

SUCCESSION OF TENANCY

POLICY

1. PURPOSE

The purpose of this Policy is to outline the circumstances in which Evolve Housing may agree to transfer a social housing tenancy to another household member.

2. SCOPE

This Policy applies to all Evolve Housing social housing tenancies.

3. POLICY STATEMENT

Evolve Housing is committed to addressing the changing circumstances of Tenants in relation to the Property they occupy and will endeavour to meet their needs in the most appropriate way.

Succession of tenancy takes place when Evolve Housing agrees to transfer a Tenant's right to live in an Evolve Housing Property to another member of the Tenant's household. This may come about if a Tenant dies, goes into care or is imprisoned.

This Policy outlines Evolve Housing's approach to assessing prospective tenants in a succession of tenancy situation, including the general and specific criteria they are required to meet and circumstances where exceptions may be made.

3.1 General Assessment Criteria

Unless otherwise stated, an Applicant for succession of tenancy must:

- Meet the eligibility criteria for social housing in NSW;
- Already be an Approved Occupant of the household;
- Be included on existing and previous applications by the current Tenant for rent subsidies;
- Have repaid any debts in full from previous tenancies; and
- Have had a satisfactory history of occupation during the current tenancy for a period of:
 - two (2) years prior to the request for succession;
 - or

- the whole of the tenancy if it is less than two (2) years old.

A satisfactory history of occupation will occur where the Applicant has not caused either nuisance or annoyance, or damage to the Property or neighbouring properties.

3.2 Circumstances where Evolve Housing will not approve succession of tenancy

Evolve Housing will not approve succession of tenancy if:

- The Tenant vacates the Property for personal reasons or of their own choice;
- The Applicant is not an Approved Occupant, or has not been included on applications for rent subsidies;
- The Applicant does not have a satisfactory history of occupation (unless Evolve Housing is satisfied the Applicant will be able to sustain a tenancy);
- The Applicant is a sponsored migrant and holds a temporary visa, or they are an asylum seeker holding a temporary protection visa;
- Whilst an occupant of any Evolve Housing Property, the Applicant committed acts of violence, for example physical attacks or serious verbal threats directed at neighbours or at Evolve Housing staff;
- The Applicant was involved in illegal activities in an Evolve Housing Property whilst an occupant of that Property;
- The Applicant has been convicted of arson or deliberate damage to any Evolve Housing Property.

3.3 Specific assessment criteria

3.3.1 Succession to the Tenant's Partner

If the Applicant is the Tenant's Partner (i.e. is in a recognised relationship with the Tenant), Evolve Housing will approve succession of tenancy if the Applicant:

- Meets the eligibility criteria for social housing in NSW; and
- Is a citizen or permanent resident of Australia; and
- Is currently residing in the Property.

3.3.2 Succession to Approved Occupants other than the Tenant's Partner

If the Applicant is an Approved Occupant other than the Tenant's Partner, the Applicant will be eligible for succession of tenancy if the Applicant:

- Meets the eligibility criteria for social housing in NSW;
- Has an urgent need for housing and been assessed as meeting priority housing criteria;
- Is currently residing in the Property as an Approved Occupant; and
- Is not an Unsatisfactory Former Tenant or Ineligible Former Tenant.

If the Applicant is a carer, Evolve Housing will not approve succession of tenancy if the carer has maintained their own accommodation separate to that of the Tenant's dwelling, regardless of whether it is in the public or private rental market.

If the Applicant has relinquished an Evolve Housing tenancy to act as a carer to another person, then succession to that tenancy may be granted even if they have not been part of that household for the past two (2) years.

3.3.3 Succession to the legal guardian or custodian of the Tenant's children

Evolve Housing may approve succession of tenancy if the Applicant agrees in writing to live in the Property and continue to provide care for the Tenant's children. Should the Applicant not meet the eligibility criteria for social housing, succession may still be granted if:

- The Applicant has been formally granted custody/ guardianship of the children; and
- It is in the best interests of the children; and
- The Applicant can demonstrate that no alternative accommodation is available that is suitable for the care of the Tenant's children.

In such circumstances, Evolve Housing will liaise with the Department of Communities & Justice (DCJ) to ensure that this is the best option for the children involved.

If the Applicant has applied for custody, Evolve Housing may approve succession of tenancy on the condition the Applicant agrees in writing to relinquish the tenancy if their custody application is not successful.

3.3.4 Succession to the Tenant's appointed Agent
Tenants who intend on being temporarily absent from their home must appoint an Agent to care for the Property while they are away. Temporary absences can include hospitalisation, nursing home care, rehabilitation and imprisonment. Absences must be for no longer than three (3) months unless approved by Evolve Housing.

Evolve will only consider approving an application for succession of tenancy to the Tenant's appointed Agent, if the Agent is already an Approved Occupant, or they are the Tenant's Partner and are currently living in the Property.

If the Tenant has not returned from their temporary absence at the end of the three month period, Evolve Housing will consider an application for succession of tenancy from a remaining Approved Occupant of the Property, provided they meet all the requirements of this Policy.

3.4 Application and approval process

Applicants are required to complete the Succession of Tenancy Application Form. Where possible, the application should be submitted at least twenty-one (21) days before the Tenant leaves the Property, or as soon as possible in circumstances such as the death, sudden illness or imprisonment of the Tenant.

All applications will be dealt with as soon as possible. After the application is lodged, Evolve Housing will write to the Applicant within two (2) working days to acknowledge receipt and inform them of Evolve Housing's intention to respond with a decision within twenty (20) working days. If necessary, Evolve Housing may also keep the Applicant informed about the progress of their application during this period.

3.4.1 If the application is approved

If the application for succession of tenancy is approved, Evolve Housing will offer the Applicant tenancy of the Evolve Housing Property they are currently living in or, of a different Property that matches the Applicant's needs.

3.4.2 If the application is not approved

If the application for succession of tenancy is not approved, the Applicant will be required to vacate the Property. However Evolve Housing may offer the Applicant a fixed term lease of three (3) months to allow time for household members to source alternative housing. Evolve Housing will deal with this in a compassionate manner, taking into consideration the Applicant's circumstances.

If the application for succession of tenancy is declined, the Applicant has the right to appeal the decision in accordance with the Evolve Housing Appeals Policy.

3.5 If the Applicant does not vacate the Property as requested

If an application for succession of tenancy is not approved, and the Applicant has not vacated the Property within the required timeframe, Evolve Housing may take action through the NSW Civil & Administrative Tribunal (NCAT) to require the Applicant to vacate the Property.

4. DEFINITIONS

- Appeal – a disagreement by a Tenant or Applicant with a decision made by Evolve Housing that affects their tenancy or application for tenancy, and which the individual has requested be reviewed.
- Applicant – for the purposes of this Policy, a person who makes a formal application to Evolve Housing for succession of tenancy.
- Approved Occupant (or Approved Additional Occupant) – a person, in addition to the Tenant, who is approved in writing by the Landlord to reside in the Property.
- Ineligible Former Tenant – a category assigned to a former tenant after they move out of a social housing property. An Ineligible Former Tenant is someone who was evicted from a property or vacated it prior to eviction, due to an extreme breach of their Tenancy Agreement (eg conducting illegal activities).
- Landlord – Evolve Housing (as it grants the right to a Tenant to occupy residential premises under a Residential Tenancy Agreement).
- NCAT – NSW Civil & Administrative Tribunal is an independent statutory body which resolves disputes including tenancy and other residential property issues. NCAT decisions must be followed and are enforceable.
- Partner – the person the Tenant is married to, or in a registered or de facto relationship with, as defined from time to time by Centrelink.
- Property – the property or residential premises as described in the Residential Tenancy Agreement between Evolve Housing and the Tenant.
- Residential Tenancy Agreement (or Tenancy Agreement) – a written agreement between Evolve Housing (as Landlord) and a Tenant, which governs the terms on which that Tenant occupies the property described in the Agreement.
- Tenant – a person who signs the Residential Tenancy Agreement with Evolve Housing and who has certain rights and obligations under that Agreement.
- Unsatisfactory Former Tenant – a category assigned to a former tenant after they move out of a social housing property. An Unsatisfactory Former Tenant is someone who was evicted from a property or vacated it prior to eviction, due to a breach of their Residential Tenancy Agreement (eg anti-social behaviour).

5. RELATED RESOURCES

- Evolve Housing Abandonment of a Tenancy Policy
- Evolve Housing Absence from Property Policy
- Evolve Housing Appeals Policy
- Evolve Housing Succession of Tenancy Application Form
- Evolve Housing Terminating a Tenancy Policy
- Evolve Housing Visitors and Additional Occupants Policy
- *Residential Tenancies Act 2010 (NSW)*
- www.facs.nsw.gov.au/housing

This Policy is subject to change from time to time at the discretion of Evolve Housing. Any approvals required under this Policy will be granted in accordance with the Evolve Housing Limited Delegations of Authority Policy. Further information on this Policy and other topics, is available on the Evolve Housing website www.evolvehousing.com.au. If you have any specific questions regarding this Policy, please contact Evolve Housing on 1800 693 865 or email your enquiry to myevolve@evolvehousing.com.au.