

Policy

Policy Title	Succession of Tenancy
Policy Number	TEN015
Department	CHP, Habitat for Humanity Australia
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Authorised By	B Tasker
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Objective

The purpose of this policy is to outline the conditions under which HFHA will allow the transfer of a social housing tenancy to another member of the household. This policy applies to all tenants of HFHA and other social housing tenants.

Policy

Succession of tenancy is when the right to a social housing tenancy with HFHA is transferred from the tenant named on a Residential Tenancy Agreement to another eligible member of the household.

HFHA's succession policy has been developed to ensure that a household member with a satisfactory history of living in a HFHA property and who also meets the social housing eligibility criteria is not made homeless or suffers undue hardship because the tenant has died or left the property.

Succession provides approval for a tenancy with HFHA; it does not provide approval to inhabit the current property.

HFHA recognises that its housing is a limited resource and in high demand. Therefore, the right to succeed to a tenancy is balanced against the needs of clients on the Housing Pathways Register, particularly those determined to be in very high need.

Accordingly, HFHA will usually consider the personal circumstances impacting on the household when assessing an application for succession.

Tenants and household members who have the means to provide for the housing of other household members are expected to do so.

An application for succession of a HFHA tenancy must be received within 28 days of the change in household circumstances. The tenant must write formally and/or meet with HFHA outlining the evidence supporting their request for a succession of tenancy.

Eligibility criteria

Succession can be considered when the tenant has died or is unable to remain in the property for reasons beyond their control.

This may be due to hospitalisation, moving into a nursing home or a rehabilitation facility, imprisonment or other circumstances assessed on a case by case basis.

If a property has been transferred to HFHA from another provider, the period that a household member was included in the previous tenancy will also be counted.

Only one person of the household is eligible to succeed to the tenancy.

HFHA will also consider the following factors:

- The tenancy history, and
- The ability of the applicant to otherwise meet their housing needs

The applicant must:

- Be able to demonstrate that they have been living in the property for two years previous to the request for succession or throughout the time of the tenancy if it has been in existence for less than two years.
- Be an approved household member who has had a satisfactory history of occupation within the tenancy. A spouse or de facto partner may be entitled to succession even if they have temporarily moved away for reasons related to the illness of the tenant, care of an ill person or their own ill-health. In these circumstances, the applicant must provide HFHA with evidence that the temporary absence was due to these reasons.
- Be prepared to sign a Residential Tenancy Agreement and take on the responsibility of managing the property, with support if required.
- If the applicant is a minor aged 16 or 17 years, HFHA may grant succession if the person can demonstrate that they are able to meet the terms of the Residential Tenancy Agreement.

Legal guardian or custodian of minors

HFHA will grant succession if the applicant agrees in writing to live in the dwelling and continue to provide care for the children.

If the applicant has applied for the custody of children, HFHA may grant succession on condition that the applicant agrees in writing that the tenancy will be relinquished if the custody application is unsuccessful.

If the applicant does not meet the eligibility criteria for community housing, HFHA may grant succession if:

- The applicant has been formally granted custody/guardianship of the children
- It is in the best interests of the children, and
- The applicant can demonstrate that no alternative suitable accommodation is available for the care of the children

In these circumstances, HFHA may liaise with the relevant community services agencies to ensure that this is the best option for the children involved.

Aboriginal applicants

HFHA may grant succession to an Aboriginal applicant who was not a member of the tenant's household at the end of their tenancy. The circumstances under which HFHA will consider this include if the applicant:

- Is the tenant's child or if the tenant was active in the applicant's upbringing
- Has grown up in the dwelling and has a long-term association with the dwelling and the area

In these circumstances, the applicant must still meet all the other eligibility requirements.

Applying for succession

An applicant must apply for succession as soon as possible and within 28 days of the changes in the household's circumstances. HFHA will not consider applications that are lodged more than 28 days after the tenant has died or left the property. In these circumstances, HFHA may issue the household with a notice to terminate the tenancy.

Applicants for succession will be required to provide supporting evidence of the household changes such as a death certificate where the tenant has died.

The person applying for succession will sign up to a three month fixed term tenancy with HFHA while their application is being assessed. This is to formalise the occupancy of the property and to give the household time to find alternative accommodation if their application is unsuccessful.

Applications will not be accepted if a person applying for succession has:

- Been an unsatisfactory former tenant of HFHA or any other social housing provider. An unsatisfactory tenant includes one who has damaged a property, has rental and/or non-rent debt or whose tenancy was terminated due to a breach of the Residential Tenancy Agreement.
- Been involved in illegal or violent activities in any HFHA property or those managed by any other social housing provider.

Complaints and appeals

This is an appealable policy.

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. To do this, the tenant can complete either a **“I want to complain”** form or a **“I want to appeal”** form, details of which appear in the HFHA Complaints and Appeals Policy. This policy and information leaflet is available from HFHA's office or can be downloaded from our website 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.

Related documents

Legislation

- *Residential Tenancies Act 2010*
- *Residential Tenancies Regulation 2010*

Documents supporting this policy

- Starting a Tenancy Policy
- Ending a Tenancy Policy