



Succession of Tenancy

Policy Intent

Housing Tasmania recognises that in some circumstances it may be appropriate to consider transferring a tenancy to a member of the tenant's household.

It is not the intention of this policy to be proscriptive around who may or may not take over the tenancy and in what circumstances, as it is understood that there may be a variety of circumstances where this needs to occur.

This policy applies to either a household member or a joint tenant applying to become the sole tenant of a public housing property.

What is Housing Tasmania's obligation?

In determining the appropriate course of action staff should recognise the legal tenant as the person to whom we have an obligation. This should not however, undermine the right of co-tenants or other household members to fair consideration of their application for tenancy succession.

Depending on the circumstances a referral should be made to appropriate services. [Making Referrals Policy and Practices](#) for making an appropriate referral.

Minimum stay

Any household member to whom Housing Tasmania is considering transferring the tenancy must have resided in the property and be listed on the Household Income Statement for a period of six (6) months or longer prior to the request for a transfer.

This restriction ensures that applicants are not moving into properties to circumvent the HAS assessment and allocation process and provides an unfair advantage over those who have been waiting and have followed the correct procedure.

Eligibility Criteria for Succession of Tenancy

In deciding if a succession of tenancy of a household member is the appropriate action the following will be taken into consideration:

- the applicant must be on the Household Income Statement for a minimum of six months prior to the request for succession;
- the applicant must be a minimum of 16 years of age;
- the applicant must be eligible for public housing assistance;
- the original tenant must have been in residency for a reasonable period of time;

- the client wishing to take over the property must assume the property in an as is condition and understand that no additional condition of property work will be undertaken beyond that which is normally performed;
- at the time of succession the rental account should not have arrears owing; and
- the succession must reflect good asset management practices such as correct bedroom entitlements.

Household members will be considered for succession of the tenancy but other factors in the decision making process will be considered.

Where dependant children are involved the property would usually be succeeded to the custodial parent if they are so interested and a transfer application taken from the non-custodial parent.

Joint Tenancies

Where a joint or co-tenancy has been established, Housing Tasmania will apply the eligibility criteria for Succession of Tenancy.

Under the Succession of Tenancy policy, a remaining joint tenant will need to prove they are eligible for public housing to have the tenancy transferred into their name as the remaining and only tenant. Providing details on income eligibility is particularly important in these situations.

If the joint/co-tenant is no longer eligible for public housing, a fixed term lease of up to three (3) months may be established with the understanding that the lease will not be renewed when the lease expires. It must be made clear that the tenant must find alternative accommodation before the lease expires. The Area Manager may agree to extend the lease for a further three (3) months if required.

If other household members wish to become a joint tenant after the fixed term lease has been signed, the Succession of Tenancy policy should be applied.

Fixed term leases for public housing eligible joint tenants

Joint tenants who remain eligible for public housing and apply to become the sole tenant may not be appropriately housed when the other tenant vacates the property. For example they may reside in a disability modified property or a larger home. These succeeding tenants should also be placed on a fixed term lease.

Where the tenant is inappropriately housed, transfer options should be discussed with the tenant so that the modified or larger property may be more appropriately allocated.

Previous Breaches to the Lease

In circumstances where there have been previous breaches to the lease before the original tenant moves out, a fixed term lease should be pursued with the succeeding tenant and/or a Notice to Vacate issued as appropriate.

What if one tenant has a Restraint Order?

Housing Tasmania is not able to force one joint tenant to sign the tenancy over to another joint tenant on the basis of a restraint order. Housing Tasmania may wish to encourage the tenant to whom the restraint order is against to sign the tenancy over to the other joint tenant.

The exception to this is where physical harm has occurred and can be substantiated between joint tenants. In which case Housing Tasmania can request an urgent order from the Magistrate to end the tenancy under Section 41 (1) (b) of the Residential Tenancy Act. A resign can then occur with the survivor of the violence if it is so desired.

Death of the tenant

Where the deceased tenant has a surviving partner or joint tenant, the tenancy may be transferred upon request.

Housing Tasmania may wish to transfer a tenancy to surviving children where they have reached the minimum age for public housing eligibility. Children must have been listed on the Household Income Statement for at least six months and once again this decision must reflect good stock management principles.

Relationship to tenant

For succession of tenancy to occur there is no requirement for a blood relationship to exist between the current tenant and the new tenant i.e. the tenant taking over the tenancy does not need to be a family member. This is to ensure that non-family members have the opportunity to succeed to a tenancy and covers situations such as where the household member has been in residency for a period of time or may have been in the role of carer.

A partner is defined as any person with whom the tenant is, or was at the time of his or her death, in a significant or caring relationship, within the meaning of the *Relationships Act 2003*.

Coordination Planning

The circumstances in which to tenancy is succeeded may dictate the need to have coordination planning. This recognises that some tenants may need support to maximise their chances of succeeding in their tenancy. Refer to the [Co-ordination Planning Policy](#) for more detailed information.