

Ending a Tenancy Policy

1. Purpose

This Policy explains how a tenant or the Women's Housing Company (WHC) can end a tenancy.

2. Scope

This policy applies to:

- All tenants who live in a transitional, social and affordable housing property owned or managed by WHC. It does not apply to women staying in WHC crisis accommodation.
- WHC employees, management and other stakeholders.

3. Policy statement

This policy explains how tenants and WHC can end a tenancy, the reasons allowed, and the notice periods required. WHC and tenants have rights and responsibilities under the NSW Residential Tenancies Act 2010 and its Regulations. WHC or the tenant will give notice to end the tenancy if:

- The property has been or will be sold
- There is breach of Residential Tenancy Agreement
- The tenant chooses to vacate.
- If the tenant is no longer eligible for affordable or transitional housing

4. Definitions

For the purposes of this policy and related policy documents, the following definitions apply:

- a) **must or shall or will** designates a mandatory requirement or action
- b) **may** is an acceptable action or requirement but not mandatory
- c) **Social housing** is a subsidised housing for eligible people on low or very low incomes, as defined by HOMES NSW requirements.
- d) **Affordable housing** is housing provided for tenants with very low, low, or moderate incomes, and in New South Wales, is managed according to the NSW Affordable Housing Ministerial Guidelines.
- e) **transitional housing** is short-term housing linked to support for people who are homeless or at risk of homelessness.
- f) **tenancy agreement or lease** is the residential tenancy agreement
- g) **Rent** describes the amount that is payable by the tenant.

- h) **pathways** means **housing pathways** which is the system for applying for social housing in NSW. Applicants fill out a single application form for assistance from either Department of Communities and Justice (DCJ) or participating community housing providers such as the WHC. Housing Pathways also maintains a single register of eligible applicants for social housing in NSW.
- i) **social housing** is subsidised rental accommodation for people on very low or low incomes who meet the eligibility requirements. Eligibility requirements for all social housing tenants are as set out under Housing Pathways.
- j) **transitional housing** is short-term accommodation with access to support services for people who are homeless or at risk of homelessness.
- k) **tenancy agreement** or **rental lease** or **lease** is the written agreement between the WHC and the tenant with all terms and conditions of the tenancy.
- l) **periodic agreement** or **continuous lease** means a tenancy agreement where there is no fixed date of termination, ie the tenant is able to remain in the property indefinitely, unless the WHC has grounds for termination.
- m) **subsidised rent** is the term in WHC rent statements that describes the rent that is payable by the tenant. In this document “rent” is used to mean “subsidised rent”.
- n) **head leased property** refers to a property where WHC has rented it from the owner, usually from the private market, and then leases the property to the tenant. Bonds and rents are payable by the tenant to the WHC.
- o) **tribunal** means the NSW Civil and Administrative Tribunal (NCAT), is the independent body which deals with disputes between landlords and tenants.
- p) **specific performance order (SPO)** is an order made by NCAT

5. Policy details

The Residential Tenancies Act 2010 (RTA) and the Residential Tenancies Amendment Regulation 2025 set the rules for ending tenancies and explain the rights and responsibilities of tenants and the WHC. Further information can be found on the NSW Fair Trading website about ending lease agreements.

A tenancy can end in two main ways, when the tenant chooses to leave or when WHC ends the tenancy.

The WHC is committed to supporting tenants to sustain their tenancy. Further information can be found in WHC's Keeping a Tenancy Policy.

There are different reasons why a tenancy might end and minimum notice periods that need to be applied. The most common ones are listed below:

Table 1 – End of tenancy reasons and minimum notice by tenant and WHC

Ground for Ending the Tenancy	Landlord: Fixed Term ≤ 6 months	Landlord Fixed Term > 6 months	Landlord Periodic Agreement	Tenant: Fixed Term	Tenant: Periodic
Proposed sale of property	60 days	90 days	90 days	N/A	N/A
Significant renovations or repairs	60 days	90 days	90 days	N/A	N/A
Change of use for the property	60 days	90 days	90 days	N/A	N/A
Affordable housing scheme	60 days	90 days	90 days	N/A	N/A
Transitional housing program	60 days	90 days	90 days	N/A	N/A
Breach of agreement	14 days*	14 days*	14 days	14 days ¹	14 days
Non-payment of rent, water usage charges or utility charges	14 days*	14 days*	14 days*	N/A	N/A
Social housing – tenant is no longer eligible	60 days	60 days	60 days	N/A	N/A
Social housing – alternative premises refused	30 days	30 days	30 days	N/A	N/A
Social housing – acceptable behaviour agreement breached or refused	14 days*	14 days*	14 days	N/A	N/A

Death of a sole tenant	Immediate*	Immediate*	Immediate*	Immediate ¹ (by legal representative)	Immediate by legal representative)
Property is unusable	Immediate*	Immediate*	Immediate*	Immediate ¹	Immediate
End of periodic agreement	N/A	N/A	N/A	N/A	21 days
Death of a co-tenant	N/A	N/A	N/A	21 days ¹	21 days
End of a fixed term agreement	N/A	N/A	N/A	14 days	N/A
Domestic violence termination	N/A	N/A	N/A	Immediate ¹	Immediate

* WHC must apply to the NCAT. Landlords cannot end a fixed term agreement early, except in special cases. These special cases are marked with an asterisk (*) and can have a termination date before the end of a fixed term.

¹ Tenants cannot end a fixed term agreement early, except in special cases. These special cases are marked with a (1) and can have a termination date before the end of a fixed term

5.1 Tenant's Notice to end their tenancy

All tenants must give WHC **written notice** if they plan to move out, consistent with the notice period as outlined in Table 1 above.

A shorter notice period may apply if:

- The tenant is moving to another social housing property (including with a different social housing provider)
- The tenant needs to move because of domestic or family violence, or a similar situation that puts them at risk
- The tenant needs to move into a care facility

Tenants must keep paying rent until the notice period ends. If the tenant moves out and returns the keys early, and a new tenant moves in during the notice period, the departing tenant will get a refund for any rent paid after the new lease starts.

WHC will do a final property inspection within two business days after vacant possession. The former tenant is welcome to attend this inspection.

5.2 Domestic and Family Violence

If a tenant or their child is experiencing domestic and family violence, they can end their tenancy immediately without giving notice.

A tenant or their child is considered in circumstances of domestic violence if they:

- Were a victim of domestic and family violence during the tenancy
- Are protected by a current Apprehended Domestic Violence Order (ADVO) – provisional, interim, or final
- Are protected by a family law injunction
- Have a declaration from a competent person confirming they are a victim of domestic violence during as per Residential Tenancies Regulation 2019 - Schedule 3 Declaration by competent person (clause 23)

<https://www.nsw.gov.au/sites/default/files/noindex/2024-01/declaration-by-competent-person-for-tenant.pdf>

5.3 WHC Notice of Terminations

The WHC will issue a Notice of Termination the tenancy agreement in writing consistent with the Residential Tenancies Act 2010 and the notice periods in Table 1. The WHC can end a tenancy for any of these reasons:

- The lease for a head-leased property has finished
- The tenant has broken the terms of the Residential Tenancy Agreement
- The tenant is no longer eligible for the housing program they are in
- The tenant has passed away
- The tenant has moved to another residential facility for more than 12 weeks
- The tenant has been in prison for more than six months
- The tenant has abandoned the property
- The tenant has refused an alternative social housing offer and needs to leave the current premises for WHC management purposes.

5.3.1 Ending a head-leased property tenancy

Generally, noting this can differ based on the reason, the landlord gives WHC:

- 60 days' notice for leases of 6 months or less
- 90 days' notice for leases longer than 6 months

There may be circumstances where WHC may issue a termination notice to a tenant including:

- The rent for the property exceeds market rent and is not financially sustainable for WHC

- Where the property does not adhere to the required Community Housing Leasing Program Standards (Social Housing)

The WHC will rehouse tenants in another social housing property before the notice runs out.

5.3.2 Termination due to breach of the RTA

WHC will only seek to end a tenancy as a last resort when a tenant has breached their agreement. Where a serious breach occurs and the tenant fails to remedy the issue, WHC will provide 14 days' written notice. If serious breaches continue, WHC may apply to NCAT for termination of the lease. Examples of serious breaches include:

- Ongoing nuisance or behaviour that affects neighbours, WHC staff, contractors, or partner organisations
- Continues non-payment of rent, water or rechargeable repairs charges
- Unauthorised occupants residing at the property
- Sub-letting the property
- Illegal activities in or on the property

What happens if a breach occurs:

1. WHC will try to work with the tenant to fix the problem and give time to do so.
2. If the issue is not fixed, WHC will issue a notice of termination with a date to vacate. If the tenant fixes the problem before that date, the notice is withdrawn.
3. If the problem continues, WHC may apply to NCAT for a Specific Performance order or a Termination and Possession order. NCAT will issue an order which will order the tenant and/or WHC to comply with. This may include a possession order with a set date the tenant must leave the property.
4. If the tenant does not leave by that date, WHC can request a warrant for possession. A Sheriff may enforce this, and locks will be changed.

Special situations:

- If anti-social behaviour is linked to mental health issues, WHC will refer the tenant to support services to assist the tenant to maintain housing. If behaviour becomes criminal or threatens safety, WHC may still seek termination.
- If WHC suspects sub-letting, rent subsidy will stop and market rent will apply until the investigation ends. If proven, WHC will seek termination. If not proven, the rent subsidy will be reinstated and any extra rent paid will be refunded.
- If WHC suspects unauthorised occupants, an investigation will be done. If confirmed, rent subsidy will be cancelled for the period they stayed.

- If WHC suspects illegal activity, the matter will be referred to Police and WHC may seek immediate termination through NCAT.

5.3.3 Termination due to program eligibility

WHC Affordable and Transitional Housing programs have specific eligibility rules. If a tenant no longer meets these rules or reaches the end of the program, WHC can end the lease under Section 143 of the NSW Residential Tenancies Act 2010 and a notice of termination will be provided to the tenant.

Transitional housing is fixed term, provided through a partnership with a support agency. Termination at end of lease applies to tenants in the transitional housing programs. The support provider will work ongoing with the tenant find long-term housing.

5.3.4 Termination After Refusing an Alternative Housing Offer

In the event that the WHC requires the social housing property back for management purposes, including but not limited to property sale, property redevelopment, major repair works or addressing under occupancy, the WHC will work with the tenant to relocate them to a suitable alternative property.

If a tenant does not accept an alternative offer of housing, the WHC may terminate their tenancy through NCAT under section 148 of the Residential Tenancies Act 2010. In such an event, the WHC will follow the legislated timeframes.

An offer is reasonable if it meets the tenant's known housing and location needs and allows continued access to services. Personal preferences, such as not liking the suburb, neighbourhood, or property appearance, are **not valid reasons** for refusal.

5.3.5 Termination for affordable housing where the tenant's income is too high or too low

If a tenant exceeds the income limit for an affordable housing property, they will be required to vacate the premises. Tenants may be granted a transition period of up to 12 months before relocation is required.

If a tenant's household income falls below the eligibility threshold for an affordable housing property, WHC will consult with the tenant to discuss available options. These may include exploring alternative housing arrangements, assessing eligibility for Housing Pathways, and/or referring the tenant to appropriate support services or agencies.

5.3.6 Termination when a tenant has passed away

In the event of a tenant's death, WHC will request proof of death and will coordinate directly with the next of kin or the designated legal representative/executor of the estate to arrange for the removal of household contents and the termination of the tenancy.

7 days' notice of termination under Section 108 of the Residential Tenancies Act will be issued. Following the expiry of the Notice of Termination, WHC will apply to NCAT to end the tenancy and obtain possession.

Furniture and household items will be managed as per the Uncollected Goods Act 1995. Any excess rental monies paid to WHC will be transferred to Revenue NSW per the Unclaimed Money Act 1995.

In households where there are approved additional occupants, additional household members do not automatically have the right to take over the tenancy. For further information, see our Transition of Tenancy Policy.

5.3.7 Termination due to abandonment of premises

WHC may consider a property abandoned if:

- Neighbours say the tenant hasn't been seen for at least 30 days
- Rent hasn't been paid for 30 days or more, or arrears are over 30 days
- WHC cannot contact the tenant after repeated attempts
- WHC cannot confirm the tenant's location through next of kin, emergency contact, or support agencies
- WHC cannot confirm the tenant's location after checking with Police or other authorities.

The WHC will seek termination of the tenancy agreement and seek possession of the property through the NSW Civil and Administrative Tribunal (NCAT).

When granted possession, the WHC will enter the premises and manage all household and personal goods per the Uncollected Goods Act, outlined in 5.4.

5.3.8 Uncollected Goods

Tenants are required to remove all their belongings from the premises at the end of their tenancy. Should any goods remain, WHC will make reasonable efforts to contact the ten-

ant arrange for collection. If the items are not retrieved or the property is deemed abandoned, WHC will manage and may dispose of the items in accordance with the Uncollected Goods Act 1995.

5.5 End of tenancy obligations and final property inspection

Tenants are required to return the property in a reasonable condition, taking into account normal wear and tear. Tenants will be responsible for payment of:

- Repairs for any damage
- End-of-tenancy cleaning
- Removal of items left behind
- Replacement of locks and keys if keys not returned.

Tenants are not responsible for damage caused by a domestic and family violence, A final property inspection is undertaken for all ending tenancies. WHC will update the original Property Condition Report to show the property's condition at the end of the tenancy. Tenants are invited to attend the inspection.

Tenants are responsible for any damage or unauthorised changes beyond normal fair, wear and tear. Costs to fix these may be claimed from the bond.

5.6 Moving to another Social Housing Property

When a tenant signs a lease for another social housing property, failure to return the previous property will result in WHC issuing a notice of termination under section 143 of the Residential Tenancies Act 2010.

5.7 Outstanding Debts

At the conclusion of a tenancy, WHC conducts checks for the following:

- Any unpaid rent or other charges
- Any property damage

Any unpaid amount may be taken to the NCAT and record any outstanding debt on the tenant file.

5.8 Complaints and Appeals

Tenants who have a complaint about how this policy has been administered, or who wish to appeal a decision, should refer to the Compliments, Complaints and Appeals Policy.

6. Related Policy Documents and Supporting Documents

Legislation	Residential Tenancies Act 2010 No 42 - NSW Legislation Residential Tenancies Amendment 2025 Uncollected Goods Act 1995 National Regulatory Code National Regulatory System for Community Housing Community Housing Leasing Program Guidelines Unclaimed Money Act 1995 No 75 - NSW Legislation
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Related Internal Policies	Keeping a Tenancy Policy Transition of Tenancy Policy Compliments, Complaints and Appeals Policy
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8. Policy approval and Review

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		Next Review Date:	7 May 2028