



Succession of Tenancy Policy

Contents

1. Purpose

2. Scope

3. Definitions

4. Policy statement

4.1 Common assessment criteria

4.2 Circumstances where Homes North will not approve succession

4.3 Specific assessment criteria

4.4 Succession to a de facto partner

4.5 Succession to household members other than spouse or de facto partner

4.5.1 Succession to the legal guardian or custodian of children

4.5.2 Succession to applicants recently released from prison

4.6 Succession to appointed agents

4.7 Type and length of lease after a succession of tenancy

4.8 Application and approval process

4.8.1 If the application is approved

4.8.2 If the application is not approved

4.8.3 If the applicant does not vacate the property as requested

5. Responsibilities

6. Where to get more information

1. Purpose

The purpose of this policy is to outline the circumstances in which Homes North agrees to transfer a social housing tenancy to another household member.

2. Scope

This policy applies to all Homes North social housing tenancies.

3. Definitions

- **Applicant** – the person who makes the formal application for housing assistance
- **Tenant** – the person who signs the Residential Tenancy Agreement with Homes North
- **Resident** – a person who lives in the property on a permanent basis
- **Spouse** – a husband or wife considered in relation to their partner
- **Household members** – all people living in the home regardless of age or relationship

4. Policy statement

Homes North is committed to addressing the changing circumstances of tenants.

Succession of tenancy is when Homes North agrees to transfer a tenant's right to live in a Homes North property to another member of their household. This may come about if a tenant dies, goes into care or is imprisoned. Homes North will recognise the changing needs of tenants in relation to the property they occupy and will endeavour to meet their needs in the most appropriate way.

This policy outlines how Homes North assesses requests for another household member to succeed a tenancy, including general and specific criteria they are required to meet and circumstances where exceptions may be made.

4.1 Common assessment criteria

Unless otherwise stated, an applicant for succession of tenancy must meet the following criteria:

- Be eligible for social housing
- A citizen of Australia or permanent resident
- Be an approved additional occupant of the household for over two years except for exceptional circumstances
- Be included on existing and previous applications for rent subsidies
- Have had a satisfactory occupation within the tenancy for a period of:
 - a) Two years prior to the request for succession, or
 - b) The whole of the tenancy if it is less than two years old

- A satisfactory history of occupation will occur where the applicant has:
 - Not caused antisocial nuisance and annoyance, or
 - Not caused damage to the property or neighbouring properties
 - Repaid any debts in full from current and previous applicant's tenancies.

4.2 Circumstances where Homes North will not approve succession

Homes North will not approve succession of tenancy if:

- The tenant vacates the property for personal reasons or their own choice.
- The applicant has not been a declared household member, or not included on applications for rent subsidies
- The applicant does not have a satisfactory history of occupation (unless Homes North is otherwise satisfied the applicant will be able to sustain a tenancy)
- The applicant is a sponsored migrant and holds a temporary visa, or they are an asylum seeker holding a temporary protection visa
- Whilst an occupant of any Homes North property, the applicant contributed to any breaches of the tenancy agreement or the Residential Tenancy Agreement.

4.3 Specific assessment criteria

If the applicant is the tenant's spouse, Homes North will approve succession if:

- They meet the social housing eligibility criteria and,
- They are a citizen of Australia or permanent resident, and
- They demonstrate/document they are married to the tenant, and
- They are currently residing in the property.

4.4 Succession to a de facto partner

If Homes North accepts an applicant is the de facto partner of the tenant, they will have the same right to succession as a spouse. Where an applicant for succession claims to be the de facto partner of the tenant, Homes North must verify the relationship is de facto. This verification is based on the NSW (Relationships) Act 1984. This Act gives important rights to de facto partners when settling private property and other assets. The Act defines a de facto relationship as a relationship between two adult persons of the same or opposite sex, who:

- Live together as a couple, and
- Are not married to one another or related by family.

The Act gives additional property rights to adults who have been in a de facto relationship for two or more years. To verify a de-facto relationship, Homes North will consider such information as Centrelink income statements, Homes North's records of when the applicant joined the tenancy and the history of the tenancy. When it is difficult to determine the nature of the relationship, an appropriate Homes North officer may ask to interview the applicant.

If Homes North does not accept on evidence that a de facto relationship exists, the applicant may re-apply for succession on the basis of being a household member other than the spouse or de facto partner of the tenant.

4.5 Succession to household members other than spouse or de facto partner

If the applicant is a household member other than the spouse or de facto partner, the applicant will be eligible for succession if:

- They meet the eligibility criteria for social housing, and
- Have an urgent need for housing and have applied and been assessed for Priority Housing in the same way as other applicants applying for housing assistance.
- They are currently residing in the dwelling as an approved occupant
- They are not an unsatisfactory or ineligible former tenant.

Two years is the standard minimum length of time the applicant must have belonged to the household (or the whole of the tenancy if it is less than two years old). If the applicant is a carer, Homes North will not approve succession if the carer has maintained their own accommodation separate to that of the tenant's dwelling, regardless of whether it is in the public or private rental market. If the applicant has relinquished a Homes North tenancy to act as a carer to another person, then succession to that tenancy may be granted even if they have not been part of that household for the past two years.

4.5.1 Succession to the legal guardian or custodian of children

Homes North may approve succession if the applicant agrees in writing to live in the property and continue to provide care for the children who are household members. Should the applicant not meet the eligibility criteria for social housing, succession may be granted if:

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

In such circumstances, it may be necessary for Homes North to liaise with the Department of Family & Community Services to ensure that this is the best option for the children involved. If the applicant has applied for permanent custody, Homes North may approve succession on the condition the applicant agrees in writing to relinquish the tenancy if their custody application is not successful.

4.5.2 Succession to applicants recently released from prison

If the applicant was recently released from prison or institutionalised care and they used to live in the tenancy, they must meet other common eligibility criteria for succession and any other specific criteria that apply. Homes North will assess the application on its merit.

Factors that Homes North will consider are the likelihood of the applicant living in the household had they not been in prison or institutionalised care, the tenancy history and their ability to otherwise meet their housing needs.

4.6 Succession to appointed agents

Tenants who intend on being absent from their home must appoint an agent to care for the property while they are away. Homes North will not approve succession to appointed agents unless they are the tenant's spouse or de facto partner.

4.7 Type and length of lease after a succession of tenancy

Applicants who have been granted succession of tenancy will be offered the same type of tenancy as the previous tenant.

If the previous tenant was on a fixed term lease, the spouse or partner will be offered the remainder of that fixed term lease unless the succession of tenancy occurs between the lease review date and the lease end date. In this case the spouse or partner will be offered a new fixed term lease based on an assessment of their current household circumstances.

If the previous tenant was on a continuous lease, this will be offered to the new tenant.

4.8 Application and approval process

Applicants are required to complete the **FACS Application for Housing Assistance** form and Home North Application for Succession of Tenancy form. Where possible, the application should be submitted at least 21 days before the tenant leaves the property, or as soon as possible in circumstances such as the death, sudden illness or imprisonment of the tenant.

All applications will be dealt with as soon as possible after the application is lodged, Homes North will write to the client to acknowledge receipt within 2 working days and inform them of Homes North's intention to respond within 20 working days. Homes North may also keep the client informed about the progress of their application during this period if necessary.

4.8.1 If the application is approved

Homes North will offer the tenancy to the applicant to an Homes North property they are currently living in, or a different property that matches the applicant's needs.

4.8.2 If the application is not approved

Homes North will offer a fixed term lease of 3 months to allow time for household members to source alternative housing. Homes North will deal with this in a compassionate manner, taking into consideration the applicant's circumstances.

4.8.3 If the applicant does not vacate the property as requested

Homes North may take action in the NSW Civil & Administrative Tribunal (NCAT).

The applicant has the right to appeal the decision.

This policy is subject to change from time to time at the discretion of Homes North. Where a staff member is observed to not be working within the scope of this policy, the breach will be addressed by a Senior Housing Manager.

5. Responsibilities

It is the responsibility of:

Chief Executive Officer to ensure this policy and associated procedures are applied and committed to by the Senior Management Team.

Operations Manager, Housing Managers, Asset Manager to ensure familiarity with this policy and related procedures, to commit to following them accordingly and where relevant, promote the policy to their teams.

Employees to ensure they comply with this policy, be responsible for their own behaviour and if required, attend relevant training as provided by the company from time to time.

6. Where to get more information

Contact Homes North on 67725133 or armidale@homesnorth.org.au

For further information on Appeals see our [Appeals Policy](#) and [Appeals Factsheet](#).

Relevant legislation

Residential Tenancy Act (2010)

Related policies

- Transfer Policy
- Appeals Policy
- Deceased Tenant Policy
- Absence from Property Form
- Appeals Factsheet

National Community Housing Standards

Standard 1.3 – Changing Needs of Tenants

Policy Information

Policy number: 1.3.1\2

Adopted: 13 July 2017