

# Succession of Tenancy Policy

## 1 Purpose

The purpose of this policy is to outline the circumstances in which Compass Housing Services Co Ltd (Compass) may agree to transfer a social housing tenancy to another household member.

## 2 Scope

This policy applies to all Compass social housing tenancies.

## 3 Policy Statement

Compass is committed to addressing the changing needs of tenants in relation to the property they occupy and will endeavour to meet their need in the most appropriate way.

Success of tenancy is when Compass agrees to transfer a tenant's right to live in a Compass property to another member of the tenant's household.

Compass recognises that social housing is a limited resource and in high demand. The right to succeed a tenancy will be balanced against the needs of clients on the NSW Housing Pathways Register. Compass will consider the personal circumstances impacting on the household when assessing an application for succession of tenancy.

Succession of tenancy can be considered when a tenant:

- Passes away;
- Relocates to an aged cared facility;
- Relocates to a residential rehabilitation facility;
- Is incarcerated;
- Permanently leaves the property to care for sick or frail family members;
- A final apprehended violence order is made prohibiting the tenant from accessing the property;
- In other circumstances approved by the Group Chief Operating Officer.

## 4 Applications

An application for succession of tenancy must be received by Compass within 28 days of the change in household circumstances. An application must be provided on the 'Succession of Tenancy Application' form. Compass staff can assist applicants to complete the form.

## 5 Eligibility

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 current and previous rent reviews;

- Have resided at the property for at least two (2) years or 75% of the length of the tenancy if under two (2) years;
- Have had a satisfactory history of occupation during the current tenancy; and
- Have repaid any debt, in full, from any previous tenancies.

## 5.1 Who may be eligible for succession of tenancy?

### 5.1.1 Applications for succession of tenancy will only be accepted from the following:

- The tenant's spouse or de factor partner who has been living with the tenant as a couple and is an authorised occupant and who meets the eligibility criteria for social housing;
- The legal guardian or custodian of an authorised member of the household who is under 18 years of age. Succession will only be granted if the guardian agrees in writing to reside in the property and continue to provide housing for the children. If the guardian or custodian does not meet the social housing eligibility criteria the Group Chief Operating Officer may grant succession if this is in the best interest of the children;
- A member of the household over 18 years of age who meets the social housing eligibility criteria; has been an authorised household member for at least the past two (2) years or 75% of the tenancy if the tenancy is less than two (2) years; or
- Minors aged 16 or 17 years if the person can demonstrate that they are able to care for themselves and meet the eligibility criteria and meet the terms of the Residential Tenancy Agreement. A Living Skills Assessment may be required.

### 5.1.2 Circumstances where Compass will not approve succession of tenancy

Compass 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;
- The applicant is a sponsored migrant and holds a temporary visa, or they are an asylum seeking holding a temporary protection visa;
- Whilst an occupant of any Compass property the applicant committed acts of violence, for example, physical attacks or serious verbal threats directed at neighbours or at Compass employees or other workers such as contractors;
- The applicant was involved in illegal activities in a Compass property whilst an occupant of that property; or
- The applicant has been convicted of arson or deliberate damage to any Compass property.

## 6 Assessing applications

Compass will assess all written applications fairly and in line with the eligibility criteria outlined at 5. Eligibility. Applications will be finalised within 28 days of receipt and all parties will be notified in writing.

## 6.1 Entitlements of succession of tenancy

The approval of an application for succession of tenancy provides the applicant with the right to succeed the tenancy. This may be in the property in which they currently reside, or Compass may require the successful applicant to transfer to a property more suitable to their needs.

## 6.2 Application for succession of tenancy approved

If the application for succession of tenancy is approved, Compass will offer the applicant a tenancy in the property they are currently residing at, or a different property that matches the applicant's needs. The approval will be confirmed in writing.

## 6.3 Application for succession of tenancy is not approved

If the application for succession of tenancy is not approved, the applicant will be notified in writing and will be required to vacate the property. Compass will take into consideration the circumstances of the applicant in determining a vacate date.

If the applicant does not vacate the property within the required timeframe, Compass may take action in the NSW Civil & Administrative Tribunal (NCAT).

## 7 Review of decisions

This is a reviewable decision. If an applicant is not satisfied with the service provided by Compass or does not agree with a decision it has made, they should first talk to a Tenancy Relations Officer. If they are still dissatisfied, they can ask for a formal review. To do this the applicant must complete a Review of Decision form.

## 8 Legislation and Compliance

- Residential Tenancies Act 2010 (NSW)
- Residential Tenancies Regulations (NSW)
- Housing Act 2001
- Residential Tenancy Agreement

## 9 Policy Implementation and Review

This Policy will be implemented and published on Compass intranet once approved. Employees receive communications and training on new and reviewed policies and procedures.

Compass will review this policy on a regular basis. Refer to Compass Policy and Procedure Development Approval and Review (PROC-011) for information on the document review process.

Confirmation of internal compliance with this policy will be undertaken regularly.

## 10 Related documents and resources

- Residential Tenancy Agreement
- Rent Subsidy form
- Ending Tenancy Policy

## 11 Definitions

| Term  | Definition   |
|---|--|
| <b>Appeal</b>   | A request for a review of a decision made by Compass that the tenant is dissatisfied with  |
| <b>Applicant</b>                                      | A person who makes a formal application for Succession of Tenancy  |
| <b>Approved additional occupant</b>                   | A person, in addition to the tenant, who is approved by Compass to live in the property  |
| <b>Compass</b>  | Compass Housing Services Co. Ltd   |
| <b>Compass Group</b>                                  | The corporate structure that includes Compass (as the Parent Company) and the boards of Subsidiary Companies, Governance Committees and advisory groups as created from time to time.  |
| <b>Director</b>                                       | Has the same meaning as defined in the <a href="#">Corporations Act 2001 Part 1.2 Division 1 Section 9 Dictionary</a> in Australia and as defined in the <a href="#">Companies Act 1992 Part 1 Section 2 Interpretation</a> in New Zealand   |
| <b>Employee</b>                                       | A person engaged under an employment agreement or award by any company in the Compass Group.   |
| <b>Landlord</b>                                       | The person who grants the right to occupy a property under a Residential Tenancy Agreement   |
| <b>NSW Civil &amp; Administrative Tribunal (NCAT)</b> | An independent statutory body that resolves disputes including tenancy disputes. Orders made by the NCAT are enforceable   |
| <b>Officer</b>  | Has the same meaning as defined in the <a href="#">Corporations Act 2001 Part 1.2 Division 1 Section 9 Dictionary</a> in Australia and as defined in the <a href="#">Companies Act 1992 Part 1 Section 2 Interpretation</a> in New Zealand   |
| <b>Parent Board</b>                                   | The current directors of Compass.  |
| <b>Parent Company</b>                                 | Compass Housing Services Co Ltd (Compass)  |
| <b>Residential Tenancy Agreement</b>                  | The written agreement between Compass and the tenant   |
| <b>Subsidiary Boards</b>                              | The appointed board of directors of a Subsidiary Company.  |
| <b>Subsidiary Company</b>                             | A company in which Compass owns all or at least a majority of the shares.  |
| <b>Tenant</b>   | A person who signs the Residential Tenancy Agreement with Compass  |
| <b>Worker (Compass)</b>                               | has the same meaning as defined in the <a href="#">NSW Work Health and Safety Act 2011 No 10 Subdivision 2 Part 7 Meaning of 'worker' (1)</a> A person is a worker if the person carries out work in any capacity for a person conducting a business or undertaking, including work as: <ol style="list-style-type: none"> <li>a) an employee, or</li> <li>b) a contractor or subcontractor, or</li> <li>c) an employee of a contractor or subcontractor, or</li> <li>d) an employee of a labour hire company who has been assigned to work in the person's business or undertaking, or</li> <li>e) an outworker, or</li> <li>f) an apprentice or trainee, or</li> <li>g) a student gaining work experience, or</li> <li>h) a volunteer, or</li> <li>i) a person of a prescribed class.</li> </ol> |
| <b>Worker (Compass QLD)</b>                           | is 'a person who works under a contract and, in relation to the work, is an employee for the purpose of assessment for PAYG withholding under the Taxation Administration Act 1953 (Cwlth), schedule 1, part 2-5'. This applies to a person for whom PAYG tax instalments are required or would be required to be withheld by their employer.  |

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