

## POLICY 1.22 SUCCESSION OF TENANCY

### OVERVIEW

This policy outlines what succession of tenancy is and how ILV (we, us, our) will manage applications for succession of tenancy.

The policy applies to residents in ILV properties and tenancies managed by ILV.

### WORD LIST

**Succession of the tenancy** is when we agree to transfer the tenant’s right to live in a property (the right of the person who signed the Tenancy Agreement) to another person already living in the property.

**Approved household member:** Approved household member is someone who:

- Was on the original housing application and has been living in the property and had their income included in the rent assessment
- We have approved to become a household member and we include their income in the rent calculation
- Is a child of the tenant and has been living in the property

**Tenancy Agreement:** A tenancy agreement (also known as a lease) is a legally binding, written agreement between a tenant (or their authorised representative) and a property manager/owner. This functions as the Service Agreement between ILV (SDA Provider) and the NDIS Participant in SDA Properties.

### POLICY

At least one person in each ILV property signs a Tenancy Agreement.

There may be other people sharing with them (partner, family, friend).

This policy outlines what happens when the person who signed the Tenancy Agreement dies or moves out.

It covers:

- The circumstances when we might approve a succession of tenancy
- Eligibility
- Applying for succession of tenancy
- If we approve succession of tenancy
- If we do not approve succession of tenancy
- SDA properties.

### WHEN WE MIGHT APPROVE SUCCESSION OF TENANCY

We will consider succession of tenancy (let someone continue to live in an ILV property) if the person who signed the Tenancy Agreement:

- Dies
- Permanently leaves the property to:

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- Live in a residential care facility e.g. nursing home
- Care for sick or frail family members
- Serve a prison sentence
- Is not allowed to enter the property as a result of an Apprehended Violence Order (AVO)

### ELIGIBILITY

You may be eligible:

- If you have been living in the property (approved household member) for at least 12 months (or continuously or since the start of the tenancy) **and**
- You are the partner, family or friend of the person who signed the Tenancy Agreement **and**
- You meet the eligibility requirements for the relevant type of property **and**
- You have an income and can maintain the tenancy **or**
- You are the legal guardian or custodian of an approved household member under 18 years of age (and you agree to live with and provide care for the child/young person).

**NOTE:** In SDA properties every SDA Resident signs a Tenancy Agreement . If an SDA Resident dies or moves out, any other SDA Resident in that property can continue to live there. They do not need to apply for succession of tenancy. We will work to find another compatible SDA Resident to share the property.

### APPLYING FOR SUCCESSION

You must apply for succession within 28 days of the person who signed the Tenancy Agreement dying or moving out.

We will sign an interim fixed term tenancy agreement with you while we assess the application.

We will charge rent during this time as per our Rent Policy (Policy 1.2).

### APPROVAL SUCCESSION OF TENANCY

We will only consider succession of tenancy if you are a household member/s (partner, family, friend) of the person who signed the Tenancy Agreement) and you meet the eligibility requirements for that type of property.

In SDA Properties this means the other household member must be a NDIS Participant with SDA in their NDIS Plan.

### UNSUCCESSFUL APPLICATIONS FOR SUCCESSION OF TENANCY

If we don't approve your application for succession of tenancy (and you are still living in the property) you will need to move out within 14 days.

If you do not move out, we will issue a termination notice to end the tenancy.

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### IF YOU ARE NOT HAPPY WITH OUR DECISION ABOUT SUCCESSION OF TENANCY

If you are not happy with the decision/s we make about succession of tenancy, you can:

- Speak to our staff about why we made that decision
- Ask for a review of the decision ( Refer to ILV Policy 1.4 Appeals)

### RELATED POLICIES, LEGISLATION OR OTHER RESOURCES

#### Legislation and Guidelines

- Applicable tenancy legislation
  - Residential Tenancy Act 2010 (NSW)
  - Residential Tenancies Regulation 2019 (NSW)

#### Policies

- ILV Policy 1.7 When a Tenant Dies

#### Resources

- Tenanthelp Tenanthelp.com.au (State specific information for tenants)
- Disability Housing Information line 1800 843 929 or email [housinginfo@pwd.org.au](mailto:housinginfo@pwd.org.au) Information for people living in SDA properties and their supporters

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