

## Policy

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| <b>Policy Title</b>  | <b>Management Transfer of Tenancy</b>      |
| <b>Policy Number</b> | <b>TEN009</b>                              |
| <b>Department</b>    | <b>CHP, Habitat for Humanity Australia</b> |
| <b>Version</b>       | <b>1.0</b>                                 |
| <b>Authorised By</b> | <b>B Tasker</b>                            |
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### Objective

If a tenant has a change in their circumstances that affects their housing needs, they can request to transfer to another property managed by either Housing NSW or a community housing provider participating in Housing Pathways. These transfers are known as Tenant Initiated Transfers. All tenant initiated transfers are assessed and processed under Housing Pathways. For further information see [www.facs.nsw.gov.au/housing/help/applying-assistance/housing-pathways](http://www.facs.nsw.gov.au/housing/help/applying-assistance/housing-pathways)

HFHA may also require a tenant to move to another property managed by HFHA. These transfers are known as **Management Transfers**. This policy outlines the criteria used by HFHA to determine when a tenancy is transferred to another property for management purposes. HFHA has developed this policy so that it can manage its tenancies and property portfolio effectively to maximise the benefit social housing can provide to people in housing need.

### Scope

This policy applies to tenancies managed by HFHA, including social housing, affordable housing, transitional housing and supported housing tenancies, where HFHA is progressing the transfer for management purposes. This policy outlines the specific circumstances where HFHA will require the tenant to move or when HFHA will approve a relocation of a tenant for management purposes.

### Policy

HFHA will change tenancies in accordance with its responsibilities under the NSW Housing Act 2001, the Residential Tenancies Act 2010 and Regulations, and in accordance with HFHA policy.

HFHA has the legal right to terminate a tenancy on the grounds that it has made an offer of alternative social housing. This legal right is set out in Section 148 of the Residential Tenancies Act 2010.

HFHA may manage a number of leasehold properties on the private market. From time to time landlords can request HFHA hand back a leasehold property. In these circumstances, tenants will maintain their right to a social housing tenancy with HFHA but will need to be rehoused in another property. HFHA will seek to take the tenant's household and locational needs into consideration when offering an alternative property. HFHA will only require a tenant to relocate for valid reasons related to the management of a tenancy or the property portfolio.

### Management Transfer

HFHA undertakes Management Transfers in the following circumstances:

- Under occupancy
- Severe overcrowding
- When HFHA leases the property from the private market and the landlord terminates the lease
- Urgent relocation needs due to serious proven breaches of the Good Neighbour Policy or due to domestic violence, which compromise a tenant's immediate safety
- Portfolio management purposes or the property configuration is no longer suitable for the tenant e.g. sale, substantial upgrades or redevelopment, the property is designated as a seniors community property or is a disability modified property.

Management transfers can still be undertaken if the tenant has been approved for a transfer under Housing Pathways or has been approved for succession and the property is unsuitable.

HFHA will take action through the NSW Civil and Administrative Tribunal (NCAT) in accordance with the NSW Residential Tenancies Act 2010 to terminate and repossess the property where the tenant refuses to relocate.

### Designated Seniors Communities

When HFHA designates a complex as a Senior Community or when a property is constructed under the Older Persons State Environmental Planning Policy (SEPP5). This means that only tenants who are 54 years and over or over 44 years if they are Aboriginal or Torres Strait Islander, will be able to remain housed in the complex. In some instances, younger people with a disability will also be considered for housing as long as the overall complex maintains the character of a Seniors Community. Tenants will be advised in writing that the building has been designated as a Seniors Community.

### Relocations of Whole Buildings or Communities

HFHA may need to undertake large-scale relocations of whole buildings or communities. When undertaking a larger scale relocations project, HFHA will establish formal processes to engage with the community, which will be clearly documented and communicated. These processes may include a community reference group, community forums, newsletters and/or site meetings. Communication or feedback options chosen will depend on the scale or complexity of the relocation process.

### Request to Return to a Property Subject to Redevelopment

Where HFHA relocates a tenant from a property that will be redeveloped to provide additional social housing, the tenant can express their interest in returning to live at the site after the redevelopment is complete. HFHA will consider requests from tenants to return to the redeveloped property on a case-by-case basis. HFHA will consider the tenant's housing needs, the property configuration at completion and whether the properties will be used to provide the same housing program.

### What Areas Can HFHA Relocate a Tenant to?

Wherever possible and appropriate, HFHA will relocate tenants in the current allocation zone. This is subject to HFHA's management of its property portfolio, subject to the availability of properties and in the case of leasehold properties subject to the appropriate funding benchmarks.

HFHA may restrict relocation to certain locations:

- In order to minimise the risk of serious anti-social behaviour.
- Where there are limited properties in the location.
- Where the relocating tenant's housing needs cannot be met in the location within a reasonable period of time.
- Where the relocating tenant's support needs cannot be met in the location within a reasonable period of time.
- Where the tenant has nominated a high demand allocation zone but does not meet the locational needs criteria for that area.
- Where there is a legal restriction on the tenant or a member of their household living in a particular location.
- Where a person, agency or entity external to HFHA has made an assessment that a specific rehousing location would be inappropriate in specific circumstances and HFHA has accepted that assessment.

HFHA may approve relocation to certain locations. Where the nominated allocation area is high demand approval will be given:

- Where the tenant is able to establish a locational need for the allocation area, and
- HFHA considers that there is a reasonable prospect of the tenant's housing and/or support needs being met in the location, and
- If there is a history of serious anti-social behaviour associated with the tenant or tenancy, HFHA considers there is a minimal risk of anti-social behaviour occurring in the new location, and
- There is no compelling external reason why the tenant's choice of location should not be approved.

### What is a Reasonable Offer?

For management transfers, only **one offer of alternative housing will be made** and can be from the allocation zone that tenant has been approved for.

An offer is reasonable if it will meet the client's known housing and locational needs, and allows continued access to services, based on the merits of the information provided by the tenant during the relocation process. Generally, tenants who have been approved for a transfer under Housing Pathways will receive two reasonable offers of alternative accommodation.

### Evidence to Support Request to Live in a High Demand Area

A client/tenant must provide adequate evidence to support their request to live in a high demand area. The documentation will vary according to the nature of the client's disability or medical condition, but can be provided by one or more of the following:

- A specialist
- A health worker such as a community nurse, occupational therapist or physiotherapist.
- A psychiatrist or mental health worker.
- Support organisations such as the Home Care Service, Home Nursing Service, Aged Care Assessment Team, community centre or neighbourhood centre.
- Family and friends who provide care.

Letters or reports from health professionals and support services should include:

- The length of time the client has been utilising the service or receiving treatment from a specific doctor, support agency, health service or hospital, and
- How often the client utilises these services, and
- How long will the client need to continue to access these services, and
- The possible impact on the client if they were required to access similar services in an alternative area.
- Support letters from family or friends should include:
  - Contact details, and
  - A description of the type of care or support provided, and
  - The length of time the care or support has been provided, and
  - The frequency of care or support, and
  - The length of time the family member or friend has been continuously living in the area.

### Affinity with an area

A client with an ongoing medical condition or disability may have lived in the requested area for at least ten years and developed an extensive range of social and support networks. In this situation, locational need is demonstrated by the client's affinity with the area.

An Aboriginal or Torres Strait Islander client who has an affinity with a particular area satisfies locational need. In this case, affinity with an area is demonstrated by applicant's kinship group residing in the

requested area or the area is the traditional homeland of their tribe.

### Rejection of a reasonable offer for relocation

If a HFHA tenant rejects a reasonable offer of alternative social housing, HFHA will undertake a final check to confirm that the offer made to the tenant took into account all of their known housing needs and were consistent with the entitlements set out in the tenant's individual relocation statement.

HFHA has the legal right to terminate a tenancy on the grounds that it has made an offer of alternative social housing. This legal right is set out in Section 148 of the *Residential Tenancies Act 2010*.

The processes that HFHA is legally required to follow when relying on Section 148 to terminate a tenancy, including the review processes, are set out in Sections 149 and 150 of the *NSW Residential Tenancies Act 2010*.

If HFHA is intending to seek termination of a tenancy under Section 148, it will do the following:

- Provide the tenant with a notice of intention to issue a Notice of Termination under Section 148, and provide the tenant with the opportunity to apply for a review of this decision within fourteen days
- If a review is requested, HFHA will:
  - Undertake a first tier review by a Team Leader within seven days,
  - Ensure that a second tier review is undertaken by the Housing Appeals Committee (HAC) within seven days following the first tier review, and
  - Ensure that the recommendation by the HAC is reviewed by the General Manager, Operations for a final decision.

HFHA uses the same criteria under Housing Pathways to guide its approach to reasonable offers and rejection of offers in relation to transfers for management purposes. For more information about the criteria HFHA applies to decide if an offer is reasonable, see the HFHA Allocation Policy.

### Timeframes and assistance with the relocation process

HFHA recommends that tenants begin to prepare for their move as soon as they are notified of the requirement to relocate, packing all non-essential items, as an alternative property can become available at any time.

If a tenant requires additional support to move, it is recommended that they engage with a support service immediately to plan for the relocation. HFHA can assist with referrals if necessary.

Once an alternative property has been identified, tenants are expected to:

- View the property and respond to the offer within two working days of receiving the offer,
- If accepted, sign a new tenancy agreement within three working days of accepting the offer.
- Once the property is accepted and a new lease is signed, HFHA provides three days for tenants

to relocate, clean their old property and return their keys.

For more information, see the HFHA Allocation Policy.

HFHA will support tenants to engage with services that can provide practical assistance where it is necessary for helping the tenant and their household to relocate within the timeframes. HFHA expects tenants to engage with services to meet the relocation timeframes. HFHA will consider extensions on the timeframes above on a case-by-case basis for tenants with additional support needs who are proactively engaging with services.

### Tenure

Where HFHA relocates a tenant to a property managed by another housing provider and also approves that tenant to return to HFHA as part of the same relocation process, HFHA will offer them the same lease as they were previously approved for. If this is social housing then it will be a continuous lease, while affordable, transitional or supported accommodation may entail a fixed term lease.

Where HFHA permanently relocates a tenant to an alternative property managed by a different housing provider, the tenant will be offered and must agree to the type and length of lease in accordance with the individual provider's policy.

### Paying Rent After Relocation

Tenants of HFHA who are relocated to another property managed by HFHA will be charged rent in accordance with the HFHA Rent Policy.

Where a tenant relocates to an alternative property managed by a different housing provider, the tenant's rent will be assessed in accordance with the policy of the individual provider.

### Appeals and Review of Decision

This policy is appealable.

If a tenant is not satisfied with a service provided by HFHA or does not agree with a decision it has made, they can ask for a formal review. HFHA's *Compliments, Complaints and Appeals Policy* outlines the many ways for tenants to make an appeal. This policy, and a helpful information brochure, is available from HFHA's office or they can be downloaded from our website [www.habitat.org.au](http://www.habitat.org.au).

If a tenant is unhappy with the outcome of an appeal to HFHA, they can lodge a second level appeal with the Housing Appeals Committee. The Housing Appeals Committee is an independent agency that reviews certain decisions made by staff of Community Housing organisations and Housing NSW. For information on the Housing Appeals Committee call 1800 629 794 or go to [www.hac.nsw.gov.au](http://www.hac.nsw.gov.au).

### Related Documents

| Type      | Title   |
|-----------|---|
| Procedure | <a href="#">Management Transfer</a>                 |
| Policy    | <a href="#">Allocation</a>                          |
| Policy    | <a href="#">Compliments, complaints and appeals</a> |
| Policy    | <a href="#">Good neighbour</a>                      |