

### Scope

This policy outlines how Pacific Link Housing Limited (PLH) considers requests for succession of tenancy according to legal requirements of the Residential Tenancies Act 2010 (RTA), the Residential Tenancy Agreement and FACS policies. This policy applies to all tenancies, except crisis and transitional tenancies.

### Purpose

The policy is intended to explain the conditions around when PLH will allow a social housing tenancy's rights and responsibilities to be taken over by another household member in a process known as 'succession'.

### Succession of Tenancy

Succession of tenancy occurs when we agree to transfer a tenant's right to live in a PLH property to another eligible member of the household.

PLH's succession policy has been developed to ensure that a household member with a satisfactory history of living in a PLH 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.

However, PLH 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.

Succession provides approval for a tenancy with PLH; it does not provide approval to inhabit the current property. This means PLH cannot guarantee that the applicant for Succession of Tenancy will be able to stay in the same property and they may be allocated to another property that is more appropriate to their housing needs.

### Circumstances where Succession May Apply

PLH 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.

PLH's Executive Manager, Housing may approve succession in other circumstances.

For Home Purchase Authority Program properties, succession is only possible if the applicant's name is on the existing Residential Tenancy Agreement. Once the last surviving tenant vacates, for whatever reason, the property must be sold.

### Succession Eligibility

Only one person of the household is eligible to succeed to the tenancy. The eligibility criteria for applicants for succession will differ depending on their relationship with the tenant. However, the following criteria must be met, regardless of the type of relationship:

- must be an approved additional occupant of the household. This applies if the applicant was part of the household at the commencement of the tenancy, then vacated and later returned, or if they joined the tenancy after it commenced and have lived there as an additional household member.
- If the household is receiving a rent subsidy when the applicant applies for succession, PLH will check that the applicant was included on existing and previous applications for rent subsidies. If they have not been a declared household member, or included on applications for rent subsidies, then PLH will consider the applicant to be an unauthorised additional occupant and the application for succession will be declined.
- must have had a satisfactory history of occupation for a period of two years, (or the whole of the tenancy if it is less than two years old). A satisfactory occupation means, for any PLH or other social housing property, the applicant:
  - has not caused nuisance, anti-social behaviour or illegal activities
  - has not caused damage to the property or neighbouring properties
  - has no rent or non-rent arrears or had a tenancy terminated due to a breach of the Residential Tenancy Agreement.
  - is an unsatisfactory or ineligible former tenant.

### Applying for Succession of Tenancy

Applications for succession of tenancy must be made in writing to PLH within 28 days of the change in the household's circumstances. All applications must be made and assessed using the Housing Pathways *Succession of Tenancy Application and Assessment Forms* and provide supporting evidence of the household changes such as a death certificate where the tenant has died.

Information on the eligibility criteria for different categories of household members that apply for succession is available on FACS Recognition of Tenancy policy  
<https://www.facs.nsw.gov.au/housing/policies/changing-tenancy-policy>

If the applicant meets the criteria and is approved for succession by PLH, then they will be offered a tenancy with PLH, provided that the dwelling is suitable for the household's needs. If the dwelling is not suitable, the applicant will be offered another suitable dwelling and, if available, in a similar location. We will ask the applicant to agree to this in writing before granting final approval for succession.

The person applying for succession will sign up to a three month fixed term tenancy with PLH 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. During this period, we will charge the household rent as per PLH Rent and Rent Subsidy 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.

PLH will not consider applications that are lodged more than 28 days after the tenant has died or left the property. In these circumstances, PLH may issue the household with a notice to terminate the tenancy and will obtain an order for possession from the NSW Civil & Administrative Tribunal (NCAT) in accordance with the PLH End of Tenancy Policy.

### Standards in responding to requests for succession

PLH 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 Executive Manager, Housing, 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**

If PLH does not approve an application for succession of tenancy and the applicant is still living in the property, the person will need to move out of the property. A further fixed term tenancy of up to three months may be approved to allow reasonable time to secure other accommodation. If the person does not move out at the end of the extended tenancy, we may apply an order for possession from NCAT.

#### **Complaints and Appeals**

If a tenant is not satisfied with a service provided by PLH or does not agree with a decision it has made, they should first discuss their concerns with their Housing Manager. If they are still not satisfied they can ask for a formal review. Refer Complaints and Appeals Policy.

*Craig Brennan*

Craig Brennan, CEO May 2019