

## Succession of Tenancy

### Overview

Succession of tenancy is when we agree to transfer a renter'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 renter has died or left the property
- balance the right to succeed against consideration of needs of applicants on the Victorian Housing Register
- meet relevant legal, regulatory and contractual requirements
- ensure a fair and transparent process.

### Scope

This policy applies to SGCH Homes Victoria and its subsidiaries (**we, our and us**).

This policy does not apply to our Affordable Housing programs.

### Definitions

#### Succession of tenancy

Succession of tenancy is when we agree to transfer a renter's right to a tenancy to an approved occupant.

#### Approved occupant

An approved occupant is a person who either:

- was on the original housing application and has been living in the property and had their income included in the renter's rent assessment; or
- we have approved, in writing, to become a member of the household and we include their income in the rent calculation.

#### Applicant

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

### Eligibility criteria

We may consider succession of tenancy when:

- the renter has died; or
- the renter is unable to remain in the property due to:
  - moving to a residential or supported care facility e.g. nursing home
  - permanently relocating 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 renter from entering the property.

The relevant Head Of can make decisions on 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 can demonstrate they meet the social housing criteria and any additional requirements for specific housing programs, as well as the following criteria:

- They are the renter's spouse or de facto partner, regardless of sex or gender, who has been living with the renter as 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 rental agreement.
- They are an Australian Citizen or Permanent Resident.
- They can demonstrate a satisfactory tenancy history. We may approve an applicant who does not have a history of satisfactory conduct if they can demonstrate 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 circumstances:

- 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
  - their ability to otherwise meet their housing need.

### 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 renter's household at the end of their tenancy. The circumstances under which we will consider this include if the applicant:

- is the renter's child or if the renter 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 will not 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.

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

### Ending the existing tenancy

When a renter dies, permanently leaves the property, or a final Intervention Order is made which stops the renter from entering the property, we will issue a notice to vacate to the renter as required by the *Residential Tenancies Act 1997* 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. 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 renter per household. We will consider each applicant's eligibility to determine who is granted succession as a renter.

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.

### Standards in responding to requests for succession

We will assess requests for succession within 20 business days of all 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.

The relevant Lead or Head Of will make decisions about applications for succession. We will carefully consider human rights when making decisions about succession of tenancy, following the *Charter of Human Rights and Responsibilities Act 2006*.

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.

If we do 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 within 14 days of making our decision. If the person does not move out, we may apply to the Victorian Civil and Administrative Tribunal ([VCAT](#)) for an order for possession.

### Appeals

Applicants can appeal our decisions about their application for succession of tenancy. More information on appeals can be found in our Appeals, Complaints and Feedback policy.

If an appeal is lodged, we will sign a new fixed term rental agreement to allow the person to remain in the property while their appeal is being resolved.

### Relevant legislation, regulations or standards

- [Charter of Human Rights and Responsibilities Act 2006 \(Vic\)](#)
- [Housing Act 1983 \(Vic\): Performance Standard 1 \(Tenant and housing services\)](#)
- [Residential Tenancies Act 1997 \(Vic\)](#)

### Related documents/resources

- Policy: Absence from Property
- Policy: Allocations
- Policy: Appeals, Complaints and Feedback
- Policy: End of Tenancy
- Policy: Occupancy
- Policy: Rent and Rental Fraud
- [Victorian Civil and Administrative Tribunal \(VCAT\)](#)

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## Policy information

Version:	1
Approved:	May 2025
Reviewed:	May 2025
Review frequency:	24 months
Responsible team/position:	Executive Director, Customers – Services
Transparency and accessibility:	Available on our website