

ENDING A TENANCY POLICY

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1 Purpose and Objective

This policy explains how a tenant or Housing Plus can end a tenancy.

2 Scope

- a. This policy applies to all Housing Plus' and its subsidiaries' employees, management and other stakeholders including volunteers.
- b. This policy applies to all Housing Plus tenants and applicants.
- c. This policy describes the organisation's objectives and policies regarding the end of tenancy process.

3 References

3.1 Legislation

- NSW Housing Act 2001
- NSW Residential Tenancies Act 2010
- NSW Uncollected Goods Act 1995
- Victims Rights and Support Act 2013

3.2 Policies

- NSW Community Housing Access Policy
- Housing Plus Succession of Tenancy Policy
- Housing Plus Eligibility Policy
- Housing Plus Feedback, Appeals and Complaints Policy
- Housing Plus Transfer Policy
- Housing Plus Former Tenancy Policy

4 Definitions

Term: Company

Definition: Housing Plus, ABN 83 147 459 461, and all of its related and associated entities

Term: Employee

Definition: An individual who is directly engaged and paid by the Company as an Employee

Term: Manager

Definition: An Employee who has direct reports (includes Executive, Senior Management and Team Leaders). In situations involving volunteers, 'Manager' refers to the Volunteer Supervisor

Term: Executive

Definition: A member of the Executive team

Term: Volunteer or Other Stakeholders

Definition: Collectively refers to any individual(s) who is not an Employee but who carries out work (whether paid or unpaid) for the Company, including (but not limited to) work as a volunteer, contractor, secondee, consultant or subcontractor, labour hire company, an apprentice or trainee, and a student gaining work experience.

Term: Work Environment

Definition: Includes but is not limited to:

- During and outside normal working hours.
- All functions, events and places which are work related (e.g. Including working from home under the flexible work policy, work lunches, conferences, Christmas parties and client functions).
- During the recruitment process; any environment which has sufficient connection to employment; decisions about promotions and other career opportunities, or in the termination of employment.
- In the course of providing goods and services.

Term: Social housing

Definition: Properties made available to customers on low to moderate incomes and managed by Community Housing Providers or Homes NSW. Rent subsidies are available to customers to reduce their weekly rent payments.

Term: Transitional housing

Definition: Short term housing that is offered under a fixed term lease, generally delivered in partnership with support providers.

Term: Tenancy agreement

Definition: The *Residential Tenancies Act 2010* (NSW) ("RTA 2010") defines a residential tenancy agreement as 'an agreement under which a person grants to another person for value a right of occupation of residential premises for the purpose of use as a residence' (section 13(1)).

Term: Leasehold

Definition: A property that Housing Plus leases from a landlord.

Term: Competent person

Definition: A registered health practitioner within the meaning of the *Health Practitioner Regulation National Law (NSW)*, but only if the health practitioner is registered under Division 1 or 2 of Part 7 of that Law:

- A person registered as a social worker with the Australian Association of Social Workers.
- An employee of a government agency that provides services relating to child welfare.
- An employee of a non-government agency in receipt of government funding to provide services relating to:
 - Domestic violence or sexual assault.
 - Refuge or emergency accommodation.
 - A person approved by the commissioner of victims rights under the *Victims Rights and Support Act 2013* to provide approved counselling services for the purposes of that act.
 - A person prescribed by the regulations.

5 Responsibilities

5.1 Executive

- a. Ensure adequate resources are provided to implement and support this policy.
- b. Manage the implementation of and adherence to this policy.
- c. Model appropriate standards of behaviour.

5.2 Management

- a. Ensure that all Employees and Other Stakeholders are aware this policy and understand their obligations.
- b. Ensure effective implementation of and adherence to this policy.
- c. Model appropriate standards of behaviour.

5.3 Employees, Volunteers and other Stakeholders

- a. Understand and comply with this policy.
- b. Model appropriate standards of behaviour.

6 Policy

A tenancy agreement is a legally binding contract that can only be ended in certain ways. This policy outlines reasons and notice periods for ending tenancies, as well as rights and obligations under the *NSW Residential Tenancies Act 2010* when a tenancy ends. This includes when a tenant ends their tenancy or when Housing Plus ends a tenancy.

Housing Plus is committed to support tenants to sustain their tenancy. Our *Sustaining Tenancies Policy* outlines how Housing Plus will identify and respond to support our tenants and/or their household members to meet their tenancy obligations.

Table 1 – End Of Tenancy Reasons and Minimum Notice Periods

End of tenancy reason	Minimum notice – tenant	Minimum notice – Housing Plus	Fixed term/periodic agreement
End of fixed term tenancy agreement	14 days	30 days	Fixed only
End of continuous or periodic tenancy agreement	21 days	90 days	Periodic only
Moving into social housing or continuous care	14 days	Not applicable	Either
Before the end of the fixed term	21 days	30 days	Fixed term only
End of fixed term – Transitional housing	7 days	21 days	Fixed term only
Domestic violence	None	Not applicable	Either
Breach of agreement	14 days	14 days	Either
Death of a sole tenant	None	None	Either
Tenant or other occupant using the property illegally*	Not applicable	None*	Either
Non-payment of rent or water usage charges	Not applicable	14 days	Either
Tenant or other occupant threatens, abuses, intimidates or harasses*	Not applicable	None*	Either
Property destroyed, uninhabitable, unusable	None	None	Either
Tenant not living at property	None	14 days	Either

*No notice required but Housing Plus must apply to the NSW Civil and Administrative Tribunal (NCAT)

6.1 Tenant initiated end of tenancy

Tenants can end their tenancy agreement with Housing Plus by giving a written notice to vacate. The written notice must specify the date the tenancy will end. Housing Plus requires the notice period as set out in Table 1. Rent will be payable until the notice period is reached. If vacant possession of the property has not been given on or before the end of the notice period, rent will be payable until the property is handed back to Housing Plus.

6.1.1 Circumstances of domestic violence

A notice period is not required where the tenant or their dependent child is in circumstances of domestic violence. A tenant can end their tenancy immediately by providing Housing Plus with written notice and vacating the property. A tenant or their dependent child is in circumstances of domestic violence if they:

- Were the victim of domestic violence offence during the tenancy
- Are protected by an in-force provisional, interim or final Domestic Violence Order (DVO)
- Are protected against family violence by an in-force family law injunction
- Have been declared by a competent person to be a victim of domestic violence perpetrated by the relevant domestic violence offender during the current tenancy.

Housing Plus may require tenants to provide evidence of domestic violence. This can include a certificate of conviction for the domestic violence offence, family law injunction, provisional, interim or final DVO, family law injunction, or a declaration made by a medical practitioner in the prescribed form. A domestic violence termination notice does not need to be given in person. The *Domestic and Family Violence Policy* provides more information on Housing Plus's response to domestic and family violence.

6.2 Housing Plus initiated end of tenancy

Housing Plus will give tenants a notice to vacate in writing as required by the Residential Tenancies Act 2010. Housing Plus will issue a Notice to Terminate Tenancy Agreement (Notice to Terminate) to recover a property in line with the notice periods in Table 1. If the tenant does not move out, Housing Plus will seek an Order for Termination and Possession from NSW Civil and Administrative Tribunal (NCAT).

Housing Plus will advise tenants of their rights and responsibilities when a Notice to Terminate is issued and when legal action is taken at NSW Civil and Administrative Tribunal (NCAT) that may result in their tenancy being terminated. This includes referring to tenant's advice and advocacy services, interpreters and other relevant support services.

In the event of eviction, or if the property is declared uninhabitable, Housing Plus will charge the tenant rent up to the end of the last day the tenant had possession of the property.

6.2.1 End of fixed term

Housing Plus will only issue a Notice to Terminate at the end of a fixed term lease in the following circumstances:

- A former community housing tenant has been offered a fixed term lease and has not demonstrated that they can successfully maintain a tenancy
- A tenant is living in a property leased by Housing Plus and the landlord has given notice to end the tenancy
- A tenant is living in transitional housing.

Housing Plus will communicate with the tenant at the beginning of the tenancy agreement if these conditions apply to their tenancy agreement.

6.2.2 Breach of tenancy agreement

Where a tenant has breached a term of their tenancy agreement, they will be advised in writing and given every opportunity and all possible support and assistance to rectify the breach.

Where there is a serious breach and the tenant does not rectify the breach, Housing Plus will issue a **fourteen (14) day** notice of termination under Section 87 of the *NSW Residential Tenancies Act 2010* for termination of the agreement and possession of the premises. This action will involve an application for a hearing at NSW Civil and Administrative Tribunal (NCAT) following due legal process in accordance with the *NSW Residential Tenancies Act 2010*.

6.2.3 Termination of periodic agreement - no grounds

Housing Plus does not generally terminate tenancy agreements under Section 85 of the *Residential Tenancies Act 2010* (no grounds termination). This section of Act does not require a reason for the termination and does not give the tenant recourse to NSW Civil and Administrative Tribunal (NCAT).

There are however, limited circumstances where Housing Plus may issue a no grounds termination notice. These reasons include:

- Housing Plus leases the property and have received a no grounds termination notice from the owner of the property (see Section 3.2.4)
- Housing Plus leases the property and the market rent is no longer financially sustainable
- Where a property does not meet the *Community Housing Standards* and requires major rectification
- If the tenant no longer meets the eligibility guidelines for a specific housing program (except where tenancies can be ended under the social housing eligibility clause under section 143 of the Act).

If a tenancy is terminated due to the property being sold or redeveloped, or where Housing Plus has received a termination of a head lease by the landlord, Housing Plus undertakes to source and offer appropriate, alternative social housing in accordance with our *Eligibility Policy*.

6.2.4 End of head lease agreement (leasehold properties)

Housing Plus leases properties from the private rental market (leasehold properties). Where a tenant lives in a leasehold property, Housing Plus will advise them at the start of the tenancy that the tenancy may be terminated by the landlord. Housing Plus will provide clear information in writing, and verbally, of the housing options available to the tenant if the tenancy ends.

Housing Plus will meet our responsibilities under a head tenancy agreement by ending the tenancy with our tenant in accordance with the notice period given to us by the head landlord, if this notice is legal.

Tenants will be issued a notice to terminate by Housing Plus if the head lease agreement is terminated by the landlord. Housing Plus may make two (2) reasonable offers of appropriate alternative social housing if their tenancy in a leasehold property ends. If these offers are refused, Housing Plus will take action to end the tenancy. Please refer to the *Eligibility Policy* for entitlements.

6.2.5 Transitional housing

Transitional housing provides short to medium term housing and support for people who are homeless or at risk of homelessness and have an urgent need for housing. Housing Plus will always include a **thirty (30) days'** Notice to Terminate (at the end the fixed term) with the lease pack at the commencement of the tenancy agreement.

If a Notice to Terminate is not given before the end of the fixed term, Housing Plus may end the tenancy agreement under *Section 143* of the *NSW Residential Tenancies Act 2010*.

If the Service Provider with nomination rights advises Housing Plus to end the tenancy, and the tenant does not vacate, possession will be sought at NSW Civil and Administrative Tribunal (NCAT).

When a transitional tenancy ends and the tenant has been unable to secure appropriate housing, or it is not appropriate for the tenant to move at that time, the term may be extended by a further fixed term with advice from the Service Provider.

6.2.6 Death of a sole tenant

To confirm the death of a sole tenant, Housing Plus requires proof of death. This could include a funeral notice, hospital notice or death notice.

Where a sole tenant has died and there are no other approved household members, Housing Plus will liaise with the tenant's legal representative to manage removal of contents of the house and to end the tenancy in accordance with the *NSW Residential Tenancies Act 2010*. Housing Plus will provide confirmation that the tenancy has ended to the legal representative. Access to the property will only be provided to the executor of the estate.

If the property is not returned to Housing Plus within **twenty one (21) days**, an application will be made to NSW Civil and Administrative Tribunal (NCAT) to end the tenancy.

Where Housing Plus determines the deceased tenant did not have a valid will and there is no executor, the following action will be taken:

- Liaise with the NSW Police to ascertain if the tenant has any next of kin
- Advise the Public Trustee, who will manage the tenant's affairs in relation to wills, probate and administration of the deceased estate.

In circumstances where the tenant has no family or next of kin, Housing Plus will issue a Notice to Terminate.

Where there are approved additional occupants of the household, Housing Plus will advise the household member that they can apply for succession of tenancy, please refer to our *Succession of Tenancy Policy*. The household member must have been an approved occupant over 18 years of age and be eligible for social housing. Should the other household member be successful in their application for succession, they still may be required to relocate to another property depending on their household/bedroom requirements as outlined in our *Allocations Policy*. Additional household members are not automatically entitled to succession of tenancy if the head tenant passes.

6.2.7 Abandonment

Housing Plus will consider a property abandoned when a tenant is not living there. Indicators that a property has been abandoned may include, but is not limited to:

- Neighbours have advised Housing Plus that no one is living at the property
- The tenant not maintaining the property
- The tenant is not paying rent
- There is uncollected mail at the property
- Goods have been removed, for example the fridge and washing machine.

Housing Plus will inspect the property and make enquiries to find out if the tenant has abandoned the property. If it is determined that the tenant has abandoned the property, Housing Plus will seek possession of the property under Section 106 of the *NSW Residential Tenancies Act 2010*. Housing Plus has the right to seek compensation at NSW Civil and Administrative Tribunal (NCAT) for loss of rental income and property damage.

6.2.8 Management initiated transfer

See *Management Transfer Policy*.

6.2.9 Continued eligibility

Housing Plus may give a Notice to Terminate under *Section 143* of the *NSW Residential Tenancies Act 2010* if a tenant is no longer eligible for the housing product they are living in.

Housing Plus will work closely with tenants to ensure appropriate notice is given and provide support to exit into other forms of housing that meets their needs. Refer to the *Rent Management Policy* and *Affordable Housing Policy*.

6.3 Moving out

6.3.1 Inspecting the property

At the end of a tenancy, the tenant is responsible for leaving the property as near as possible to the same condition as when they moved in.

Housing Plus will complete an inspection of the property at the end of the tenancy. Housing Plus will advise the tenant when this is happening so that they can be present for the inspection if they choose.

The tenant will be provided two days to rectify any recommended works. The tenant must pay the costs to bring the property back to a similar standard to when the tenancy commenced in line with the ingoing condition report, while taking into consideration fair wear and tear.

6.3.2 Goods left behind

Tenants are responsible for removing their belongings from the property at the end of the tenancy. Any goods remaining in the property after the property has been returned to Housing Plus, or if the property has been abandoned, will be dealt with in accordance with the *Uncollected Goods Act 1995*.

6.3.3 Outstanding charges

When a tenant vacates a property for any reason, they will be required to pay any outstanding charges on their tenancy accounts. If the tenant vacates without giving sufficient notice, Housing Plus will charge rent and water usage for the full notice period.

If the property is not returned to Housing Plus at the end of the notice period, Housing Plus will charge rent and water usage up to the date the tenant returns the keys or advises Housing Plus that they have vacated and are not able to return the keys.

If a tenant abandons the property, Housing Plus will charge rent and water usage up to the date that Housing Plus obtains vacant possession of the property.

6.3.4 Centrepay payments

Where a tenant is paying rent through Centrepay, Housing Plus will cancel the Centrepay payments within two days of vacant possession of a property. Tenants can also cancel their Centrepay payment.

6.3.5 Bond refund or claim

Tenants must pay the rent, and water charges up to and including the day their termination notice period ends and the property is returned to Housing Plus.

If a tenant does not owe Housing Plus money at the end of their tenancy and there is no damage to the property, the bond paid during the tenancy will be refunded in full.

Housing Plus will make a claim against the bond in the following circumstances:

- Unpaid rent and/or water charge.
- The reasonable cost of repairing damage to the property that is beyond fair wear and tear.
- The reasonable cost of cleaning any part of the property not left reasonably clean, compared to the condition of the property at the start of the tenancy.
- The reasonable cost of having the locks changed, or other devices replaced (for example, a remote control), if the tenant doesn't return all keys and devices they were provided at the commencement or during the tenancy.

6.3.6 Former Tenancy Categorisation

Housing Plus will assess and categorise the tenancy within **six (6) months** of the end of the tenancy, in accordance with the Housing Plus Former Tenancy Policy. The tenant will be notified by letter posted to their last known address, and/or email address, of their former tenancy category and any conditions they must meet before they are eligible for the Housing Pathways waitlist in the future.

7 Appeals and Reviews of Decisions

Decisions made under this policy can be reviewed or appealed. For more information, refer to the *Customer Feedback, Appeals and Complaints Policy*.

8 Document Control

8.1 Document History

Action	Responsible Person	Date
Created draft	Lena Jenson Chris Maybin Harmony Meath Therese Short Tracy Hurst	May 2024
Reviewed by	Liz Stamatelos	February 2025
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