

# Establishing and maintaining tenancies

## Managing tenant deaths policy

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Section name: Establishing and maintaining tenancies

Document name	Managing tenant deaths
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## 1 Purpose

- 1.1 To outline how Mission Australia Housing (MAH) will manage the tenancy when the death of a tenant occurs.
- 1.2 To assist MAH staff in dealing with the implications of a death in a property of MAH.

## 2 Related policies

- 2.1 This policy should be read in conjunction with the:
  - 2.1.1 [Succession of Tenancy Policy](#), which outlines requirements and processes for succession of tenancy.
  - 2.1.2 [Work, Health and Safety Policies](#), which outline measures staff should take to protect their health and safety.
  - 2.1.3 [Ending Tenancies Policy](#), which outlines the responsibilities of staff involved in managing and ending tenancies.
  - 2.1.4 [Serious Incidents Reporting Policy](#), which addresses how MAH identifies and reports critical incidents to the Registrar.

## 3 Scope

**3.1** This policy applies to staff responsible for managing tenants and properties of MAH.

## 4 Guiding principles

**4.1** MAH is committed to providing sensitive, discrete and timely services where a tenant or a household member has passed away. This includes providing support to family and neighbours of the deceased.

**4.2** MAH ensures tenancy records are up to date where possible so that in the event of the death of a tenant MAH can respond sensitively and quickly. This includes emergency contact details, bank account details, next of kin and the Executor of the will of the tenant.

**4.3** MAH fully complies with the jurisdictional requirements of operating states.

**4.4** MAH upholds accountability and transparency through its record keeping practices.

## 5 Policy

### 5.1 General requirements

5.1.1 When MAH is made aware that a tenant has passed away, staff will:

- Advise the National Operations Manager.
- Notify the appropriate authorities (e.g. police). Police will then notify **next of kin** and generally arrange for a Cause of Death Certificate to be issued by a doctor.
- If there is a will, identify the deceased tenant's **legal personal representative** (LPR) and liaise with them regarding continuation, succession, or termination of the tenancy agreement as well as the removal of goods from the property and management of tenant rent and bond accounts.

**Note:** Where no next of kin or legal representative is identified, refer to section [5.7](#).

- Determine whether there are co-tenants or additional approved household members living at the property. If yes, refer to sections [5.2](#) to [5.5](#).
- In the case of a sole tenant, refer to [5.6](#). Staff will visit the property to:
  - ensure that it is secure, in consultation with the Asset Manager
  - ensure that any pets are moved to temporary safe accommodation

- provide supervised access to the next of kin/family to the property to locate a Will
- remove any perishable goods at the property if safe to do so.
- Follow the [Work Health and Safety Policies](#) if the tenant has passed away in a MAH property.

## 5.2 Co-tenants

- 5.2.1 Where there are co-tenants of the deceased on the tenancy agreement, the remaining co-tenants in the property may continue the tenancy if they wish.
- 5.2.3 If the remaining tenants do not wish to continue the tenancy, the tenancy may be terminated according to the appropriate state-based tenancy legislation as per the [End Tenancies Policy](#).

## 5.3 Additional approved household members

- 5.3.1 Where there are additional approved household members living at the property, MAH will inform them of the [Succession of Tenancy Policy](#) and give them the opportunity to apply for succession.
- 5.3.2 If the additional household members do not wish to continue the tenancy, MAH will terminate the tenancy as per the [Ending Tenancies Policy](#).

## 5.4 Sole tenant

- 5.4.1 In the case of the death of a sole tenant where there is a Will, MAH will:
- Liaise with the Executor or Executrix of the estate with regard to the tenancy and belongings remaining in the property.
  - Adjust the rent balance to the date the tenant passed away. If there is a credit balance, the balance will be forwarded to the Executor of the estate (if known). If there is a debit balance, the debit will be cancelled and written off.
  - Allow up to two rent-free weeks for family or the Executor/Executrix to clear the property of belongings.
  - Set the date that the property will be returned to MAH. This is usually in two weeks. Time extensions can be requested through a Senior Manager. If the property is not returned to MAH by the set date, MAH may take action through the state-based civil authority to seek possession as per the [Ending Tenancies Policy](#).
  - Provide advice to family or the Executor/Executrix about:
    - Charities and agencies that may be able to take unwanted furniture, clothing, and household goods
    - Removalists and cleaning agencies
    - Arranging final readings for utilities

**Note:** family or next of kin usually arrange the funeral, however if there is no family or if family does not wish to arrange the funeral it becomes the responsibility of the Will's executor/executrix.

- 5.4.2 Where a sole tenant has passed away without a valid Will ('intestate'), or if MAH is unable to locate a Will, next of kin or legal personal representative, MAH will:
- Contact the Police who may be able to identify next of kin.
  - If there are no assets beyond small bank account balances, cars, personal goods, etc, contact Police who will complete a 'Deceased Destitute Person' form and a government contractor will organise the funeral.
  - If there are assets beyond small bank account balances, cars, personal goods, contact the state-based Public Trustee who will be responsible for administering the estate.
  - Arrange for the removal of goods from the property as per the [Abandoned Properties and Goods Policy](#).

## 6 Definitions

**Next of kin** is the closest living relative (by blood or marriage) of a deceased person.

**Legal personal representative or personal representative** is the person with the greatest legal right to administer a deceased person's estate. They may be either:

- The Executor or Executrix of the Will, responsible for administering the deceased person's estate and managing all the legal and financial issues that arise from a Will, or
- The Administrator where there is no Will. They may be the next of kin, or a state based trustee (i.e. the Public Trustee).