

Public Housing Transfers

Policy

Date effective: 16 December 2016

1. Policy Statement

To ensure public housing stock is properly utilised and meets the changing needs of public housing tenants, the Department of Housing and Community Development ('the Department') may require a tenant to move to a different dwelling; may accept a request from a tenant to transfer to a different dwelling; or may approve the transfer of rights and responsibilities for a tenancy to another person.

2. Purpose

This policy details the various types of transfer schemes the Department operates to ensure public housing is not under-occupied and meets the changing needs of tenant households in certain circumstances.

3. References

Residential Tenancies Act
Allocation and Commencement of a Tenancy policy
Appeals policy
Housing Reference Groups policy

4. Scope

This policy applies to all public housing tenants.

5. Roles and Responsibilities

Roles	Responsibilities
Front-line staff	<ul style="list-style-type: none">Assess the eligibility for and appropriately action approved transfer applications.
Housing Reference Groups	<ul style="list-style-type: none">Provide advice on any cultural or community issues for consideration in approving or actioning a transfer.
Manager	<ul style="list-style-type: none">Final decision on whether a transfer request is approved.May offer inducements for a tenant to transfer or waive some criteria.Must ensure that transfers will utilise dwellings effectively.
Director	<ul style="list-style-type: none">Has the discretion to exempt an applicant from the eligibility criteria so a transfer can take place.

6. Policy details

Generally, there are two types of transfers in public housing: those requested by a tenant, and transfers initiated by the Department. Regardless of the origin, all transfers within public housing properties are subject to common eligibility criteria and each individual transfer scheme will also have additional criteria that must be met.

Common eligibility criteria

Requests to transfers within public housing will only be approved where the tenant meets general eligibility criteria for public housing can demonstrate a satisfactory tenancy history and meets any additional requirements specific to the relevant transfer scheme.

Satisfactory tenancy history is assessed against two main criteria:

1. *Care of existing dwelling*: an inspection of the tenant's current dwelling will be undertaken. Transfer may not be approved if there is any damage to the property outside of reasonable wear and tear.
2. *Rental Arrears/Debt*: an application to transfer will be rejected if:
 - the tenancy has rental arrears or debt exceeding the equivalent of two weeks rent;
 - legal action for breach of agreement is pending; or
 - a tenant has defaulted on an Agreement to Pay within the past three months.

An offer of transfer will not be made until outstanding debt is paid in full.

Different types of transfers have different priorities and will be allocated accordingly. For more information, see the Allocation and Commencement of a Tenancy policy.

The Manager has the discretion to waive the waiting period for a transfer, waive satisfactory tenancy criteria on Department initiated transfers, or allocate a transfer out of turn if it is in the best interest of the tenancy or to meet the Department's business needs.

6.1. Change in entitlement transfer

In cases where the tenant's household size changes and the tenant is occupying a larger dwelling than entitled, or are experiencing overcrowding, the Department may require the household to relocate or transfer to correct housing entitlement.

Under occupancy – transfer to entitlement

Tenants will be notified in writing of a determination that a property is under occupied. The household will be required to supply updated household information within 14 days of the determination, to facilitate a suitable offer of transfer to entitlement.

The Department will consider a tenant's individual circumstances, including age and the potential impact a transfer may have on the tenant's health, social or family circumstances prior to an offer of transfer being made.

The Manager may exercise discretion to allow a tenant to remain in an under occupied property indefinitely, but this decision will be reviewed no less than annually.

The Department cannot compel a tenant with a fixed term tenancy agreement to transfer during the period of the tenancy agreement; however, where a property remains underutilised, Department may refuse to extend the tenancy agreement or may terminate a periodic tenancy agreement if a suitable offer of transfer is not accepted. Both options mean the tenant is required to vacate the property. A tenant may appeal this decision under the Appeals policy.

If the bond for the new premises is higher than the bond held for the currently occupied property, an agreement to pay the difference over time will be offered.

Over occupancy – increased entitlement transfer

The Department has the right to refuse to allow additional residents in a property.

The Manager has the discretion to allow additional residents. However, this may not always result in a larger entitlement.

Some tenants have accepted a dwelling below their entitlement in order to access public housing faster. A request to transfer to the correct entitlement will not be accepted until they have served the full wait time for the type of dwelling plus a further six months.

6.2. Transfer to another location

Tenants can apply to transfer to another location. Tenants must have served the full wait time for the location they wish to move to, from the date of application for public housing. Tenants must also be entitled to the transfer dwelling. In smaller locations with limited public housing, such as Nhulunbuy, tenants may be placed on the bottom of the waiting list regardless of how much wait time they have, although the Director has some discretion for exceptional circumstances.

6.3. Transfer for medical or social reasons

Tenants may apply to transfer if it can be substantiated that the transfer will result in the improvement of the tenant's or a dependant's well-being, such as cases of domestic violence or a disability. Documentation must be provided to substantiate the transfer.

6.4. Transfer of a disruptive tenant

Generally a disruptive tenant with a record of antisocial behaviour will not be transferred. However, in exceptional circumstances the Director may consider transferring a disruptive tenant if their current environment has significantly contributed to their behaviour. The tenant will usually be subject to a probationary tenancy agreement and an Acceptable Behaviour Agreement.

A disruptive tenant will not be considered for transfer if the tenant has already received a transfer of this type or has had a previous tenancy agreement terminated for antisocial behaviour.

6.5. Dwelling swap

If two separate tenancies wish to swap dwellings, approval is required from the Department prior to doing so. If both tenancies are eligible and the dwellings conform with their entitlement, approval will generally be given. This still requires ending the existing tenancy agreements as per normal procedure, including inspections and condition reports.

6.6. Tenancy re-assignment

All signatories to the tenancy agreement (tenants) have equal rights and responsibilities. In some circumstances, the Department may approve transferring the rights and responsibilities from an existing tenant to another person or household member.

In every circumstance, all eligibility criteria must be met. The Department retains overall right to decide whether or not to enter in to a tenancy agreement with a person/s. The decision will be made by the Manager on a case by case basis, with consideration given to:

- length of occupancy;
- household size;
- a satisfactory tenancy history,
- hardship which may result from a negative decision;
- relationship to the tenant; and
- the business needs and requirements of the Department.

Joint to single re-assignment - or 'marital split'

Where the tenancy is in two or more names and one person wishes to leave the property, the tenancy may continue in one name only. The Department is not obligated to rehouse the departing tenant; however discretion in allocation policies will be exercised. Refer to the Allocation and Commencement of a Tenancy policy for further information.

Single to single

Where the tenancy is in one name only and the tenant dies or leaves the property with a spouse or children remaining in residence, the Department may choose to enter in to a new tenancy agreement with a remaining occupant.

Single to joint

The Department will consider requests to add a person to a tenancy agreement on an individual basis. Because of the potential impact on the Department wait lists, this type of transfer is considered very carefully.

6.7. Transfer because the dwelling is uninhabitable

If the condition of a dwelling has deteriorated to the point where the Department views it as unviable to repair or uninhabitable, the tenancy agreement may be terminated under the *Residential Tenancies Act*.

If the deterioration was the result of damage caused by the tenant or failure to report required maintenance issues, the tenant may be in breach of their tenancy agreement and the

tenancy terminated. If the deterioration of the dwelling was the responsibility of the Department, the client may be offered a transfer to another dwelling.

6.8. Role of the Housing Reference Group

Where a tenant is transferring to, or within, a remote community or a town camp, the Department may seek the input of the Housing Reference Group. The role of the Housing Reference Group is to highlight any cultural or community factors that may impact on the tenancy.

7. Document change control table

Release Date	Version Number	Approved by (position)	Section amended	Category
16/12/2016	1.01	Director Policy	all	Editorial amendments
2/09/2013	1.00	Executive Director, Housing Operational Client Support	all	New separate policy derived from Housing Services Operational Policy Manual, Chapter 10