

# Social Housing Transfers

## Policy

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# 1. Purpose

Social housing tenants may request a transfer to another premises within the Northern Territory, due to a change in their circumstances or household which affects their housing needs.

There are also circumstances where the CEO (Housing) may require a public housing tenant to relocate to another premises.

# 2. Scope

This policy applies to all social housing tenants who complete an application to transfer. This policy does not apply to tenants in government employee housing, industry housing or affordable housing.

# 3. Definitions

<b>Antisocial behaviour</b>	Section 28A of the <i>Housing Act 1982</i> defines antisocial behaviour as behaviour which: <ul style="list-style-type: none"><li>• involves abusive or violent behaviour directed to a person; or</li><li>• creates alarm or fear in, or annoyance to, neighbours or others in the vicinity; or</li></ul> involves graffiti, littering or vandalism.
<b>CEO (Housing)</b>	Chief Executive Officer (Housing)
<b>Community Housing provider (CHP)</b>	A non-government organisation who is a landlord who provides social housing.
<b>Unacceptable conduct</b>	Section 100 of the <i>Residential Tenancies Act 1999</i> specifies unacceptable behaviour as where a tenant has: <ul style="list-style-type: none"><li>(a) used the premises, or caused or permitted the premises to be used, for an illegal purpose; or</li><li>(b) repeatedly caused a nuisance on or from the premises or repeatedly permitted a nuisance to be caused on or from the premises; or</li></ul> repeatedly caused or repeatedly permitted an interference with the reasonable peace and privacy of a person residing in the immediate vicinity of the premises.
<b>Undertaking to enter into a new Tenancy Agreement</b>	means a legally enforceable commitment from the CEO (Housing) to enter into a new tenancy agreement.
<b>Social Housing</b>	Social housing is rental accommodation provided by public housing and community housing providers (CHP). These properties are owned by the CEO (Housing).

## 4. Policy Detail

Generally, there are two types of transfers: those requested by a tenant and transfers initiated by the CEO (Housing) or a Community Housing Provider (CHP). Regardless of the origin, all transfers within social housing premises are subject to the following criteria and each individual transfer scheme will also have additional criteria that must be met.

All transfers within social housing will only be approved where the tenant continues to meet eligibility criteria for social housing.

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

The Delegate or Community Housing Provider (CHP) has the discretion to prioritise a transfer if it is in the best interest of the tenancy or to meet the CEO (Housing)'s, or CHP's business needs.

The decision to relocate a tenant to an alternative public housing premises under Part 15, Division 3 of the *Residential Tenancies Act 1999* is always at the discretion of the CEO (Housing) and does not override the CEO (Housing)'s ability to terminate a tenancy where there has been serious or on-going breaches of the tenancy agreement.

### 4.1. Tenant Initiated Transfers

A social housing tenant may request a transfer if they meet the eligibility for a transfer. The CEO (Housing) manages the social housing transfer application process, and will consider a tenant's request to transfer for the following reasons:

- the safety of the tenant or another household member is at risk due to domestic, family or sexual violence;
- a tenant or recognised occupier has a medical condition or disability which makes the current premises unsuitable to meet the household's needs;

*Example: the tenant or recognised occupier may require modifications to the premises for which the current premises is unsuitable, or the tenant may need to relocate to access medical or other therapeutic services which are not available or accessible in their current location;*

- a relationship breakdown between tenants, where one tenant requires a transfer to another premises;
- the safety of the household is at risk due to a breakdown of relationships between tenants and neighbours or threatening behaviour by neighbours;
- the premises have more or fewer bedrooms than the tenant or occupier needs, meeting the tenant's entitlement; or
- social grounds.

*Example: the tenant needs to move nearer to a family member for care, or to be carer, or to access social support services which are not available in their current location. Social grounds for a transfer also include transfers for cultural reasons.*

Tenants who are approved to transfer, will be transferred based on housing availability, and will be offered a new tenancy with any social housing provider based on the household's needs.

### 4.1.1. Evidence of need to transfer.

All applications to transfer, regardless of whether your landlord is the CEO (Housing) or a CHP, must be lodged at their local Housing office with evidence of their need to transfer. Applications without evidence will not be accepted by the CEO (Housing), except for a Domestic and Family Violence application.

Examples of acceptable evidence include, but are not limited to:

<p><b>Domestic or family violence</b></p>	<p>For Domestic and Family Violence, it is not mandatory that supporting documentation be provided at the time of application. The Department will not ask an applicant to provide a specific account of domestic or family violence, however the CEO (Housing) will require evidence to support a tenant's claims and finalise a transfer application.</p> <p>As an Information Sharing Entity, the Department can seek information relating to DFV related incidents from other ISEs, with consent from the tenant.</p> <p>The CEO (Housing) acknowledges that clients who fear or experience DFV may have difficulty providing supporting documentation due to cultural reasons, lack of knowledge about support services or lack of available and appropriate support services.</p> <p>Evidence of domestic or family violence can include:</p> <ul style="list-style-type: none"> <li>• Domestic Violence Order granted under Section 4 or Section 23 of the Domestic and Family Violence Act 2007;</li> <li>• an injunction under section 68B(1)(a) or (b) or 114(1)(a) of the Family Law Act 1975 (Cth);</li> <li>• a letter or other documentation from a health practitioner who practices in the medical or psychology professions under the Health Practitioner Regulation National Law;</li> <li>• a PROMIS number from the Northern Territory Police relating to a DFV incident;</li> <li>• letter or other documentation from a medical professional or hospital;</li> <li>• letter of support from a specialist DFV service;</li> <li>• letter of support from an Australian legal practitioner; or</li> </ul> <p>letter of support from a Departmental child protection practitioner qualified to undertake an Investigation and Safety Assessment or other documentation from a child protection case manager.</p>
<p><b>Medical Condition</b></p>	<p>A letter or report from the tenant's treating clinician which establishes:</p> <ul style="list-style-type: none"> <li>• an ongoing medical condition; or</li> <li>• disability.</li> </ul>

	<p>The documentation must clearly state the reasons why the current premises no longer meets the needs of the tenant or recognised occupier.</p> <p>If the tenant requires modifications to a premises, they must provide an occupational therapist, or other health professional report identifying the modifications required.</p>
<p><b>Social Grounds.</b></p> <ol style="list-style-type: none"> <li>1. Personal relationship breakdown</li> <li>2. Neighbour relationships</li> <li>3. Cultural reasons</li> <li>4. Caring for a family member</li> <li>5. To access social services</li> </ol>	<ol style="list-style-type: none"> <li>1. Confirmation that the relationship has ended, including but not limited to, a letter from a legal representative, or custody agreements.</li> </ol>
	<ol style="list-style-type: none"> <li>2. Police and/or substantiated PHSO investigations of neighbourhood disputes or incidents between tenants and neighbours.</li> </ol>
	<ol style="list-style-type: none"> <li>3. Letter from a government or non-government support service explaining the cultural reasons that require the tenant to transfer.</li> </ol>
	<ol style="list-style-type: none"> <li>4. Reports or letters from government or non-government services, social service providers or doctors, detailing their family member's need for care.</li> </ol>
	<ol style="list-style-type: none"> <li>5. Reports or letters from non-government services or other social service providers which detail the social services required, explaining why the current premises does not meet these requirements.</li> </ol>

## 4.2. CEO (Housing) Initiated Transfers

In some circumstances the CEO (Housing) may need to proactively and quickly relocate public housing tenants or occupiers to other accommodation.

In accordance with the *Residential Tenancies Act 1999*, Part 15 Division 3, the CEO (Housing) may terminate a tenancy agreement if the CEO (Housing) offers to relocate the tenant or occupier of the premises to other accommodation because:

- the premises have more or fewer bedrooms than the tenant or occupier needs, and the other accommodation would have a suitable number of bedrooms meeting the tenant's entitlement; or
- the premises do not meet the social, physical, psychological, or medical needs of the tenant, or recognised occupier, and the other accommodation would be better suited to those needs; or
- the premises or neighbours pose a risk to the health or safety of the tenant or recognised occupier and the other accommodation would be safer; or
- the tenant or occupier has engaged in any unacceptable conduct as specified in section 100(1)(a), (b) or (c); or
- the tenant or occupier has engaged in any antisocial behaviour as specified in section 28A of the *Housing Act 1982*.

### 4.2.1. Transfer because the premises is uninhabitable.

If the condition of a social housing premises has deteriorated to the point where the CEO (Housing) or CHP views it as unviable to repair or uninhabitable, the tenancy agreement may be terminated under the *Residential Tenancies Act 1999*. The tenant will be offered a transfer to another social housing premises, or to return to the premises once repaired. Refer to the Terminations of a Tenancy policy and Transitional Accommodation policy.

## 4.3. Community Housing Initiated Transfers

Community Housing Providers are non-government organisations that provide social housing.

Community Housing providers may also initiate a transfer under the *Residential Tenancies Act 1999*. Please refer to the provider's website for policy clarification.

All social housing tenant's transfers require the existing tenancy agreement to be terminated.

## 4.4. Termination of a Tenancy Agreement

### 4.4.1. Public housing

Public Housing transfers, both tenant and CEO (Housing) initiated, which meet the criteria below will be terminated in accordance with Part 15, Division 3 of the *Residential Tenancies Act 1999*:

- the premises have more bedrooms than the tenant or occupier needs, and the other accommodation would have a suitable number of bedrooms; or
- the premises do not meet the social, physical, psychological, or medical needs of the tenant or occupier and the other accommodation would be better suited to those needs; or
- the premises or neighbours pose a risk to the health or safety of the tenant or occupier and the other accommodation would be safer.

All remaining tenant initiated transfers will require termination under sections 82(1)(f), 89, 90, 94 or 95 of the *Residential Tenancies Act 1999*. Refer to the Termination of a Tenancy Policy for further details.

For CEO (Housing) initiated transfers resulting from the tenant or occupier engaging in any unacceptable conduct or any antisocial behaviour, the tenancy will be terminated in accordance with Part 15, Division 3 of the *Residential Tenancies Act 1999*.

For all terminations under Part 15, Division 3 of the *Residential Tenancies Act 1999* the tenant will be given a Notice of Intention to Terminate which will provide the reasons for relocation, explain the process for termination, the responsibilities of the CEO (Housing) throughout the relocation process and the rights of the tenant to make a submission to appeal the relocation.

The tenant or occupier has 14 days after being given a Notice of Intention to Terminate in which to lodge a submission on relocation, which provides the CEO (Housing) with reasons why the tenant or occupier should not be relocated or why the tenancy agreement should not be terminated.

The CEO (Housing) will give the tenant or occupier a written undertaking to enter into a new Tenancy Agreement. The undertaking will explain the terms of the new Tenancy Agreement.

### 4.4.2. Community housing providers

Community Housing Providers are non-government organisations that provide social housing.

Community Housing providers manage their own terminations in accordance with legislation. Please refer to the provider's website for policy clarification.

CHPs are non-government organisations that provide social housing.

## 4.5. Tenancy re-assignment

In some circumstances, the CEO (Housing) may approve transferring the rights and responsibilities from an existing tenant to another person or household member. This will require termination of the existing tenancy agreement as per the Termination of a Tenancy policy.

In every circumstance, all eligibility criteria for public housing must be met. The CEO (Housing) retains the overall right to decide whether to enter into a tenancy agreement with a person/s. The decision will be made by the Delegate 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 decision to not approve the tenancy re-assignment;
- the relationship between the tenant and the person, whom the tenant wishes to assign tenancy rights to; and
- the business needs and requirements of the CEO (Housing).

## 4.6. Role of the Housing Reference Group

Where a tenant is transferring to, or within, a remote community or a town camp, the CEO (Housing) may seek the advice 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.

## 4.7. Reasonable Moving Costs

The CEO (Housing) will pay the reasonable moving costs for the tenant or recognised occupier relocating under Part 15, Division 3 of the *Residential Tenancies Act 1999*. The costs covered by the CEO (Housing) will vary depending on whether the relocation has been initiated by the CEO (Housing) or the tenant, and specific circumstances of the household.

## 5. Decision-making (delegation and discretion)

The CEO (Housing) may delegate a power or function under the *Housing Act 1982* or other Act. Delegated officers make decisions in line with the CEO (Housing)'s Housing Delegations and Financial Management Delegations.

A discretionary decision may be made outside the general application of policy if it supports the policy intent, will prevent a client from being unfairly disadvantaged, and is in line with the CEO (Housing)'s delegations and legislative obligations. Refer to the Discretionary Decision Making policy.

## 6. Complaints and/or appeals

If a public housing client is not satisfied with either a decision or action of the CEO (Housing), they can access the CEO (Housing)'s complaints and/or appeals processes. For further information, please refer to the Complaints and/or Appeals policies.

If a community housing client is not satisfied with either a decision or action of the community housing provider, they can access the relevant complaints policy by contacting the provider directly.

## 7. Review of the policy

If at any time the legislative, operating or funding environment is so altered that the policy is no longer appropriate in its current form, the policy shall be reviewed and amended accordingly.

## 8. References

### 8.1. Legislation

Housing Act 1982

Residential Tenancies Act 1999

### 8.2. Policies

Appeals policy

Complaints policy

Discretionary Decision Making policy

Entitlement policy

Housing Reference Group policy

Termination of a Tenancy policy

Transitional Accommodation policy