

H29. CHANGING A TENANCY - TENANCY TRANSFERS

Content:	Illawarra Aboriginal Corporation Policies and Procedures
Version:	2.0
Section:	Housing
Applies To:	Board, Management and Staff of all IAC Services
Date:	October 2015 (Review October 2018)

Background and Purpose

The IAC's Housing policies articulate our aims, goals and philosophies in providing housing services for Aboriginal tenants and their families. They explain how the Illawarra Aboriginal Corporation works with its staff and other agencies to ensure that our tenants are afforded the best and most appropriate services and that we meet all of the requirements of the Aboriginal Housing Office and the Office of Community Housing.

Principle

The Illawarra Aboriginal Corporation understands that there are circumstances where tenants of IAC properties request a change in tenancy. As the IAC housing stock is very limited, the IAC cannot guarantee that requests for a change of tenancy can be accepted but we will make every effort to assist the tenant to change their tenancy within the IAC's housing stock, to offer support services or to find more suitable accommodation with another housing provider. The IAC may also instigate changes of tenancy to ensure that it is meeting its target groups requirements for housing.

Limited Housing Stock

The IAC has limited housing stock and where it is unable to offer other suitable accommodation to the tenant seeking a priority transfer it will offer support services and assistance with finding accommodation with another housing provider.

Priority Transfer Assessments

At Risk Tenants

The personal safety and/or mental health of a tenant or a household member is at risk. These situations include but are not limited to:

- domestic violence
- child abuse or neglect
- assault
- sexual assault
- threatening behaviour
- torture or trauma

Tenants need to show that:

- the risk is serious and ongoing
- they cannot remain in the current dwelling beyond a medium length of time
- the property and/or location significantly increases the risk and reduces their safety
- apart from transferring, there are no practical steps that can be taken by the tenant's household to lower or remove the risk
- being relocated will help or resolve the situation and remove or significantly decrease the risk

Evidence requirements for being at risk:

- current police reports
- a current Apprehended Violence Order
- a current Domestic Violence Order
- current reports or letters from the Department of Family and Community Services
- current reports or letters from NSW Department of Corrective Services
- current reports or letters from a social worker
- current reports or letters from a community support agency, such as a refuge, community centre or neighbourhood centre
- current reports or an assessment from a medical practitioner or health professional (including a mental health case manager)
- current reports or letters from a school principal or school counsellor

H29. CHANGING A TENANCY - TENANCY TRANSFERS

Content:	Illawarra Aboriginal Corporation Policies and Procedures
Version:	2.0
Section:	Housing
Applies To:	Board, Management and Staff of all IAC Services
Date:	October 2015 (Review October 2018)

Priority Transfer Assessments (cont)

Medical condition and/or disability

In relation to the medical condition and/or disability of a tenant or household member, tenants will need to show that:

- the medical condition and/or disability is permanent or likely to be permanent, and
- the current property and/or location no longer meets their housing need, or
- relevant household members no longer have the capacity to access necessary medical and/or therapeutic services from their current property for such reasons as:
 - ◊ restricted mobility
 - ◊ restricted capacity to use transport
 - ◊ frequency of necessary visits to medical and/or therapeutic services, and
 - ◊ the necessary medical and therapeutic services will be available from potential alternative locations, and
 - ◊ they do not have the capacity to remain in the property or location beyond a medium length of time, and
 - ◊ relocating will assist in the management of the medical condition and/or disability

Evidence requirements for a medical condition and/or disability:

- a general practitioner or specialist doctor
- a health worker such as a community nurse, occupational therapist or physiotherapist
- a mental health case manager or psychiatrist
- brain injury rehabilitation program
- attendant care program
- ADAHPT (AIDS, dementia and HIV psychiatry team service)
- high needs pool (care program)
- lifetime care and support
- CACP or EACH package
- Ventilator dependent quadriplegic program
- Support organisations such as Home Care Service, Home Nursing Service and ACAT

Priority Transfer Assessments (cont)

Harassment

Harassment refers to a wide range of offensive behaviour. It refers to unacceptable behaviours that are threatening or disturbing such as:

- verbal abuse
- threats
- intimidatory behaviour
- vilification
- property damage

Tenants will need to show that:

- the harassment is serious and ongoing, and
- they have attempted to resolve the harassment themselves, with any necessary assistance and support, and
- their current property or location significantly increases the risk of harassment, and
- the harassment means they cannot remain in their current dwelling and/or location beyond a medium length of time, and
- relocation will help to resolve the situation and remove or significantly decrease the harassment

Evidence requirements for harassment:

- current police reports
- current reports or letters from the Community Justice Centre (CJC)
- current reports from a community support agency, such as a refuge, community centre or neighbourhood centre worker
- current reports from a mediation service
- letters or reports from a general practitioner, specialist or mental health services worker
- the IAC's records of serious incidents
- letters or reports from neighbours substantiating the harassment
- a record that the incidents are ongoing
- evidence that the incidents are escalating in seriousness

H29. CHANGING A TENANCY - TENANCY TRANSFERS

Content:	Illawarra Aboriginal Corporation Policies and Procedures
Version:	2.0
Section:	Housing
Applies To:	Board, Management and Staff of all IAC Services
Date:	October 2015 (Review October 2018)

Priority Transfer Assessments (cont)

Compassionate

There are a number of compassionate grounds that the IAC will consider. These include:

- being closer to a family member who needs their care
- being closer to support networks which are not covered by the medical, disability or other factors described above, such as child abuse services, family support services, rehabilitation services, Home and Community Care services, cultural services or educational services (specialised schools)

Tenants will be asked to:

- Show why they need to move, and
- Provide information about the family member needing care, or
- Provide information about the services the tenant or the family member requires.

Evidence requirements for a transfer on compassionate grounds:

- medical assessment or report/letter from a doctor or specialist confirming the family member's medical condition and/or disability
- report or letter from a service providing care or support to the family member
- report or letter from a specialist educational service
- report or letter from a cultural support service
- report or letter from a family support service
- report or letter from a rehabilitation service
- report or letter from a counselling service

Priority Transfer Assessments (cont)

Family breakdown/separation

If there is a serious breakdown in a family relationship, the IAC may consider providing separate accommodation for the member who has left the property. A serious breakdown in a household relationship includes:

- separation or divorce between a tenant and spouse or de facto partner
- irreconcilable problems between a parent and child or children (including adult children)

In the case of divorce or separation the partner who has moved out will need to prove that:

- they were a household member
- they were a household member for two or more continuous years
- they were on the IAC's records as having lived in the property
- they are eligible for social housing
- they have applied for a transfer within six months of moving out

In the case of a family breakdown the family member will need to prove that they:

- are a permanent household member, and
- are listed as living in the property (e.g., approved additional occupant), and
- have declared their income to the IAC

Evidence requirements:

- evidence of a legal separation
- letters or reports from a social worker, community worker, or neighbourhood centre
- letters or reports from Community Services
- income statement from Centrelink
- family payment confirmation from Centrelink
- letters or reports from a general medical practitioner or specialist doctor
- evidence of a new address (e.g. driver's license, phone bill, Centrelink statement)

H29. CHANGING A TENANCY - TENANCY TRANSFERS

Content:	Illawarra Aboriginal Corporation Policies and Procedures
Version:	2.0
Section:	Housing
Applies To:	Board, Management and Staff of all IAC Services
Date:	October 2015 (Review October 2018)

Priority Transfer Assessments (cont)

Severe overcrowding

Severe overcrowding may arise as the result of:

- a family reunion
- an award of custody of children
- marriage
- the birth of a child or children

Severe overcrowding includes:

- an adult or couple sharing a bedroom with a person aged over three years
- four or more children sharing a bedroom
- three or more unrelated adults sharing a bedroom

Severe overcrowding can also occur if children sharing a bedroom now need their own bedroom because of a specific need such as:

- a disability or special medical need
- severe behavioural problems
- children of different sexes sharing a room and one of them reaches puberty

Evidence requirements for severe overcrowding

- age of all household members
- gender of all household members
- marriage certificate
- legal documents confirming family reunion
- legal documents confirming placement of children
- legal documents confirming custody
- centrelink family payment income statement
- court orders
- medical assessment or report/letter from doctor or specialist confirming disability or special needs
- letter or reports from support agencies confirming severe behavioural problems
- reports or letters from DOCs
- letter or reports from health professionals, including mental health case managers

Priority Transfer Assessments (cont)

Moderate overcrowding

Moderate overcrowding is when there is an increase in the size of the household which results in the household having fewer bedrooms than they would otherwise be entitled to, but the overcrowding is not severe.

Examples of moderate overcrowding are:

- three children sharing a bedroom
- an adult or couple sharing a bedroom with a child under three years of age
- two unrelated adults sharing a bedroom

Evidence requirements for moderate overcrowding

- number of household members
- age of household members
- gender of household members
- size of the bedrooms
- size of the living areas

Under occupancy

Under occupying a property is when a tenant has more bedrooms than they require. It is usually the result of household members moving out of the property. When a tenant applies for a transfer because of under occupancy, the IAC will review and consider:

- the impact on the tenant, and
- the benefits and costs to the IAC of transferring the tenant, including the demand for the current property, and
- the tenant's requirements for an alternative property and how these can best be met

Evidence requirements for under occupancy:

- number of household members
- number of bedrooms in the property

H29. CHANGING A TENANCY - TENANCY TRANSFERS

Content:	Illawarra Aboriginal Corporation Policies and Procedures
Version:	2.0
Section:	Housing
Applies To:	Board, Management and Staff of all IAC Services
Date:	October 2015 (Review October 2018)

Succession of Tenancy

Common assessment criteria

Unless otherwise stated, an applicant for succession of tenancy must:

- be an approved additional occupant of the household
- have had a satisfactory occupation within the tenancy for a period of:
 - ◊ 2 years prior to the succession request
 - ◊ the whole of the tenancy if it is less than two years old
 - ◊ less than 2 years under certain circumstances as approved by the Board of the IAC
 - ◊ they agree to repay any debts from previous tenancies. The IAC will negotiate a repayment plan before approving succession.

A satisfactory history of occupation will occur where the applicant has not caused:

- nuisance and annoyance
- damage to the property or neighbouring properties

The IAC will not approve succession of tenancy if the applicant:

- has not been a declared household member
- does not have a satisfactory history of occupation, unless the IAC is satisfied that the applicant will be able to sustain a tenancy
- whilst an occupant of any IAC property, committed acts of violence, for example, physical attacks or serious verbal threats directed at neighbours or IAC staff
- whilst an occupant of any IAC property, was involved in illegal activities in that property
- has been convicted of arson or deliberate damage to any IAC property
- is an unsatisfactory or ineligible former tenant

SUCCESSION TO A SPOUSE

If the applicant is the tenant's spouse (i.e. married), the IAC will approve succession if:

- they meet the common eligibility criteria and,
- they demonstrate they are married to the tenant, and
- they are currently residing in the property.

Succession of Tenancy (cont)

Specific Assessment Criteria (cont)

SUCCESSION TO A SPOUSE (CONT)

A spouse will 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. The spouse must provide evidence that their temporary absence was due to these reasons. The spouse is not required to meet the IAC's income eligibility limits or asset eligibility criteria.

SUCCESSION TO A DE-FACTO PARTNER

If the IAC accepts that an applicant is the de facto partner of the tenant, they will have the same right to succession as a spouse. Where an applicant for succession claims to be the de facto partner of the tenant, the IAC must verify that the relationship is de facto. This verification is based on the NSW Property (Relationships) Act 1984. This Act gives important rights to de facto partners when settling private property and other assets.

SUCCESSION TO A CHILD OF THE TENANT THAT IS NOT IN THE HOUSEHOLD

The IAC may approve succession if the applicant was not a member of the tenant's household at the end of their tenancy and the applicant is the tenant's child or the tenant was active in their upbringing, has grown up in the dwelling and has a long-term association with the dwelling and the area. Applicants must meet all other eligibility requirements for IAC housing.

SUCCESSION TO HOUSEHOLD MEMBERS OTHER THAN THE SPOUSE OR DE FACTO PARTNER

If the applicant is a household member other than the spouse or de facto partner, the applicant will be eligible for succession if:

- they meet the common eligibility criteria
- they meet the eligibility criteria for IAC housing
- they are currently residing in the dwelling
- they are not an unsatisfactory or ineligible former tenant

H29. CHANGING A TENANCY - TENANCY TRANSFERS

Content:	Illawarra Aboriginal Corporation Policies and Procedures
Version:	2.0
Section:	Housing
Applies To:	Board, Management and Staff of all IAC Services
Date:	October 2015 (Review October 2018)

Succession of Tenancy (cont)

Specific Assessment Criteria (cont)

SUCCESSION TO HOUSEHOLD MEMBERS OTHER THAN THE SPOUSE OR DE FACTO PARTNER (CONT)

If the applicant is a minor aged 16 or 17 years, they may be granted succession if they demonstrate that they are able to care for themselves and can meet the terms of the tenancy agreement.

If the applicant is a carer, the IAC will not approve succession if the carer has maintained their own accommodation, separate to that of the tenant's dwelling, regardless of whether it is in the public or private rental market. If the applicant has relinquished an IAC tenancy to act as a carer to another person, then succession to that tenancy may be granted even if they have not been part of that household for the past two years.

SUCCESSION TO THE LEGAL GUARDIAN OR CUSTODIAN OF MINORS

The IAC will approve succession if the applicant agrees in writing to live in the property and continue to provide care for the children. If the applicant does not meet the eligibility criteria for IAC housing, succession may be granted if:

- the applicant has been formally granted custody/guardianship of the children
- it is in the best interests of the children
- the applicant can show that no other suitable alternative accommodation is available

Succession of Tenancy (cont)

Specific Assessment Criteria (cont)

SUCCESSION TO THE LEGAL GUARDIAN OR CUSTODIAN OF MINORS (CONT)

In such circumstances, it may be necessary for the IAC to liaise with Family and Community Services to ensure that this is the best option for the children involved.

If the applicant has applied for custody, the IAC may approve succession on the condition that the applicant agrees in writing that, if their custody application is not successful, they will relinquish the tenancy.

APPLICANTS FOR SUCCESSION WHO ARE RECENTLY RELEASED FROM PRISON

If the applicant was recently released from prison or institutionalised care, and they used to live in the premises, they must meet the eligibility criteria for succession previously indicated. The IAC will assess the application on its merits, but will not decline it on the basis that the applicant was not living with the tenant while in prison or institutionalised care. Factors that the IAC will consider are the likelihood of the applicant living in the household if they were not in prison or institutionalised care, the tenancy history and their ability to otherwise meet their housing need.

COMPLIANCE

This policy complies with:

- NSW Housing Act 2001
- NSW Residential Tenancies Act 2010

REFERENCES

This policy should be read with:

- **Housing NSW** "Changing a Tenancy Policy"
- **National Regulatory Code** - 1. Tenant and housing services