

POLICY

End of Tenancy

Purpose

The purpose of this policy is to set out Housing Trust's approach in relation to ending a tenancy.

Scope

This policy applies to all tenants of Housing Trust.

Policy

Housing Trust acknowledges that tenancies can end for a range of reasons either tenant initiated through notice or by way of an order of the NSW Civil and Administrative Tribunal (NCAT).

While NCAT action and eviction may be necessary in some circumstances, Housing Trust will always aim to support vulnerable tenants to sustain their tenancies. In ending a tenancy Housing Trust will:

- comply with the requirements of the Residential Tenancies Act 2010
- provide clear advice about what is expected of tenants to meet their responsibilities, regardless of how the tenancy ends
- advise tenants of their rights and responsibilities when a notice of termination is issued and when legal action is taken in the NSW Civil & Administrative Tribunal (NCAT)

Tenancy terminated by the Tenant

When a tenant wishes to end a residential tenancy agreement, they must provide Housing Trust with written notice in accordance with their Residential Tenancy Agreement.

When one tenant passes away in a co-tenancy arrangement (where more than one person is listed as a tenant on the tenancy agreement), on receipt of a copy of the death certificate, a new tenancy agreement will be prepared in the name of the remaining tenant/s and signed *Refer to Housing Trust Death of a Tenant Policy.*



When one tenant in a co-tenancy leaves the property permanently and the remaining tenant remains eligible the lease agreement and rental bond in both names will be amended to the name of the remaining tenant.

Where the tenancy agreement is in a single person's name (known as the head tenant) and there are additional approved occupants, in the event the head tenant passes away or leaves the property permanently an additional occupant may apply for succession of tenancy. *Refer to Housing Trust's Succession of Tenancy Policy.*

Should a tenant wish to end their tenancy in circumstances of domestic violence, a tenant is able to end their tenancy immediately and without penalty if they or their dependent children are at risk.

To end a tenancy in circumstances of domestic violence the tenant will be required to give:

- Housing Trust a domestic violence termination notice and attach one (1) of the following permitted forms of evidence:
 - Certificate of conviction for the domestic violence offence
 - Family law injunction
 - Provisional, interim or final Domestic Violence Order or;
 - A declaration made by a medical practitioner or by any of the other authorised parties in the prescribed form
- Each co-tenant in a shared tenancy a copy of the domestic violence termination notice (notice to vacate)

Any remaining co-tenant(s) will be able to apply to the NSW Civil and Administrative Tribunal (NCAT), should they wish to dispute the validity of a domestic violence termination notice. NCAT will only be able to examine whether the domestic violence termination notice was properly given under the tenancy laws. The contents of a declaration cannot be disputed in any tribunal proceedings if it is used as evidence.

More details regarding ending a tenancy under circumstances of domestic violence can be found in *Housing Trust's Identifying and Responding to Domestic and Family Violence Policy.*

Succession of a Tenancy

Succession of tenancy occurs when Housing Trust agrees to transfer a tenant's right to live in a Housing Trust property to another person.

Housing Trust will consider a succession of a tenancy in accordance with *Housing Trust's Succession of Tenancy Policy when:*

- The tenant dies.
- The tenant permanently leaves the property to:
 - live in a residential care facility (nursing home or other supported accommodation)
 - care for sick or frail family members
 - serve a sentence in custodial facility e.g. prison
 - fulfil cultural obligations.



- A final apprehended violence Order (AVO) is made prohibiting the tenant from accessing the property.
- Family breakdown / separation
- Other circumstances on a case-by-case basis

Tenancy ended by Housing Trust

A tenancy may be ended by Housing Trust in accordance with the Residential Tenancies Act 2010 for a range of reasons. Where Housing Trust ends a tenancy, Housing Trust will comply with the relevant notice procedures and time periods as outlined in the Residential Tenancies Act 2010 and will also provide support and assistance to the tenant.

Housing Trust may end a tenancy for several reasons which may include, but not be limited to:

- Breach of residential tenancy agreement - where a breach is serious, persistent and/or ongoing, involves serious property damage, and/or involves risk of violence to others including Housing Trust staff. Refer to the *Housing Trust's Antisocial Behaviour Policy*.
- Non-payment of rent, water or tenant damage maintenance
- Abandonment of the property. Refer to the *Housing Trust's Abandoned Premises and Uncollected Goods Policy*.
- Death of a tenant. Refer to the *Housing Trust's Death of a Tenant Policy*.
- Unauthorised use of the property
- End of a fixed term leasing arrangement
- Changes to tenant eligibility
- Program changes made by regulating or funding bodies
- If a property becomes uninhabitable or is destroyed

When Housing Trust appears at the NCAT as the landlord, the objective is to maintain the tenancy whenever an acceptable performance agreement can be reached with the tenant. However, Housing Trust may seek an order terminating a tenancy even when a tenant is willing to make an agreement if there are repeated un-remedied breaches by the tenant or if violence or property damage is an expected outcome of continuing the tenancy.

End of Tenancy under Section 85 of the Residential Tenancies Act 2010

Housing Trust will only issue a ninety (90) day no grounds notice of termination under Section 85 of the Residential Tenancies Act 2010 when Housing Trust has received a Section 85 notice of termination from a landlord.



Possession of Premises

Where a tenancy is ended, the tenant is required to provide vacant possession:

- on the date specified in the notice of termination
- or as otherwise mutually agreed
- or as determined by orders in the NCAT

Tenants may authorise another person to return keys to Housing Trust where they have issued formal written notice to vacate to Housing Trust or have signed a relinquishment form. Where keys are returned by an unknown person and no formal notice to vacate has been received Housing Trust will not end the tenancy and will commence an investigation into whether the property has been abandoned.

In the event where a tenant has passed away, keys will be accepted by any party however the tenancy will not be formally ended unless the authorised representative of the estate signs the relinquishment form, or the tenancy has been ended through the NCAT. *Refer to Housing Trust Death of a Tenant Policy.*

Where a tenant has not provided vacant possession as determined by NCAT, Housing Trust will seek the services of the Sheriff's Office to execute the warrant and gain access to the property to take vacant possession.

Abandoned Premises

Where a property has been deemed to have been abandoned, Housing Trust will commence action to take possession of the property. Housing Trust will seek termination and possession at the NCAT. When terminating the tenancy, Housing Trust will apply the required notice period in accordance with the residential tenancy agreement from the date the property is confirmed to have been abandoned.

Tenants' responsibilities at end of Tenancy

Tenants have certain rental rights and responsibilities when moving out of a property. This includes: -

- removing all your belongings from the property,
- leaving the property in a similar condition as when you moved in,
- repairing, or the cost of repairing, any damage not considered to be fair wear and tear,
- returning all keys and/or access devices to Housing Trust office,
- completing the Relinquishment of Tenancy form,
- ensuring all rent and other charges are paid up to date.

Housing Trust responsibilities at end of Tenancy

When a tenancy is ended, Housing Trust will:

- give the tenant reasonable opportunity to undertake any cleaning, minor repairs,



garden maintenance etc. that they will otherwise be charged for if not done

- if a tenant requests access to the premises after the tenancy has been relinquished, Housing Trust may allow up to 24 hours for the tenant to collect the keys, attend the premises and return the keys.
 - Housing Trust will not consider allowing access to a property where the tenancy has been terminated on grounds of a serious breach including but not limited to serious property damage, and/or involves risk of violence to others including Housing Trust staff.
- charge rent or an occupation fee up until the date that vacant possession is provided
 - compare the current condition of the property against the entry condition report, and charge the tenant for costs associated with reasonable cleaning and tenant damage to the property (minus wear and tear) in line with the Australian Tax Office (ATO) depreciation schedule where applicable
 - claim the tenant's bond to cover any property-related expenses or related debts
 - apply to NCAT to register any tenant debts \$1000.00 or above outstanding above the bond amount
 - advise ex-tenants that an unpaid debt with a public or community housing provider may prevent their future access to social housing

Housing Trust will provide tenants with every opportunity to attend the final inspection of the property once it is empty. This inspection includes reviewing the condition of the property against the entry condition report that was completed at the commencement of the tenancy.

If the tenant declines the opportunity to rectify the cleaning, gardening or repairs, then Housing Trust will engage a contractor(s) to carry out the works required, and the costs will be charged to the tenant. Housing Trust will claim back the costs via their bond or if the debt is larger than the bond amount then NCAT orders will be applied for.

A copy of the completed condition report detailing the condition of the property at end of tenancy along with copies of any estimates, quotes, invoices or receipts for work will be provided to the tenant within 7 days of a claim being made against the rental bond.

Goods left in the Premises

Housing Trust will dispose of goods left in premises in accordance with the Uncollected Goods Act. *Refer to Housing Trust's Abandoned Premises and Uncollected Goods Policy.*

Categorising Former Tenants

Housing Trust is a Housing Pathways Provider and will follow Department of Communities and Justice (DCJ) Ending a tenancy – Categorising a tenancy or occupancy Policy. This can be found on DCJ's website: www.facs.nsw.gov.au/housing/policies/tenancy-policy-supplement



Right of Appeal

If a tenant believes Housing Trust has made the wrong decision in relation to the end of tenancy categorisation, a formal review of the decision should be requested. **This is the only circumstance that can be appealed under this policy.** Refer below for further information relating avenues for end of tenancy disputes.

To lodge an appeal relating to the end of tenancy categorisation, the tenant is required to complete a Housing Trust Appeals Form stating why they disagree with the decision. *Housing Trust's Appeals Policy* and form is available by contacting the Housing Trust office or alternatively, may be downloaded from our website: www.housingtrust.org.au If the appellant is not satisfied with the outcome of the internal appeal, they can make an appeal to the Independent Housing Appeals Committee (HAC). HAC is an independent appeals agency for all NSW Social Housing clients.

Housing Trust will advise the appellant on how to lodge an appeal with HAC. Alternatively, HAC may be contacted directly by visiting www.hac.nsw.gov.au or by calling 1800 629 794.

Avenues for End of Tenancy Disputes

Housing Trust encourages all tenants to discuss any concerns relating to their end of tenancy directly with their Tenancy Manager.

Where an agreement for any disputes cannot be reached this does not deny the tenant the opportunity to take other courses of action. This may include: -

1. Making an application to the NSW Civil and Administrative Tribunal (NCAT). NCAT is an independent body and the main forum for resolving tenancy disputes. Refer to <https://ncat.nsw.gov.au/> or contact NCAT on 1300 006 228
2. Seek free tenancy and legal advice through Tenants Advice and Advocacy Services (TAAS). Go to www.tenants.org.au to find a service near you or call Law Access on 1300 888 529 for an appropriate referral.



Reference or Related Documents

Internal

Policy:

1. Abandoned Premises and Uncollected Goods Policy
2. Antisocial Behaviour Policy
3. Death of a Tenant Policy
4. Succession of Tenancy Policy
5. Appeals Policy
6. Identifying and Responding to Domestic and Family Violence
7. Use of Premises Policy

Procedure:

1. Uncollected Goods Procedure
2. Antisocial Behaviour Procedure
3. Identifying and Responding to Domestic and Family Violence Procedure

Form:

1. 107026 Notice of Termination
2. 106001 Review of Decision and 1st Tier Appeal
3. 107031 Tenant Relinquishment of Property Form
4. 107037 Tenant Gives Notice to Vacate
5. 108022 End of Tenancy (EOT) Checklist

Work Instructions:

1. End of Tenancy NCAT Process
2. Ending a Tenancy in GT
3. End of Tenancy Categorisation Checklist

External

1. Residential Tenancies Act 2010
2. Residential Tenancies Regulation 2019
3. Uncollected Goods Act 1995
4. Rental Bond Board Change of Shared Tenancy Agreement
5. www.facs.nsw.gov.au/housing/policies/tenancy-policy-supplement



Policy Version Control

Version	Details of Improvements	Release Date	Approval/Release Details
V 1.0	Original Policy # TM15	10.11.2014	Approved for release by Manager Operations
V 2.0	Reviewed	07.09.2017	Approved for release by GM:C&C
V 3.0	Reviewed and updated to include how Housing Trust will use Section 85 - no cause eviction of the current Residential Tenancies Act 2010 No 42 dated 01.07.18 with no change to policy intent	22.08.2018	Approved for release by Amanda Winks Chief Housing Officer
V 4.0	Reviewed and updated to include reference to the Uncollected Goods Act and Categorising Former Tenants. The policy was not reviewed by the Tenant Advisory Group (TAG) as there has been no change to policy intent	04.05.2022	Approved for release by Amanda Winks Chief Operations Officer
V5.0	Policy reviewed and updated to reflect current business practices. Includes new sections around Abandoned Premises, Tenants Responsibilities at end of tenancy and clear guidelines around HT accepting keys. Also includes addition of Other Avenues for End of Tenancy disputes as these do not fall under HT Appeals Policy. Related documents updated.	13.02.2025	Approved for release by Nikayla Beer-Herring Chief Operations Officer



Do you need an Interpreter or a Translator?

If you need help to understand this letter, please contact Telephone Interpreters on 131 450 and ask them to call Housing Trust on 4254 1166 at no cost.

Trebate li tumača ili prevoditelja?

Ako vam je potrebna pomoć da biste mogli razumjeti ovo pismo, kontaktirajte telefonske tumače na broj 131 450 i zamolite ih da nazovu Stambeno povjerenstvo (Housing Trust) na broj 4254 1166, bez ikakvih troškova.

Да ли вам треба тумач или преводалац?

Ако вам треба помоћ да разумете ово писмо, молимо вас јавите се на 131 450 за телефонског преводиоца и затражите да бесплатно назову Housing Trust на 4254 1166.

¿Necesita un intérprete o un traductor?

Si necesita ayuda para entender esta carta, comuníquese con los intérpretes telefónicos en el 131 450 y solicite que llamen a Housing Trust al 4254 1166 sin costo alguno.

Bir Sözlü veya Yazılı Tercümana mı ihtiyacınız var?

Bu mektubu anlamak için yardıma ihtiyacınız varsa, lütfen 131 450 numaralı telefondan Telefonda Tercüman servisi ile iletişime geçin ve 4254 1166 numaralı telefondan Housing Trust'ı ücretsiz olarak aramalarını isteyin.

هل تحتاج إلى مترجم شفوي أو مترجم خطي؟

إذا كنت بحاجة إلى مساعدة لفهم هذه الرسالة، فيرجى الاتصال بخدمة الترجمة الشفوية على الرقم 131450 واطلب منهم الاتصال بصندوق الإسكان Housing Trust على الرقم 42541166 دون أي تكلفة.

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