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## Succession of tenancy

### Overview

Succession of tenancy is when we agree to transfer a tenant's right to a tenancy to another approved occupant. This Policy aims to explain how we assess applications for succession of tenancy so that we:

- reduce the risk of homelessness or undue hardship for approved occupants when a tenant has died or left the property
- balance the right to succeed against consideration of needs of applicants on the Housing Pathways Register
- meet relevant legal, regulatory and contractual requirements
- ensure a fair and transparent process.

### Scope

This policy applies to all tenancies managed by St George Community Housing and its subsidiaries (we, our and us). This policy does not apply to affordable housing tenancies.

### Purpose

This policy explains how we assess applications for succession of tenancy and outlines the eligibility criteria for those who can succeed a tenancy. It adheres to relevant legal, regulatory, and contractual requirements, ensuring a fair and transparent process.

### Definitions

#### Tenant

The tenant is the person named as the Tenant on the Residential Tenancy Agreement.

#### Approved occupant

An approved occupant is a person who:

- was on the original housing application and is still living in the property, and any income earned was included in the tenant's rent assessment, or
- we have approved, in writing, for this person to become a member of the household and any income earned is included in the rent calculation.

#### Applicant

The applicant is the person who makes an application for succession of a tenancy.

#### Succession of tenancy

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#### Notice of Termination

A legal document that tells a tenant when and why they are required to move out of a property.

### Eligibility Criteria

We may consider succession of tenancy when the tenant:

- has died; or
- is unable to remain in the property due to:



- moving to a residential or supported care facility e.g. nursing home
- the tenant has permanently relocated to provide care to another person
- serving a sentence in a custodial facility (e.g. prison) and the sentence is longer than permitted under our current [Absence from Property Policy](#)
- a final apprehended violence order (AVO) is made which stops the tenant from entering the property.

The relevant Head of Region can make decisions in line with our Delegations of Authority regarding succession of tenancies in other circumstances.

### Assessing eligibility for succession

When assessing eligibility, we will consider the applicant's tenancy history and ability to resolve their own housing needs.

Only one approved occupant will be able to succeed the tenancy.

Applicants are eligible to request to succeed a tenancy if they are able to demonstrate that they meet social housing criteria outlined in the [NSW Community Housing Eligibility Policy](#) and any additional requirements for specific housing programs, as well as the following criteria:

- They are the tenant's spouse or de facto partner, regardless of sex or gender, who has been living with the tenant as a couple and is an approved occupant.
- They are an approved occupant for at least the past two years. If the tenancy is less than two years, the household member must have been an approved occupant for the duration of the tenancy. If the property was transferred from another provider, any time the household member was an approved applicant in the previous tenancy will be counted toward the two year requirement.
- They are over 18 years of age. However, we may consider granting succession to minors aged 16 or 17 years if they can demonstrate their ability they to meet the terms of the Residential Tenancy Agreement.
- They are an Australian Citizen or Permanent Resident.
- They are able to demonstrate a satisfactory tenancy history. We may approve an applicant who does not have a history of satisfactory conduct if they can demonstrate that they have adequate support in place and can maintain a satisfactory tenancy.

### Exceptions to minimum period of occupation

We will consider applicants with a period of occupancy under the past two years in the following circumstance:

- Where the approved applicant was recently released from prison or institutionalised care, and they used to live in the tenancy, we will assess the application on its merits. Factors that we will consider are:
  - the length of time the approved occupant was living at the premises prior to their incarceration or admission into institutionalised care,
  - the likelihood of the applicant living in the household if they were not in prison or institutionalised care,
  - the tenancy history, and
  - their ability to otherwise meet their housing need.



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## Other Circumstances

### Legal guardian or custodian of minors

If the applicant has been formally granted custody/guardianship of an approved occupant under 18 years of age, we will consider succession of tenancy if the guardian agrees, in writing, to live with, care for and provide housing for the child/young person. In these circumstances, the guardian must provide evidence that they have been granted custody/guardianship.

If the guardian or custodian does not meet the social housing eligibility criteria, we may grant temporary succession if this is in the best interests of the child/young person. When the child/young person turns 18 years old, we will determine their eligibility for succession and may transfer the tenancy into their name if they are deemed eligible.

### Aboriginal and Torres Strait Islander applicants

Succession of tenancy may be granted to an Aboriginal and Torres Strait Islander 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 other eligibility requirements.

## Allocation

Succession of tenancy gives a person a right to a tenancy with us. This may not be where they currently live. As a condition of succession, we may require the household to move to another property if the current property does not match the applicant's housing needs or is considered over or under occupied in line with our [Occupancy Policy](#). We will provide offers of housing as outlined in our [Allocations Policy](#).

We won't consider any requests for additional occupants until succession is finalised.

When we assess requests for succession, we will review the following:

- the bedroom entitlement and needs of the succession applicant and household.
- any modifications the property has against the needs of the household
- if the property is part of a specific housing program, the eligibility requirements of the program
- if the property is for a particular customer group, the eligibility requirements of that group
- any planned major work or redevelopment for management purposes

If a person applies for succession of tenancy of a Social and Affordable Housing Fund (SAHF) property and is approved, they will be offered either a 2 year, 5 year or continuous lease as outlined in our [SAHF Policy](#).

If the applicant has been approved for succession and has been granted a lease, should they fail to comply with the agreement to relocate, we may enforce its right to relocate the tenant under the *Residential Tenancies Act 2010 (NSW)*.

We will cover relocation expenses on a case-by-case basis.



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## Ending the existing tenancy

When a tenant dies, permanently leaves the property, or a final AVO is made which stops the tenant from entering the property, we will issue a notice of termination to the tenant as required by the *Residential Tenancies Act 2010 (NSW)* and our [End of Tenancy Policy](#).

## Applying for succession

An applicant must apply for succession within 28 days of the change in the household circumstances. Any applications for succession received after 28 days will be considered on a case by case basis. Applicants for succession will be required to provide supporting evidence of the household changes.

The person applying for succession will sign a 60 day fixed term tenancy agreement. During this time the applicants may remain in the property while their application is being assessed. During this period, we will charge the household rent as per our [Rent and Rental Fraud Policy](#).

We will only approve one application for succession as a tenant per household. St George Community Housing will consider each applicant's eligibility to determine who is granted succession as a tenant.

## Standards in responding to requests for succession

We will assess requests for succession within 20 business days of all relevant paperwork being received. If a delay is likely to occur, we will notify the applicant of the expected timeframe and the reasons for the delay.

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 do not agree with our decision.

If the application is not successful and the person does not move out, we may apply to the NSW Civil and Administrative Tribunal (NCAT) for an order for possession.

## Appeals

If you don't agree with the decision that has been made, you can talk to the person who made the decision or another team member.

If you are still not satisfied, you can ask for the decision to be reviewed. Refer to our [Appeals, Complaints and Feedback Policy](#) for further information.

If a customer is still not satisfied with the outcome of the appeal, they can lodge a second level appeal with the Housing Appeals Committee. The Housing Appeals Committee is an independent agency that reviews certain decisions we make. For information on the Housing Appeals Committee call 1800 629 794 or go to [www.hac.nsw.gov.au](http://www.hac.nsw.gov.au).

## Relevant legislation, regulation, and standards

- *Residential Tenancies Act 2010 (NSW)*

## Related documents / resources

- Application Form: Succession of Tenancy
- [SGCH Policy: Appeals, Complaints and Feedback](#)
- [SGCH Policy: Absence from Property](#)
- [SGCH Policy: Allocations](#)



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- [SGCH Policy: End of Tenancy](#)
  - [SGCH Policy: Rent and Rental Fraud](#)
  - [SGCH Policy: SAHF \(Social and Affordable Housing Fund\)](#)
  - [Homes NSW Policy: NSW Community Housing Eligibility Policy](#)

## Policy information

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