

145a Tenant Initiated Transfer Policy

1. Policy

If a social housing tenant has a change in their circumstances that affects their housing needs, they can request to transfer to another property managed by either Housing NSW or a community housing provider participating in Housing Pathways. This is called a tenant initiated transfer.

This policy explains the criteria applied by Housing NSW and by community housing providers participating in Housing Pathways, when assessing a tenant initiated request for transfer to a:

- property managed by their current provider or
- property managed by a different social housing provider.

2. Scope

This policy applies to all tenant initiated transfer requests from FACS tenants, Aboriginal Housing Office tenants and the tenants of those community housing provider participating in Housing Pathways.

This policy does not apply to affordable housing tenants.

3. Eligibility for Transfer

Where a social housing tenant requests a transfer, they must meet the eligibility criteria apply. A tenant can choose:

- only to be housed by their existing social housing provider, or
- to be housed by a different social housing provider

Social housing tenants can apply for a transfer to another property if a change in their circumstances makes their existing property or location no longer suitable. When a tenant applies for a transfer, they must:

- Meet social housing eligibility criteria including the ability to sustain a tenancy with or without support, and
- Be able to show that their circumstances have changed and that their current property or location is no longer suitable for their housing needs, and
- Provide the required documentation or evidence to support their application, and
- Be able to meet the transfer assessment criteria for one of the following grounds:
 - Being 'at risk'
 - Under-occupancy due to more bedrooms than occupants
 - Have a medical condition and/or disability
 - Be experiencing serious and ongoing harassment
 - Change in employment location or opportunity for employment is a distant location
 - Compassionate grounds eg need to care for a sick relative
 - Severe overcrowding in the existing property
 - Family breakdown/separation
 - Tenancy re-instatement
 - Moderate overcrowding

In circumstances where a social housing tenant meets the transfer assessment criteria on more than one of the above grounds, approval will be given on the principal ground at the time of assessment.

Tenant transfers requested on the following grounds will be listed as priority transfers:

- Where the tenants is 'at risk'
- Where the current property has under-occupancy
- Where the tenant or household member has a medical condition and/or disability
- Where the tenant is experiencing serious and ongoing harassment
- Where the tenant or partner/spouse has had a change of employment location or offer of employment
- Compassionate grounds
- Severe overcrowding
- Family breakdown/separation
- Tenancy re-instatement
- An additional bedroom if the tenant is Aboriginal

4. Locational Need

Housing Pathways has a number of high demand allocation areas. Social housing providers will assess a request to transfer to one of these areas against specific criteria, called a locational needs assessment, if the tenant is applying to transfer to a high demand area.

5. Tenancy Charge Debt

A tenant can apply for a transfer even if they owe money on their tenancy accounts, including money owed from a former tenancy. However, Link Housing will not make an offer of alternative housing unless the tenant is actively paying off any debts or arrears. If the tenant owes money from former tenancies they will need to be making regular payments against a repayment plan. Exceptions may apply if the tenant's household can demonstrate an urgent need for transfer.

6. Reviewing an Approved Transfer Application

To ensure that a transfer application continues to reflect the tenant's current housing situation, social housing providers will coordinate the review of priority transfer applications:

- Every six months, or
- When new information from either the tenant or a social housing provider prompts a review.

Following a review, a provider may change the priority of an approved transfer to take account of any differences in the level of urgency of the tenant's circumstances. A provider will close a tenant's transfer application if they no longer meet the eligibility criteria for a transfer.

7. Offers

Generally, tenants who have been approved for a transfer will receive two reasonable offers of alternative accommodation. A reasonable offer is when a property matches:

- The number of bedrooms the household requires;

- The allocation zone requested (the property may be in any suburb within the allocation zone);
- Any other property features the client has been assessed as needing, for example: requirements relating to level access, stairs or steps; distance from services or facilities.

If a social housing tenant rejects two reasonable offers, their social housing provider will remove their name from the NSW Housing Register.

8. Type and Length of Lease

Where a social housing provider transfers a tenant to an alternative property managed by a different housing provider, the tenant will be offered a type and length of lease in accordance with the individual provider's policy.

9. Paying Rent after Transfer

Where a social housing provider transfers a tenant to an alternative property managed by a different housing provider, the tenant's rent payable will be assessed in accordance with the individual provider's policy.

10. Grounds for Transfer

10.1 At risk

The personal safety and/or mental health of a tenant or a household member is at risk. These situations include but are not limited to:

- Domestic and family violence
- Child abuse or neglect
- Assault
- Sexual assault
- Neglect
- Threatening behaviour
- Torture or trauma

Tenants need to show that:

- The risk is serious and ongoing
- The risk means they cannot remain in the current dwelling and/or location beyond a medium length of time
- The property and/or location significantly increases the risk and reduces their safety
- Apart from transferring, there are no practical steps that can be taken by the tenant's household to lower or remove the risk
- Moving will help or resolve the situation and remove or significantly decrease the risk

10.1.1 Evidence requirements for being at risk

Social housing providers will expect the tenant to provide current supporting documentation, substantiating the risk they are exposed to. This may include:

- Current police reports
- A current Apprehended Violence Order (AVO)
- A current Domestic Violence Order

- Current reports or letters from Community Services
- Current reports or letters from Corrective Services NSW
- Current reports or letters from a social worker
- Current reports or letters from a community support agency, such as a refuge, community centre or neighbourhood centre worker
- Current reports or an assessment from a medical practitioner or health professional (including a mental health case manager)
- Current reports or letters from a school principal or school counsellor

10.2 Under-occupancy

Tenants are considered to be under-occupying a property when there are more bedrooms than the household needs. This situation usually results from household members moving out of the property.

When a tenant requests a transfer because they are under-occupying their property, housing providers will:

- Consider the impact on the tenant, and
- Review the benefits and costs to the provider of transferring the tenant, including the demand for the current property, and
- Consider the tenant's requirements for an alternative property and how these can best be met.

10.2.1 Evidence requirements for under-occupancy

Link Housing will review the number of approved household members living in the property compared to the number of bedrooms in the property to determine if the property is under-occupied.

10.3 Medical condition and/or disability

In relation to a medical condition and/or disability of a tenant or household member, tenants will need to show that:

- The medical condition and/or disability is permanent or likely to be permanent, and
- The current property and/or location no longer meets their housing need, or
- Relevant household members no longer have the capacity to access necessary medical and/or therapeutic services from their current property.

10.3.1 Evidence requirements for a medical condition and/or disability

Social housing providers will expect the tenant to substantiate the medical condition and/or disability. This may include reports from:

- A general practitioner or specialist doctor
- A health worker such as a community nurse, occupational therapist or physiotherapist
- A mental health case manager or psychiatrist
- Brain injury rehabilitation program
- Attendant care program
- ADAHPT (AIDS, dementia and HIV psychiatry team service)
- High needs pool (care program)
- Lifetime care and support
- Community aged care package

- EACH package (Extended aged care at home)
- Ventilator dependent quadriplegic program
- Support organisations such as Home Care Service, Home Nursing Service, Aged Care Assessment Team, community centre or neighbourhood centre

10.4 Harassment

Harassment refers to a wide range of offensive behaviour. It refers to unacceptable behaviours that are threatening or disturbing. Harassment includes:

- Verbal abuse
- Threats
- Intimidating behaviour
- Vilification
- Property damage

Tenants will need to show that:

- The harassment is serious and ongoing, and
- They have attempted to resolve the harassment themselves, with any necessary assistance and support, and
- Their current property and/or location significantly increases the risk of harassment, and
- The harassment means they cannot remain in their current dwelling and/or location beyond a medium length of time, and
- Moving will help to resolve the situation and remove or significantly decrease the harassment.

10.4.1 Evidence requirements for harassment

The tenant will need to substantiate their claim of harassment by providing documentation such as:

- Current police reports
- Current reports or letters from the Community Justice Centre (CJC)
- Current reports or letters from a community support agency, such as a refuge, community centre or neighbourhood centre worker
- Current reports or letters from a mediation service
- Letters or reports from a general practitioner, specialist doctor, mental health services worker
- Letters or reports from neighbours substantiating the harassment
- A record that the incidents are ongoing
- Evidence that the incidents are escalating in seriousness

10.5 Employment

A tenant can apply for a priority transfer due to the tenant or their partner gaining employment, or changes to the tenant's or partner's current employment. A tenant must show that the:

- Tenant or their partner are currently unemployed and have been offered a job in or near the area to which they need to move, or
- The tenant or their partner are not in full time employment and are required by their employer to move in order to keep their job, and
- The employment is in a location that is impractical for them to travel to from their existing location, and

- Employment is long term and is at least three days per week. In some circumstances, such as where there are medical factors or care of dependents, the minimum number of working days may be reduced to two.

10.5.1 Evidence requirements for employment

The tenant will need to establish the need to move for employment reasons by providing documentation such as:

- Letter of offer of employment from employer
- Letter confirming location of employment
- Letter confirming permanent employment
- Letter confirming number of hours to be worked
- Letter confirming change of employment location from employer
- Letter from employer confirming loss of employment if unable to move/change location

10.6 Compassionate grounds

There are a number of compassionate grounds that social housing providers will consider as reasonable for a transfer. These include:

- Being closer to a family member who needs their care
- Being closer to support networks which are not covered by the medical, disability or other factors described above, such as counselling services for refugees, child abuse services, family support services, rehabilitation services, Home and Community Care services, cultural services or educational services (specialised schools)

Tenants will be asked to:

- Show why they need to move, and
- Provide information about the family member needing care, or
- Provide information about the services the tenant or the family member requires.

10.6.1 Evidence requirements for a transfer on compassionate grounds

The tenant will need to prove their need for a transfer by providing current documentation such as a:

- Medical assessment or report/letter from a doctor or specialist confirming the family member's medical condition and/or disability
- Report or letter from a service providing care or support to the family member
- Report or letter from a specialist educational service
- Report or letter from a cultural support service
- Report or letter from a family support service
- Report or letter from a rehabilitation service
- Report or letter from a counselling service

10.7 Severe overcrowding

Severe overcrowding may arise as the result of:

- A reunited family
- An award of custody of children
- Marriage
- The birth of a child or children

Severe overcrowding includes:

- An adult or couple sharing a bedroom with a person aged over three years
- Four or more children sharing a bedroom
- Three or more unrelated adults sharing a bedroom

Severe overcrowding can also occur if children currently sharing a bedroom now need their own bedroom because of a specific need such as:

- A disability or special medical need
- Severe behavioural problems
- Children of different sexes sharing a room and one of them reaches puberty

Tenants will be required to prove that the severe overcrowding is the result of one of the above reasons and explain why the current dwelling is unsuitable.

10.7.1 Evidence requirements for severe overcrowding

The tenant will need to prove that severe overcrowding exists and the reasons for it by providing current documentation such as:

- Age of all household members
- Gender of all household members
- Marriage certificate
- Legal documents confirming family reunion
- Legal documents confirming placement of children
- Legal documents confirming custody of children
- Centrelink family payment income statement
- Court orders
- Immigration papers
- Medical assessment or report/letter from doctor or specialist confirming disability or special needs
- Letter or reports from support agencies confirming severe behavioural problems
- Reports or letters from Community Services
- Letter or reports from health professionals, including mental health case managers

10.8 Family breakdown/separation

If there is a serious breakdown in a family relationship, social housing providers may consider providing separate accommodation for the member who has left the property. A serious breakdown in a household relationship includes:

- Separation or divorce between a tenant and spouse or de facto partner
- Irreconcilable problems between a parent and child or children (including an adult child or children)

In the case of divorce or separation the spouse or partner who has moved out will need to prove that:

- The spouse was a member of the household, or
- The de facto partner was a member of the household on a continuous basis for two or more years, and
- The spouse or partner was on the housing provider's records as having lived in the property, and
- The spouse or partner is eligible for social housing, and

- The spouse or partner applies for a transfer within six months of moving out of the property.

In the case of a family breakdown the family member will need to prove that:

- They are a permanent member of the household, and
- They are listed on the housing provider's records as living in the property (e.g., approved additional occupant), and
- They have declared their income to the housing provider and it is recorded in a rent subsidy (if the tenant receives a rent subsidy)

If a tenant is prohibited from having access to a social housing property under a Final Apprehended Violence Order (excluding an interim AVO), the client can submit an application to the NSW Civil and Administrative Tribunal (NCAT) under Section 79 of the **Residential Tenancies Act 2010** to have the tenancy transferred to them, provided they are eligible for social housing. For more information see the Eligibility for Social Housing Policy.

10.8.1 Evidence requirements for family breakdown/separation

The tenant will need to confirm the family breakdown by providing supporting documents such as:

- Evidence of a legal separation
- Letters or reports from a social worker, community worker, or neighbourhood centre
- Letters or reports from Community Services
- Income statement from Centrelink
- Family payment confirmation from Centrelink
- Letters or reports from a general medical practitioner or specialist doctor
- Evidence of new residential address (e.g. driver's license, mobile phone bill, Centrelink income statement)

10.9 Tenancy reinstatement

Tenancy reinstatement can apply to former tenants who vacated their property because:

- They were under duress
- They had to move into a residential care facility (including a psychiatric hospital, rehabilitation centre, hostel, nursing home) either voluntarily or under a court order
- They were placed into a custodial facility
- Of the care needs of the tenant, a member of their household or a family member

To be eligible for tenancy reinstatement, former tenants must prove that:

- They meet the eligibility criteria for social housing, and
- They meet the criteria for priority transfer, and
- They vacated under duress, vacated to a residential care or correctional facility, or vacated because of care needs, and
- They made an application to their housing provider within six months of vacating the former property, or
- In the case of custodial sentences not longer than three years, they can also apply within six months of their release from custody.

Former tenants with custodial sentences longer than three years will need to re-apply for housing as they are not eligible for tenancy re-instatement.

Social housing providers define duress as having to vacate the property due to a critical incident and, under the circumstances, the decision to vacate was reasonable.

For example:

- Escaping domestic violence
- Escaping harassment
- Removing themselves or a household member from being at risk
- Admittance to a supported care facility might include a refuge, rehabilitation centre, hospital, or respite centre

Tenants may need to vacate their property due to:

- Serious medical/disability incident related to the tenant or a household member
- Serious medical/disability incident related to a family member and/or relative

When assessing the decision to vacate the property, social housing providers will consider the following as applicable to particular situations:

- Was it reasonable for the tenant to vacate without notice, and
- The urgency of the need to vacate without notice, and
- Did the circumstances of the incident force the tenant to vacate without notice, and
- Did the tenant consider options other than vacating, and
- Whether the tenant previously contacted their housing provider about their situation, and
- Did the housing provider ask the tenant to relinquish their tenancy because they were going into residential care or into a correctional facility, and
- Could the decision to vacate have been delayed, and
- Was it a reasonable decision under the circumstances.

10.9.1 Evidence requirements for tenancy reinstatement

The tenant will need to substantiate their reason to vacate the dwelling without giving notice to their housing provider. That is, they will need to prove that they vacated under duress or to move to a residential care or custodial facility.

The evidence the tenant must supply will be dependent upon the reason they vacated the property. If, for example, a tenant vacated without notice due to having been at risk, they will be required to supply supporting documentation as stated in the evidence criteria for at risk priority transfers.

If a tenant vacated without notice due to harassment, they will be required to supply supporting documentation as stated in the evidence criteria for harassment.

10.10 Moderate overcrowding

Moderate overcrowding is when there is an increase in the size of the household which results in the household having fewer bedrooms than they would otherwise be entitled to, but the overcrowding is not severe.

Examples of moderate overcrowding are:

- Three children sharing a bedroom.
- An adult or couple sharing a bedroom with a child under three years of age.
- Two unrelated adults sharing a bedroom.

Aboriginal tenants may seek a transfer when wanting to take up their entitlement to an extra bedroom to meet family responsibilities.

10.10.1 Evidence requirements for moderate overcrowding

The tenant will need to substantiate the moderate overcrowding by producing documents indicating the:

- Number of household members
- Age of household members
- Gender of household members
- Size of the bedrooms
- Size of the living areas

11. Legislative and Regulatory Framework

- Residential Tenancies Act 2010

12. Related Policies

- Eligibility for Social Housing Policy
- Social Housing Eligibility and Allocations Policy Supplement
- Matching Social Housing Applicants to Properties
- Management Transfer Policy

13. Complaints and appeals

A tenant who is not happy with a decision made by Link Housing can appeal using the Appeals policy. If a tenant is not happy with the standard of service provided by Link Housing, they can complain using the Client Feedback policy. A copy of this is available at www.linkhousing.org.au or by phoning Link Housing on 9412 5111.

14. Privacy and Confidentiality

Link Housing will keep applicants', tenants' and residents' information and feedback confidential, in line with privacy laws and standards.

15. Quality Assurance

The policy will be formally reviewed every two years or earlier should there be a sufficient change in policy direction.