

Succession of tenancy

Overview

This policy explains what succession of tenancy is and how we will manage applications for succession of tenancy and meet our legal, contractual and regulatory responsibilities.

Scope

This policy applies to tenancies managed by Muslim Care except for those managed under Affordable Housing programs (other than SAHF affordable housing).

Definitions

Succession of tenancy

Succession of tenancy is when we agree to transfer a tenant's right to a tenancy to another person.

We may approve succession when:

- The tenant dies.
- A final apprehended violence order (AVO) is made which stops the tenant from entering the property.
- The tenant permanently leaves the property to:
 - live in a residential care facility e.g. a nursing home
 - serve a sentence in a custodial facility (e.g. prison) and the sentence is longer than permitted under our current Absence from Property policy
 - care for sick or frail family members.

The General Manager, Customers and Communities may approve succession in other circumstances.

Approved occupant

An approved occupant is a person who:

- was on the original housing application and has been living in the property and had their income included in the tenant's rent assessment, or
- we have approved, in writing, to become a member of the household and we include their income in the rent calculation.

Eligibility for succession

People who are eligible for succession of tenancy are:

- The tenant's spouse or de facto (including same sex partners) who has been living with the tenant as a couple and is an approved occupant, whether or not their income meets the income eligibility criteria for social housing. The spouse or de facto must meet all other social housing eligibility criteria.
- The legal guardian or custodian of an approved occupant who is under 18 years of age. We will only approve succession of tenancy if the guardian agrees, in writing, to live with, care for and provide housing for the child/young person. If the guardian or custodian does not meet the social housing eligibility criteria, we may grant succession if this is in the best interests of the child/young person.
- An approved occupant over 18 years of age who:

- i. Meets the social housing eligibility criteria (including eligibility relating to former social housing tenants or occupants – see below) and
- ii. Has been an approved occupant for at least the past two years or
- iii. If the tenancy has been less than two years, has been an approved occupant for the whole tenancy.

Note: If a property has been transferred to us from another provider, (e.g. as part of a transfer program) the period that an approved occupant was included in the tenancy with the other housing provider will be taken into account.

If two or more eligible adults remain in the household, we will assess any applications we receive.

We may consider approving succession for approved occupants aged between 16 and 18, if we are satisfied that they are able to care for themselves and meet the conditions of tenancy.

Carers who are not approved additional occupants are not eligible for succession. We will only approve succession to carers if they are approved occupants and have been living in the property for a continuous period of at least two years or the whole tenancy, if the tenancy has been less than two years.

If an applicant for succession is a former social housing tenant or occupant, we will consider their ability to maintain a tenancy, including complaints and/or tenancy issues such as anti-social behaviour.

Entitlements of Succession

Succession of tenancy gives a person a right to a tenancy with us. This may not be where they currently live. When we assess requests for succession, we will review the bedroom entitlement and needs of the approved occupant/s. We won't consider any requests for additional occupants until succession is finalised.

As a condition of succession, we may the household to move to another property that is better suited to the remaining approved occupants. We will provide offers of housing as outlined in our Allocations policy.

Generally, the cost of relocation is the responsibility of the new tenant; however, we may consider requests to cover relocation expenses on a case by case basis.

If a person applies for succession of tenancy of a Social and Affordable Housing Fund (SAHF) property and is approved, they will be offered either a 2 year, 5 year or continuous lease as outlined in our SAHF policy.

Ending the existing tenancy

When a tenant dies, permanently leaves the property, or a final AVO is made which stops the tenant from entering the property, we will issue a notice of termination to the tenant as required by the Residential Tenancies Act 2010 and our End of Tenancy policy.

Applying for succession

People must apply for succession within 28 days of the change in circumstances.

If a person applies for succession, we will sign an interim fixed term tenancy agreement with the person to allow them to remain in the property while we assess their application. During this period, we will charge the household rent as per our Rent policy.

If we have commenced action to end the tenancy and we receive an application for succession, we will resolve that action before making a decision regarding the application for succession.

Standards in responding to requests for succession

We will assess requests for succession within 28 days of receiving it. If a delay is likely to occur, we will notify the applicant of the expected timeframe and the reasons for the delay. The relevant Team Leader, Head of, Division, or General Manager, Customers and Communities, will make decisions about applications for succession.

We will respond to applications for succession in writing. Our response letter will explain the reason for our decision and will advise the applicant what they can do if they are not happy with our decision.

Unsuccessful applications for succession of tenancy

If we don't approve an application for succession of tenancy and the applicants is still living in the property, the person will need to move out of the property within 14 days of making our decision. If the person does not move out, we may apply an order for possession.

If we decline an application for succession of tenancy for an Aboriginal Housing Office (AHO) property, we will advise the AHO as required by the Operating Agreement.

Appeals

Applicants can appeal our decisions about their application for succession of tenancy. More information on appeals can be found in our Appeals policy.

If an appeal is lodged, we might sign an interim fixed tenancy agreement to allow the person to remain in the property while their appeal is being resolved.

Relevant legislation, regulation and standards

- Residential Tenancies Act 2010 (NSW)

Policy information

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