

POLICY

Death of a Tenant

Purpose

Housing trust is committed to ensuring a supportive and compassionate approach in the management of tenancies, and end of tenancies process where a tenant has passed away.

Typically, Housing Trust is informed about the passing of a tenant by next-of-kin, a friend, neighbour, the police, or the executor of the tenant's estate.

Policy

When Housing Trust is informed or becomes aware that a tenant has passed away, steps will be immediately taken to secure the property.

Under the Residential Tenancies Act 2010, when a tenant dies their tenancy does not immediately end.

A range of administrative actions will be implemented to manage the deceased person's tenancy. Where a tenant dies, the tenancy must be formally ended through:

- Relinquishment of the tenancy by the executor of the estate or the next of kin of the deceased.
- Notice of Termination being issued by Housing Trust in accordance with the Residential Tenancies Act 2010

Testate:

Where Housing Trust determines that the deceased tenant does have a valid will and/or is informed of this by next of kin or executor the estate, the following actions will be taken:

- Housing trust and the executor or next of kin will work together to agree the timeline for return of the property to Housing Trust, with the agreed date outlined in a termination notice
- A daily fee not exceeding the daily occupancy rate might be applicable until the property is returned vacant to Housing Trust
- If requested by the executor or next of kin, Housing Trust can assist with any work required to return the property to an acceptable end of tenancy standard. This may include helping to arrange the removal of goods, cleaning, rubbish removal and / or minor repairs



Intestate:

Where Housing Trust determines that the deceased tenant did not have a valid will and there is no executor, or next of kin one of more of the following actions will be taken:

- Housing trust will coordinate with the NSW Police and/ or NSW Health to determine if the tenant has any next of kin
- Housing Trust will notify Public Trustee, who will manage the tenants matters in relations to wills, probate, and administration of the deceased estate

The tenancy may still be ended provided a termination notice has been issued in the deceased tenants name and an application made to NCAT for termination and possession of the premises.

Joint Tenancy

If there is a joint tenancy and one tenant passes away Housing Trust will amend the lease for signing by the remaining tenants. To commence this process, Housing Trust will require documentation (usually a death certificate or discharge notice from the hospital).

Housing Trust will also recalculate the rent based on the remaining tenant's income, to ensure a fair rent is charged based on the new household occupancy.

These processes will be completed in consultation with remaining tenants in a timeline that is respectful and appropriate for the circumstances.

Succession of Tenancy

Where a sole tenant passes away and there are remaining occupants in the property Housing Trust will consider an application for succession of the tenancy.

If succession is approved, Housing Trust will end the deceased tenant's tenancy agreement and sign a lease with the approved successor.

If succession is declined, Housing Trust will:

- notify the applicant their application for succession is declined
- Support the applicant to apply for Social Housing and provide further alternate housing options or referrals relevant to the applicant's individual circumstances
- issue a Notice of Termination to the Estate of the Deceased
- Seek termination orders through the NSW Civil & Administrative Tribunal (NCAT) to obtain possession of the premises.

These processes will be completed in a timeframe that is respectful and appropriate for the individual circumstances and determined on a case-by-case basis.

End of Tenancy Costs

If there is a debit balance, Housing Trust will apply to claim the bond towards outstanding rent, other charges, or property damage. Any remaining debt will be cancelled and written off in line with Housing Trust's Debt and Credit Write-Off Process.



If there is a credit balance, the balance will be forwarded to the deceased tenant's bank account (if available), the executor of the estate or the public trustee.

Goods remaining in the Premises

Where there have been goods left in the property, Housing Trust will dispose of the goods in accordance with the Uncollected Goods Act 1995 and the Residential Tenancies Act 2010.

Reference or Related Documents

Internal

1. Succession of Tenancy Policy
2. Uncollected Goods Procedure
3. Flow Chart – Debt and Credit Write-Off Process
4. 105004 Application for Succession of Tenancy Form
5. 105014 Succession of Tenancy Checklist
6. 107013 Succession of Tenancy Letter

External

1. Residential Tenancies Act 2010
2. Uncollected Goods Act 1995

Policy Version Control

| Version | Details of Improvements | Release Date | Approval/Release Details |
|---------|--|--------------|---|
| V 1.0 | Original Policy - Policy ID # TM11 | 10.11.2014 | Approved for release by GM:C&C |
| V 2.0 | No change to policy intent – updated to new HT template | 07.09.2017 | Approved for release by GM:C&C |
| V 3.0 | No change to Policy intent – Policy updated to current HT Policy Template Reviewed and endorsed by the Tenant Advisory Group between the period May – July 2020 (due to COVID-19) and the Executive Leadership Team (ELT) on 24.08.2020. | 04.09.2020 | Approved for release by Amanda Winks Chief Operations Officer |
| V 4.0 | No change to policy intent - wording updated to provide a softer approach. Policy updated to also include circumstances of testate and intestate. Policy reviewed and supported by TAG. | 27.02.2024 | Approved for release by Amanda Winks Chief Operations Officer |