173 Passing Away of Tenant Policy

1. Policy

This policy outlines how Link Housing will manage a tenancy after a tenant has passed away. Link Housing will take a sensitive but practical approach.

Where possible, Link Housing will work with family members to ensure that they understand their legal rights and responsibilities in relation to the tenancy of the deceased person.

When informed of a tenant’s death the Housing Manager will contact the most appropriate person to discuss:

1. Any immediate concerns
2. Process for succeeding the tenancy where applicable. See Succession Policy
3. Process and timeframes for ending the tenancy (where succession is not applicable)
4. Access arrangements

2. Contacting the Next of Kin / Relatives

Where the next of kin is not known or not yet notified Link Housing will liaise with the police or the Public Trustee to find and notify the next of kin.

3. No Next of Kin

Where there are no next of kin or where they cannot be found, Link Housing will work with the Public Trustee to end the tenancy.

4. Succession

Where the death of a sole tenant occurs and a recognised household member requests succession of the tenancy, the application forms will be assessed under the Succession Policy.

5. Where a Co-tenant has passed Away

Where a co-tenant has passed away and where one or more other co-tenants exist on the residential tenancy agreement, the remaining co-tenants may continue the tenancy. The remaining co-tenants are taken to be the only tenants under the residential lease on and from the date the tenant passed away.

If the remaining tenants do not wish to continue the tenancy agreement, 21 days’ written notice is required to be given to the landlord prior to the date of vacating the property.

Consistent with Section 78(3) of the Residential Tenancies Act, 2010 (NSW), this section applies whether or not the fixed term of the residential tenancy agreement has ended if it is a fixed term agreement.

6. Ending the tenancy

Where a tenant has passed away, either the landlord or the legal representative of the tenant may submit notice to terminate a tenancy. Link Housing will consult with the next of kin or representatives of the deceased tenant to establish the appropriate notice prior to issuing a termination notice.
Vacant possession of the residential premises may be given at any time before the termination date specified in the termination notice. Rent must be paid until the property is vacated and possession returned to Link Housing.

Link Housing will assist the next of kin, legal representative or executor in the following areas if required:

- Identify any immediate concerns e.g. pets or property security
- Arrange access for relatives, legal representatives or executor of the deceased person’s will
- Clarify what belongs to the tenant and what belongs to Link Housing
- Provide advice about charities and agencies that may be able to take unwanted furniture, clothing, household goods and personal belongings
- Provide advice about removalists and cleaning agencies
- Provide advice on organising final readings for electricity, gas and telephone services
- Agree date for end of tenancy inspection
- Provide a copy of the End of Tenancy Policy

7. Legislative Framework and Policies
   - Residential Tenancies Act 2010 (NSW)
   - Succession Policy
   - End of Tenancy Policy

8. Privacy & Confidentiality
Link Housing will keep applicants’, tenants’ and residents’ information and feedback confidential, in line with privacy laws and standards.

9. Complaints and Appeals
A tenant who is not happy with a decision made by Link Housing or who believes that Link Housing has not followed this policy may complain or appeal using the client feedback and appeals policies. These are available at www.linkhousing.org.au or by phoning Link Housing on 9412 5111.

10. Quality Assurance
The Passing Away of a Tenant Policy will be formally reviewed every two (2) years, or when necessitated through a sufficient change in circumstances, eg due to legislative change.