

Scope

This policy outlines how Pacific Link Housing Limited (PLH) considers requests for succession of tenancy. This policy applies to all social housing tenancies..

Purpose

The policy is intended to explain the conditions around when PLH will consider an application for a social housing tenancy's rights and responsibilities to be taken over by another eligible 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 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 scarce 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.

While succession provides approval for a tenancy with PLH, it does not provide approval to inhabit the current property and the applicant 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.
- other circumstances as approved by PLH's Manager, Tenancy and Transitional or their delegate.

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:

- if you are the tenant's spouse or de facto, you must have been an approved household member for the past 2 years continuously or since the start of the tenancy if the tenancy is less than 2 years old.
- if you are a household member, you must be over 18 years of age and have been an approved household member for the past 2 years continuously or since the start of the tenancy if the tenancy is less than 2 years.

- if you are the appointed/applied legal guardian of an authorised member of the household who is under 18 years of age, you must agree in writing to live in the property and continue to provide housing for the minor.
- minors aged 16 or 17 years, if they can demonstrate that they are able to meet the terms of the Residential Tenancy Agreement and live independently.
- if you are an Aboriginal and Torres Strait applicant who was not a member of the tenant's household at the end of their tenancy. The circumstances under which we 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.

The following eligibility criteria must be met:

- NSW social housing eligibility criteria. If the applicant is the appointed/applied legal guardian of an authorised member of the household who is under 18 years of age and does not meet social housing criteria, PLH may still approve the application for succession if we assess this to be in the best interest of the minor.
- receiving an income and have had a satisfactory occupation history.
- be prepared to sign a Residential Tenancy Agreement and take on the responsibility of managing the property, with support if required.
- has repaid any debt, in full, from previous tenancies
- be prepared to move into another property that is better suited to the new approved occupants.

PLH will 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.

Applications not Considered

Applications will not be considered if:

- the tenant vacates the property for personal reasons or of their own choice;
- the applicant is not an approved occupant, or has not been included on applications for rent subsidies;
- the applicant does not have a satisfactory history of occupation;
- the applicant is a sponsored migrant and holds a temporary visa, or they are an asylum seeker holding a temporary protection visa;
- the applicant has been an unsatisfactory former tenant of PLH 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.
- the applicant has been involved in illegal or violent activity in a PLH property or one managed by any other social housing provider.

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 NSW Department of Communities and Justice (DCJ) Recognition of Tenancy policy

<https://www.facs.nsw.gov.au/housing/living/move-swap-transfer/recognition-tenant>

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 receipt. If a delay is likely to occur, we will notify the applicant of the expected timeframe and the reasons for the delay. The Manager, Tenancy and Transitional or their delegate, 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.

Related Documents

Residential Tenancies Act 2010
DCJ Recognition as a Tenant Policy
Occupancy and Visitor Policy
Rent and Rent Subsidy Policy
End of Tenancy Policy

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