



# THE BUTTERY

ENRICHING LIVES

## SUCCESSION OF TENANCY POLICY

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## 1. PURPOSE

The purpose of this policy is to outline the conditions under which The Buttery will allow the transfer of a social housing tenancy to another member of the household.

## 2. SCOPE

This policy applies to all tenants of The Buttery and other community housing tenants.

## 3. DEFINITIONS

<b>Housing Appeals Committee</b>	The independent agency that deals with appeals from people who are unhappy with a decision/s made by social housing providers in accordance with the <a href="#">Housing Appeals Charter</a> .
<b>Housing Pathways</b>	The way applications for housing assistance are managed in NSW. It is a partnership between the NSW Department of Communities and Justice and participating community housing providers. Housing Pathways provides: <ul style="list-style-type: none"> <li>• coordinated information about housing assistance,</li> <li>• a single application process,</li> <li>• common eligibility criteria for housing assistance,</li> <li>• a standard assessment process, and</li> <li>• a single waiting list known as the NSW Housing Register.</li> </ul>
<b>NSW Housing Register</b>	The single list of approved applications waiting for social housing operated and maintained by the NSW Department of Communities and Justice.
<b>Residential Tenancy Agreement</b>	An agreement made under section 13 of the <i>Residential Tenancies Act 2010 (NSW)</i> between the tenant and The Buttery as Landlord.

## 4. PRINCIPLES

Succession of tenancy is when the right to a community housing tenancy with The Buttery is transferred from the tenant named on a Residential Tenancy Agreement to another eligible member of the household.

The Buttery's Succession of Tenancy policy has been developed to ensure that a household member with a satisfactory history of living in a Buttery property and who also meets the social housing eligibility criteria is not made homeless or suffers undue hardship because the tenant has died or left the property.

Succession provides approval for a tenancy with The Buttery; it does not provide approval to inhabit the current property.

## 5. POLICY

The Buttery recognises that its housing is a limited resource and in high demand. Therefore, the right to succeed to a tenancy is balanced against the needs of clients on the Housing Pathways Register and those who are prioritised in any other way (for example by participation in a priority program such as HASI Plus), particularly those determined to be in very high need.

Accordingly, The Buttery will usually consider the personal circumstances impacting on the household when assessing an application for succession.

Tenants and household members who have the means to provide for the housing of other household members are expected to do so.

An application for succession of a Buttery tenancy must be received within 28 days of the change in household circumstances. The tenant must write formally and/or meet with The Buttery outlining the evidence supporting their request for a succession of tenancy.

## 6. ELIGIBILITY CRITERIA

Succession can be considered when the tenant has died or is unable to remain in the property for reasons beyond their control.

This may be due to hospitalisation, moving into a nursing home or a rehabilitation facility, imprisonment or other circumstances assessed on a case-by-case basis.

If a property has been transferred to The Buttery from another provider, the period that a household member was included in the previous tenancy will also be counted.

Only one person of the household is eligible to succeed to the tenancy.

The Buttery will also consider the following factors:

- The tenancy history, and
- The ability of the applicant to otherwise meet their housing needs.

The applicant must:

- Be able to demonstrate that they have been living in the property for at least two years prior to the request for succession or throughout the entire time of the tenancy if the tenancy period is less than two years,
- Be an approved household member who has had a satisfactory history of occupation within the tenancy. A spouse or de facto partner may be entitled to succession even if they have temporarily moved away for reasons related to the illness of the tenant, care of an ill person or their own ill-health. In these circumstances, the applicant must provide The Buttery with evidence that the temporary absence was due to these reasons, and

- Be prepared to sign a Residential Tenancy Agreement and take on the responsibility of managing the property, with support if required.

If the applicant is a minor aged 16 or 17 years, The Buttery may still grant succession if the person can demonstrate that they are able to meet the terms of the Residential Tenancy Agreement.

## **7. LEGAL GUARDIAN OR CUSTODIAN OF MINORS**

The Buttery will grant succession if the applicant agrees in writing to live in the dwelling and continue to provide care for the children.

If the applicant has applied for the custody of children, The Buttery may grant succession on condition that the applicant agrees in writing that the tenancy will be relinquished if the custody application is unsuccessful.

If the applicant does not meet the eligibility criteria for community housing, The Buttery may grant succession if:

- The applicant has been formally granted custody/guardianship of the children,
- It is in the best interests of the children, and
- The applicant can demonstrate that no alternative suitable accommodation is available for the care of the children.

In these circumstances, The Buttery may liaise with the relevant community services agencies to ensure that this is the best option for the children involved.

## **8. ABORIGINAL APPLICANTS**

The Buttery may grant succession to an Aboriginal applicant who was not a member of the tenant's household at the end of their tenancy. The circumstances under which The Buttery will consider this include if the applicant:

- is the tenant's child or if the tenant was active in the applicant's upbringing, and/or
- has grown up in the dwelling and has a long-term association with the dwelling and the area.

In these circumstances, the applicant must still meet all the other eligibility requirements.

## 9. APPLYING FOR SUCCESSION

An applicant must apply for succession as soon as possible and within 28 days of the changes in the household's circumstances. The Buttery will not consider applications that are lodged more than 28 days after the tenant has died or left the property unless there are special circumstances. For applications made outside of the 28-day timeframe that are allowed due to special circumstances, The Buttery may issue the household with a notice to terminate the tenancy.

Applicants for succession will be required to provide supporting evidence of the household changes such as a death certificate where the tenant has died.

The person applying for succession will sign up to a three-month fixed term tenancy with The Buttery while their application is being assessed. This is to formalise the occupancy of the property and to give the household time to find alternative accommodation if their application is unsuccessful.

Applications will not be accepted if a person applying for succession has:

- Been an unsatisfactory former tenant of The Buttery or any other community housing provider. An unsatisfactory tenant may include one who has damaged a property, has rental and/or non-rent debt, or whose tenancy was terminated due to a breach of the Residential Tenancy Agreement, and/or
- Been involved in illegal or violent activities in any The Buttery property or those managed by any other community housing provider.

## 10. COMPLAINTS AND APPEALS

This is an appealable policy.

If a tenant is not satisfied with a service provided by The Buttery or does not agree with a decision it has made, they can ask for a formal review. To do this, the tenant can lodge a complaint pursuant to The Buttery's Tenant Feedback Policy. This policy and the Tenancy Feedback Form are available from The Buttery's office or can be downloaded from our website [www.buttery.org.au](http://www.buttery.org.au).

If a tenant is unhappy with the outcome of an appeal to The Buttery, they can lodge a second level appeal with the Housing Appeals Committee. The Housing Appeals Committee is an independent agency that reviews certain decisions made by staff of Community Housing organisations and Housing NSW. For information on the Housing Appeals Committee call 1800 629 794 or go to [www.hac.nsw.gov.au](http://www.hac.nsw.gov.au).

## 11. RELATED DOCUMENTS

### 11.1. Internal

Document#	Document
GEN.FORM.045	Tenancy Feedback Form
GEN.POL.020	Tenant Feedback Policy
GEN.POL.021	Starting a Tenancy Policy
GEN.POL.022	Ending a Tenancy Policy

### 11.2. Legislation

- *Residential Tenancies Act 2010 (NSW)*
- *Residential Tenancies Regulation 2019 (NSW)*

## 12. REVISION HISTORY

Version	Date	CQI #	Lead author/ reviewer	Consultative panel	Significant changes
1	11/04/2023	#40	Ari Soemardi	QA Committee	New Policy