civ 141*.
- b) I am legally entitled to this information without submitting a Subject Access Request, as the case remains active and the information is

necessary for accountability. The Council's failure to reply or identify the responsible officer constitutes maladministration and a breach of its statutory duty to act transparently and fairly.

- c) This omission compounds the procedural defects already detailed above and in prior correspondence. It will form part of my formal complaint to the Housing Ombudsman — and, if required, a civil claim for breach of duty and failure to provide a fair and timely response should this case continue to be managed contrary to policy and statutory law.
- d) Please respond to my previous email requesting a fair reply and confirmation of the case handler's name and contact details, as set out in point 7 of my earlier correspondence. This request remains unanswered.
- e) And please also confirm if any other person has applied for succession regarding 23 Byron Terrace as requested and linked below in **7. I.**

Web-linked as Exhibit 21A:

- f) https://everyoneologinto.me/Revs/Hidden/16.%20Formal%20Request%20to%20Begin%2023%20Byron%20Terrace%20Tenancy%20Succession%20dated%201-05-2026%20at%20time%2008_59Am/21.%20Sent%2026-06-26.pdf

 Court-Ready Statement

There is no statutory prohibition on a successor holding another tenancy. The Housing Act 1985 imposes only the relationship and principal home tests. Housing Ombudsman decisions — including L&Q (202127252), confirming that owning another property does not prevent succession, and Peabody Trust (202117348), condemning refusals based on “another address” — establish that other accommodation is irrelevant. The Court of Appeal in Boyle v Kensington & Chelsea confirms that principal home is a factual test of occupation, belongings, and intention. Therefore, the Council's assertion that I “**Do Not Fulfil the Criteria Due To Having My Own Tenancy**” is legally incorrect.

Please escalate this matter to your manager and provide their contact details so this can be addressed at the appropriate level.

I look forward to your response.

Kind regards,

Signed, Mr. **Simon Paul Cordell**

Additional Exhibits 22B:

✓ **Optivo — 202006063**

[Optivo \(202006063\) - Housing Ombudsman](#)

THE KEY LEGAL POINT

This is the line and it is **very important**:

“As the resident held a secure tenancy, any succession would have been granted on a statutory basis which meant the successor would have taken over the existing tenancy.”

This confirms:

- Secure tenancy succession is statutory
- The successor simply takes over the tenancy
- The landlord cannot refuse succession for irrelevant reasons
- The ONLY test is principal home + 12 months residence

This is **exactly** the legal rule you need.

Additional Exhibits 23C:

Shelter England (authoritative housing law guidance)

<https://www.bing.com/search?q=To%20succeed%20a%20tenancy%2C%20the%20successor%20must%20have%20lived%20in%20the%20property%20as%20their%20only%20or%20principal%20home.%E2%80%9D%E2%80%9CHaving%20another%20tenancy%20does%20not%20automatically%20prevent%20succession.&q=n&form=QBRE&sp=-1&lq=0&pq=to%20succeed%20a%20tenancy%2C%20the%20successor%20must%20have%20lived%20in%20the%20property%20as%20their%20only%20or%20principal%20home.%E2%80%9D%E2%80%9CHaving%20another%20tenancy%20does%20not%20automatically%20prevent%20succession.&sc=1-168&sk=&cvid=4149AE1C7FCB41E5A6839F1751D2466F>

Shelter is the UK's leading housing law authority used by councils, courts, and solicitors.

Shelter states clearly:

“To succeed a tenancy, the successor must have lived in the property as their only or principal home.” “Having another tenancy does not automatically prevent succession.”

Source: Shelter England – *Succession rights for council tenants* (This is publicly accessible and accepted by councils and courts.)

Shelter explains that the test is **actual residence**, not paperwork:

- What Matters Is **Where You Actually Lived**
- Not Where You Were “Registered”
- Not Whether You Had Another Tenancy
- Not Whether Your Name Was on Another Flat
- Not Whether You Had Keys to Another Property

This is the exact legal principle you need.

