

# Renter and Tenancy Transfer Policy

REVISION NO. 1.0

ISSUED 0/01/2024

Our vision is that **Aboriginal Victorians secure appropriate, affordable housing as a pathway to better lives and stronger communities**. We believe that achievement of our vision is through the provision of housing services which enhance the dignity of our clients and renters and which respects and celebrates their cultural beliefs, values and practices.

Our policies and procedures are designed so that our practice and service delivery is in accord with this cultural statement.

## 1 Policy Objectives

This policy sets out the circumstances and requirements in relation to the transfer of a tenancy or a change in property allocation.

Aboriginal Housing Victoria (AHV) recognises that our renters and their families may experience changes in circumstances, which necessitate changes to their current tenancy or property arrangements. Wherever possible and reasonable, AHV will support these changes.

A *tenancy* is the contractual agreement between AHV and one or more people.

A *property* is the physical dwelling. There may be a change to a tenancy, or to a property, or to both.

Other AHV policies, including eligibility and allocation, should be read in conjunction with this policy. Refer to the Eligibility and Allocations Policy.

## 2 Scope

This policy applies to all long-term rental properties owned or managed by AHV but does not apply to transitional housing properties. This policy applies to all AHV workers and directors, renters, eligible housing applicants and renters, and where the sole tenant is deceased, the legal representative or next of kin.

## 3 Transfers of tenancy rights

A transfer of tenancy rights relates to when the renters named on the Residential Rental Agreement change and a request to amend the agreement is made. Circumstances of this nature may be:

- single to single – the tenancy is in one name only and that person wishes to relinquish their tenancy rights to another person.
- single to joint – the tenancy is in one name only, and the tenant, along with a current resident, or new household member applies for joint tenancy of the property
- joint to joint – the tenancy is in two or more names and following the departure of one or more parties the remaining renters and/or residents, or new residents apply to have the tenancy transferred to their names
- joint to single – the tenancy is in two or more names and only one person intends to remain in the property
- protected person – where a protected person enters into a new tenancy agreement (see details below)

### 3.1 Approval and eligibility

Transfer of tenancy requests are subject to the approval of the Manager Community Housing except for transfers relating to family violence.

The approval of a transfer of tenancy is subject to the retention of at least one Aboriginal person within the household, except for circumstances where a long-term renter remains in the property following the death/departure of their Aboriginal partner. Further, where the tenancy transfer is to be to a household member not originally on the rental agreement, they must have been residing continuously in the home for 12 months.

All renters must meet VHR income and asset eligibility criteria, and AHV eligibility criteria except for unless they are existing parties to the residential rental agreement.

Where the sole renter either departs or passes away, any eligible household member/s, for example a spouse, son or daughter or other household member, may apply to have the tenancy transferred into their name/s.

A new residential rental agreement is entered into with the former household member/s. Any credit balance from the old account is refunded to the original sole renter or their estate.

If a transfer of tenancy is not approved in these circumstances, and the occupant(s) does not leave the property, AHV may take steps to terminate the tenancy and commence illegal occupancy proceedings at VCAT. Eviction of illegal occupants in these circumstances will be subject to the approval of the CEO and CEO's being the Director Aboriginal Housing Services.

## 3.2 Debt Recovery

Approval for a tenancy transfer that necessitates a new residential rental agreement will not be withheld on the basis of outstanding rental arrears or damage incurred by the departing renter. Where possible AHV will arrange for the vacating tenant to sign a vacated renter's arrears agreement.

Recovery of any outstanding debt or future arrears may be pursued under normal AHV procedures. Transfer of tenancy is conditional upon existing renter(s) entering into an agreement to repay any rent arrears and/or Tenant responsibility maintenance compensation (TRMC) accrued up to the date of the transfer of tenancy.

## 3.3 Family Violence

AHV supports all victim survivors of family violence to sustain their tenancies and remain in the home. Any person within the home who has experienced violence by another household member can be treated as a "protected person" and the perpetrator is referenced as a "respondent", for further information on these terms please refer to Consumer Affairs Victoria.

Where the renter or joint renter is excluded from the property via an order, the protected person can apply to VCAT for a change of the rental agreement into their name however this can be done by AHV without the necessity of VCAT intervention.

During the process of a change of tenancy or removal of an excluded person, AHV will:

- Allow the protected person to change locks at their cost and will not supply copies to any protected person
- Conduct an inspection of the property to identify any damages and support the protected person to have these repaired
- Where necessary, organise the removal of abandoned goods by the respondent and coordinate this process with rental inspectors

All work during this process will be managed in accordance with Consumer Affairs Victoria requirements and will be supportive of the protective person's right to remain in the home

An excluded person can apply for a Priority Transfer as an applicant under the Victorian Housing Register and this will be supported by AHV to ensure the safety and wellbeing of all parties involved.

## 4 Renter initiated transfers

Renters may lodge a request for transfer at any point during their tenancy and will be required to meet the eligibility under the VHR. Applications are assessed by DFFH based on the information provided by the renter however AHV may be required or requested to supply supporting documentation to have this assessed under the appropriate priority category.

## 5 AHV initiated transfers

### 5.1 Underutilisation

To ensure the most appropriate use of its property portfolio, AHV seeks to identify properties that are underutilised by:

- checking property size against household composition for high demand property types
- checking transfer applicants' household income
- checking transfer applications when they are submitted
- checking rental subsidy applications when they are submitted, and
- by recording information gained during home visits and inspections.

Where underutilisation has been established, AHV may contact the renter to discuss their interest in transferring and whether the property type, size and location to which they wish to transfer is likely to become available.

Should AHV undertake an underutilisation process, renters will be supported to lodge an application to the VHR for a transfer to suitable alternative accommodation.

### 5.2 Property no longer available

In accordance with AHV's *Ending Tenancies and Eviction Policy*, in circumstances where a property is no longer available to be leased as social housing, AHV will support the renter/s to transfer from the home into alternative accommodation via an application on the Victorian Housing Register.

Such circumstances may include:

- Properties becoming uninhabitable due to natural forciers (e.g. decay, fires or floods);
- Redevelopment of the property to upgrade or build additional social housing;
- Sale of the property; or
- Return of the property to the owner (where AHV leases the property from another party).

If the renter does not match a property within the AHV portfolio they will be supported to seek accommodation options through mainstream providers, public housing, Aboriginal Community Controlled Organisations, or any other relevant provider.

Should the renter be made suitable accommodation offers and continuously refuse, they may be issued with a Notice to Vacate and termination of tenancy pursued through the Victorian Civil and Administrative Tribunal.

## 6 Relevant Documents

### 6.1 Policies and procedures

Related policies, procedures
Arrears Policy
Eligibility and Allocations Policy
Ending tenancies and eviction Policy

### 6.2 Legislation

Legislation, standards, guidelines
Charter of Human Rights and Responsibilities 2006
DHHS Victorian Housing Register Operational Guidelines.
Family Violence Protection Act 2008
Housing Act 1983 (Victoria)
Performance standards for registered housing agencies 2015 (Victoria Housing Registrar)
Registered Agency Agreement between AHV and the Director of Housing relating to participation in the VHR
Residential Tenancies Act 1997
Consumer Affairs Victoria

## 7 Document control

Revision
Policy name: Renter and Tenancy Transfer
Version number: 1.0
Adoption Authorised
Supersedes:
Date effective from: 01.01.2024
Review date:
Responsible Service/Department: Housing Services

## Document history

Revision	Approval date	Approved by	Changes	Review date
1	2008	AHV Board of Directors		
2	July 2013	AHV Board of Directors		July 2014
3			New policy format	June 2015
4	24 Sept 2015	AHV Board of Directors	Consolidation and re-formatting of Tenancy Services manual	September 2015
5	4 December 2018	AHV Board	VHR transition	2020
6	June 2023	AHV Board	Housing Policy Refresh	