

Transition of Tenancy Policy

1. Purpose

The purpose of this policy is to outline the circumstances under which the Women's Housing Company (WHC) agrees to transfer a social housing tenancy to another household member.

2. Scope

This policy applies to all social housing tenancies managed by the WHC. It does not include Affordable Housing or Transitional Housing tenancies. It does not apply to women staying in WHC crisis accommodation.

3. Policy statement

WHC understands that a tenant's situation can change over time, and we aim to respond to these changes fairly and consistently.

Transition of tenancy is when WHC allows another eligible household member to take over the tenancy if the current tenant can no longer live in the property. This can happen, for example, if the tenant passes away, moves into long-term care, or goes to prison. WHC recognises that households have changing needs and will work to support tenants and their families in the most suitable way.

This policy explains how WHC reviews requests for transition of tenancy, including the criteria household members must meet, the information required, and the situations where WHC may consider making an exception.

4. Definitions

The following terms are used in this document, with specific meaning:

- a) **must** or **shall** or **will** designates a mandatory requirement or action
- b) **may** is an acceptable action or requirement but not mandatory
- c) **social housing** is a subsidised housing for eligible people on low or very low incomes, as defined by HOMES NSW requirements
- d) **affordable housing** is housing provided for tenants with very low, low, or moderate incomes, and in New South Wales, is managed according to the NSW Affordable Housing Ministerial Guidelines
- e) **transitional housing** is short-term housing linked to support for people who are homeless or at risk of homelessness
- f) **applicant** is the person who makes the formal application for transition of tenancy

- g) **tenant is** – the person who signs the Residential Tenancy Agreement with WHC
- h) **resident** – a person who lives in the property on a permanent basis
- i) **household members** – all people living in the home regardless of age or relationship
- j) **approved occupant** – was on the original housing application and is still living in the property and has been approved in writing to be a member of the household. Their income earned was assessed and included in the tenant's rent assessment.
- k) **transition of a tenancy** – when WHC agree to transfer a tenant's right to a tenancy to another approved occupant
- l) **subsidised rent** is the term in WHC rent statements that describes the rent that is payable by the tenant. In this document **rent** is used to mean **subsidised rent**.
- m) **notice of termination** – a legal document that informs the tenant when and why they are required to move out of the property.

5. Policy details

5.1 Eligibility criteria for transition of a tenancy

Unless WHC has stated otherwise, a person applying to take over a tenancy must meet the following requirements:

- They must be eligible for social housing
- They must be an Australian citizen or permanent resident.

Head Tenant Eligibility:

- WHC homes are provided for women and gender-diverse people to be housed as head tenants.
- Male-identifying people are not eligible to be approved as head tenants, including where a change in household composition occurs (such as separation, relationship breakdown, or departure of the original head tenant).

To qualify for transition of tenancy, the applicant must also:

- Have been an approved additional occupant in the household for more than two years, except where WHC agrees there are exceptional circumstances
- Have been listed on the current and past applications for rent subsidies for the household
- Have a satisfactory history of living in the property with regular and an up-to-date rental payment history and good property care.

Applicants must have lived in the household for:

- a) At least the two years before the transition request, or
- b) The full length of the tenancy if it has been less than two years; and

- Have not caused antisocial behaviour, nuisance, or disturbance
- Have not caused damage to the property or neighbouring properties
- Have repaid any debts from the current or previous WHC tenancies in full.

Limit on transition of tenancy:

Transition of tenancy is approved as a one-off arrangement per household.

WHC will not normally approve more than one transition of tenancy for the same household, unless there are exceptional circumstances, which will be assessed on a case-by-case basis.

5.2 Exceptions to minimum period of occupancy

WHC will consider the following exceptions to the minimum period of occupancy within the last two years:

- Where the approved applicant was recently released from prison or institutional care, and they used to live in the tenancy, we will assess the application on its merits. Factors that will be considered include:
 - The length of time the applicant lived in the property prior to their Incarceration or admission to institutional care
 - Whether the applicant would likely have continued living in the household if they had not been in incarcerated or institutional care
 - The applicant's previous tenancy history
 - Whether the applicant has alternative options for meeting their housing needs.

5.3 Legal guardianship or custodian of minors

Where there are children remaining in the household, WHC will give primary consideration to the best interests of the children, including housing stability, continuity of care, and the role of the applicant as a legal guardian or primary carer.

- The applicant has been formally granted custody or guardianship of the children; and
- Transition is assessed as being in the best interests of the children; and
- The applicant can show that no other suitable accommodation is available for the care of the children.

Consideration will be given in circumstances where applicants are kinship carers or have temporary care arrangements while formal guardianship is being processed. Allow interim transition (e.g., 6 or 12 month lease) to prevent child displacement.

In these situations, WHC may need to consult with Homes NSW to confirm that transition is the most appropriate option for the children involved.

WHC may approve an interim or permanent transition of tenancy in minor households where this is assessed as the most appropriate option to prevent child displacement and maintain stability, subject to confirmation from relevant authorities where required.

5.4 Circumstances where WHC will not approve transition

WHC will not approve a transition of tenancy when:

- The tenant has left the property by choice or for personal reasons
- For clarity, a tenant who leaves the property due to domestic or family violence is not considered to have left by choice.
- The applicant has not been an approved household member or has not been included on rent subsidy applications
- The applicant does not have a satisfactory history of living in the property, unless WHC is confident they can sustain a tenancy with support
- The applicant has contributed to breaches of the Residential Tenancy Agreement while living in any WHC property.

Further consideration, on a case-by-case basis will be provided for applicants who are migrant with a temporary visa, or an asylum seeker on a temporary protection visa. This will apply to applicants where there may be an imminent permanent visa or humanitarian circumstances.

5.5 Applying for transition

If a tenant's circumstances change suddenly (for example due to death, serious illness, or incarceration), an application for transition of tenancy should be submitted as soon as possible and within 28 days of the change. Applications received after this timeframe will be considered on a case-by-case basis.

The applicant must complete the WHC Application for Transition of Tenancy form and provide evidence of the change in household circumstances (for example, a death certificate or a medical letter). Full evidence requirements are outlined in the application form.

While the application is being assessed, the applicant will be required to enter into a three-month fixed-term tenancy. The applicant may remain in the property during this period, and rent will be payable.

5.5.1 Interim Tenancy During Assessment

If a household member applies for a transition of tenancy, WHC will offer an interim tenancy of up to three months while the applicant completes an Application for Housing Assistance with Homes NSW.

During this period, the applicant may remain in the property and will be required to pay rent in line with WHC requirements. The applicant must submit their housing assistance application promptly and provide all required supporting evidence.

If eligibility for social housing is confirmed, WHC may approve the transition of tenancy and offer a longer-term lease, subject to WHC policies and the suitability of the property.

If the transition is not approved at the end of the interim period, the interim tenancy will end and WHC will manage the tenancy in accordance with the Ending a Tenancy Policy and relevant legislation.

5.6 WHC review of applications for transition

WHC will acknowledge receipt of a transition of tenancy application within three business days and will complete its assessment within 20 business days of receiving all required supporting evidence. If there is likely to be a delay, WHC will advise the applicant of the revised timeframe and the reason for the delay.

As part of the assessment, WHC will consider whether the proposed successor is eligible for the size, type and features of the property, including bedroom numbers, target demographics and any modifications, in accordance with the Allocations Policy.

Approval of a transition of tenancy may be conditional upon the applicant agreeing to relocate to another WHC property where the current dwelling is not suitable for their ongoing housing needs (for example, due to under-occupancy or property mismatch).

WHC will provide the applicant with a written decision, outlining the outcome of the application and the available options if the applicant disagrees with the decision.

If the application is not approved and the applicant does not vacate the property, WHC may take action in accordance with the Ending a Tenancy Policy and relevant legislation, including applying to the NSW Civil and Administrative Tribunal (NCAT) for an order of possession.

5.7 Complaints and Appeals

Tenants who have a complaint about how this policy has been administered, or who wish to appeal a decision, should refer to the *Compliments, Complaints and Appeals Policy*.

6. Related Policy Documents and Supporting Documents

Residential Tenancies Act 2010 No. 42 – NSW Legislation

Allocations Policy

Compliments, Complaints and Appeals Policy

Ending a Tenancy Policy

Keeping a Tenancy Policy

Transition of Tenancy Form

FACS Application for Housing Assistance Form

7. Policy approval and Review

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