

## End of Tenancy Policy

### 1. Purpose

The purpose of this policy is to explain the circumstances and action to be taken when a tenant ends a tenancy or Homes North ends a tenancy.

### 2. Scope

This policy applies to all tenancies managed by Homes North.

### 3. Policy statement

The aim of this policy is to:

- Ensure that the legal requirements for ending a tenancy are understood and adhered to by Homes North employees and tenants.
- Ensure that the end of a tenancy is fair, efficient and effective for all concerned.
- Adhere to our legal obligations as landlord and tenant under the Residential Tenancies Act 2010.
- Ensure natural justice for our tenants.
- Have efficient administration and record keeping at the end of tenancy.
- Ensure remaining tenants are cared for.
- Ensure tenancies are ended compassionately when a tenant dies.

#### 3.1 Guiding principles

Homes North will:

- Advise our tenants of their rights and responsibilities when a Notice of Termination is issued and when legal action is taken at the NSW Civil and Administrative Tribunal (NCAT) that may result in their tenancy being terminated.
- Ensure tenants have access to tenancy advice, interpreters and support if their tenancy is threatened or is ending.
- Issue Notices of Termination in accordance with the Residential Tenancies Act 2010.
- Advise our tenants exactly what is required of them to meet their legal responsibilities when their

tenancy ends, regardless of the reason for the tenancy ending.

- Ensure abandoned goods at the end of a tenancy are handled in accordance with the requirements of the Residential Tenancies Act 2010.

## 4. Ending a tenancy

There are many reasons for a tenancy ending.

### 4.1 Tenancy terminated by a tenant

If a tenant wants to end a residential tenancy agreement they are required to provide the landlord with a termination notice giving the following amount of notice in accordance with the Residential Tenancies Act 2010.

- 14 days' notice before the end of the fixed term to end the agreement on or after the end of a fixed term.
- 21 days' notice to end a continuing tenancy.
- 14 days' notice if the landlord has breached the residential tenancy agreement.
- 14 days' notice to end a fixed term agreement without compensation if:
  - the tenant has accepted an offer for social housing accommodation or
  - has accepted a place in an aged care facility or
  - has been notified by the landlord of their intention to sell the property and was not notified of this before entering into the residential tenancy agreement or
  - a co-tenant, occupant, former co-tenant or occupant is prohibited by a final apprehended violence order from having access to the property.

Homes North may, at its discretion, agree to lesser periods of notice. All such decisions will be made by the Operations Manager.

When a joint tenancy is ended by one tenant, the existing tenancy will be terminated and arrangements will be made with the remaining tenant. This may include signing a new tenancy agreement for the current property or transferring the remaining household to a more suitable property.

### 4.2 Tenancy terminated by Homes North

Circumstances leading to the tenancy being ended by Homes North include, but are not limited to:

- Breaches of the Residential Tenancy Agreement (RTA)
- Management objectives (see Homes North Transfer Policy)
- Abandonment by the tenant (see 4.6)
- The making of an apprehended violence order
- Death of a tenant (see Homes North Deceased Tenant Policy)
- Tenant has reached/exceeded the maximum term of tenure or no longer meets the specific eligibility criteria for the relevant program

### 4.3 End of tenancy for a breach of the Residential Tenancy Agreement

- Homes North takes action to end a tenancy for a breach only after other appropriate housing management options have been fully explored.
- In all cases where Homes North appears at NCAT as landlord, the objective is to maintain the tenancy whenever an acceptable performance agreement can be reached with the tenant.
- An order terminating a tenancy when a tenant is willing to make an agreement, will only be sought in the case of repeated unresolved breaches by the tenant or where violence to other people or extreme damage to property is an expected outcome of continuing the tenancy.
- When a tenancy is terminated by NCAT and the tenant, or one of a joint tenancy, is allowed to stay, the tenancy ends and a new one commences.

### 4.4 End of tenancy for management purposes

A tenant may be asked to move from their current property for management reasons.

Management reasons may include:

- Over or under occupation
- Needing the particular property for another tenant, e.g. an applicant with special needs and the current occupants of the property do not require that particular feature.
- Redevelopment of the site
- Renovation of the property
- The property is being sold, or there are future plans to sell the property

Homes North describes the management transfer process in full in the [Homes North Transfers Policy](#) section 4.2.8 Management Transfer: Relocating tenants for management purposes and 4.3 Management transfer from leasehold properties.

#### 4.5 End of tenancy under section 85 of the Residential Tenancies Act

Under section 85 of the Residential Tenancies Act 2010 a landlord may issue a notice of termination for a periodic agreement provided that not less than 90 days' notice is given.

Homes North will only issue a notice of termination under section 85 of the Residential Tenancies Act 2010 in the following circumstances:

- when Homes North has received a notice of termination from the landlord under section 85 of the Act
- in exceptional circumstances as approved by the CEO.

For further information refer to Homes North: [No Cause Termination Policy](#)

#### 4.6 End of tenancy due to abandoned premises and property

Homes North will consider that a tenant has abandoned a property only if it is clear that the tenant is not living there. Homes North usually finds out that a tenant has abandoned their property through:

- Neighbours advising Homes North that no one is living there
- The tenant not maintaining the property
- The tenant not paying rent.

If Homes North suspects a tenant has left their property without giving notice, it will inspect the property and make enquiries to find out if the tenant has abandoned it. If Homes North is reasonably sure the tenant has abandoned the property, it will start action to take possession of the property under Section 106 of the Residential Tenancies Act 2010 so that it can make the property available for another tenant. Homes North has the right to seek compensation at the NSW Civil and Administrative Tribunal for loss of rental income and property damage.

##### 4.6.1 Dealing with goods left on the property

If goods remain in the home two working days after the tenant has moved out, or when a property is abandoned, an officer from Homes North and a witness (where possible) will inspect the property. The inspection will involve:

- Removing and disposing of any perishable goods including foodstuffs and rubbish, and;

- Making a detailed list of the goods left in the home and the condition of those goods and;
- Taking photographs of the goods, particularly if they are of high value.

Homes North is then required by the Residential Tenancies Act 2010 (Section 127) to give the former tenant notice that the goods will be disposed of after 14 days. This Notice may be given in the following ways:

- In writing by post to the former tenant or legal representative, at the last forwarding address known to Homes North, or
- Verbally in person or by telephone.

If the goods are not collected within 14 days, Homes North can arrange for disposal of the goods by selling them or in any other lawful manner.

Any proceeds of sale, less occupation fees and reasonable costs of sale, can be provided to the former tenant.

If an item is on hire, Homes North will notify the company who owns it and arrange for the company to collect it.

The former tenant can claim and collect some or all of the goods while they are in storage. Where the former tenant claims goods, they must pay an occupation fee per day for each day the goods are left on the property or in storage, which at a maximum is equivalent to the rent per day, and must not exceed, in total, the amount of rent for 14 days.

Under no circumstances will Homes North give or sell any goods to an employee of Homes North, their relatives, friends, or agents.

Where personal documents remain in the property 2 working days after the tenant has moved out, or when a property is abandoned, Homes North is required by the Residential Tenancies Act 2010 (Section 127) to give the tenant notice that the documents will be disposed of after 90 days.

Personal documents include:

- a birth certificate, passport or other identity document, or
- bank books or other financial statements or documents, or
- photographs and other personal memorabilia, or
- licences or other documents granting authorities, rights or qualifications, or
- any other record, or class of record, prescribed by the regulations.

If these documents are not claimed within 90 days, Homes North will return personal documents to the authority that issued them or if this is not practical, dispose of them in a lawful manner that will not result in the tenant's personal information becoming publicly available.

Homes North can seek direction from the NCAT under the Residential Tenancies Act 2010 (section 133) if any issues arise as to the disposal of goods.

#### **4.7 End of tenancy due to an apprehended violence order (AVO)**

If an AVO prohibits a tenant or co-tenant from having access to the property, the tenancy of that tenant or co-tenant under the residential tenancy agreement is terminated. Such a termination does not affect the tenancy of any tenants/co-tenants that are not subject to the AVO.

#### **4.8 End of tenancy when a tenant dies**

On the death of a sole tenant rent and non-rent balances are adjusted to the date the tenant passed away. The tenancy ends when vacant possession is given, either on or prior to the date of termination.

See [Homes North Deceased Tenant Policy](#)

#### **4.9 Tenant has reached the maximum term of tenure or no longer meets the specific eligibility criteria for the relevant program**

Certain programs have a maximum period of tenure or specific criteria that tenants must meet in order to remain eligible to continue for housing under that program.

When a tenant is no longer eligible because they have exceeded the maximum term or have failed to continue to meet the eligibility criteria, Homes North will end the tenancy in accordance with the relevant section of the Residential Tenancies Act 2010, including ending the tenancy under section 85 as necessary.

#### **4.10 Legal minimum notice periods**

In situations of eviction, a landlord is required to give the following written notice of termination in accordance with the Residential Tenancies Act 2010:

- 30 days' notice to end the agreement on or after the end of a fixed term. The termination notice must be given before the end of the agreement.
- 14 days' notice if the tenant has breached the agreement (if the breach involves rent arrears, the rent must be at least 14 days overdue at the time the notice is issued).
- 30 days' notice in a continuing tenancy if the premises are being sold with vacant possession.

- 90 days' notice in a continuing tenancy if there are no grounds for terminating the agreement.
- The NCAT may terminate a tenancy without a notice of termination being issued if the tenant, co-tenant, or occupant threatens, abuses, intimidates or harasses the landlord, landlord's agent or employee/contractor of the landlord.
- If a tenant is given a notice of termination from the landlord, the tenant may leave the residential premises at any time before the termination date and not be liable to pay rent unless the termination notice is for the end of a fixed term and the tenant leaves before the end of the fixed term.

#### 4.11 Service of notices

Homes North will serve notices in accordance with the requirements of the Residential Tenancies Act 2010.

A notice to a person must be in writing and may be served by:

- Posting the notice to the person's residential, or business, address or if an address is not specified, the person's last known residential or business address. When posting notices, an additional 4 working days will be allowed for postal delivery.
- Hand delivering the notice to the person or a person believed to be 16 years of age or older at the person's residential or business address
- Delivering the notice in an envelope addressed to the person and leaving it in the person's mailbox at their residential or business address.

If the tenant has not moved out by the date specified on the notice, Homes North has 30 days to apply to the NCAT for an order terminating the agreement and an Order of Possession. An Order of Possession must only be obtained from the NCAT with prior approval from the Operations Manager.

Tenants can only be physically removed from premises by a Sheriff once a Warrant of Possession has been obtained from the NCAT. If the tenant fails to move out by the date specified on the Order of Possession, Homes North may apply for a Warrant of Possession. A Warrant of Possession must only be obtained with prior approval from the Operations Manager.

#### 4.12 Homes North responsibilities

When a tenancy ends, the tenant can expect Homes North to:

- Conduct a property inspection and identify any repairs and maintenance which are the responsibility of the outgoing tenant

- Give the tenant the opportunity to do any cleaning, minor repairs, garden maintenance etc. (see End of tenancy cleaning and repairs below)
- Carry out any repairs or maintenance on the property that are essential for letting the property or that are best carried out on a vacant property, and plan any other outstanding maintenance
- Take action through NCAT for any outstanding rent arrears, debt or end of tenancy charges in accordance with [Homes North Debt Recovery Policy](#) or for an order to off-set any credits towards arrears, debt or end of tenancy charges.
- Reconcile the tenant's rent account, and repay any overpayment of rent or take steps to collect any underpayment of rent.
- Draw up a final account for any other outstanding debts the tenant has with the organisation.
- Record a forwarding address on the ex-tenant file (if known) and details of any debts and arrangements for repayment.
- Dispose of any belongings left in the premises in accordance with the Residential Tenancies Act 2010.
- Re-let the vacant property as soon as is practicable.

#### 4.13 End of tenancy cleaning and repairs

The tenant is responsible for returning the property to the landlord in the condition that it was in at the start of the tenancy (excluding fair wear and tear). After conducting the end of tenancy inspection, Homes North will discuss any tenant damage, cleaning issues, or unauthorised works with the tenant. The tenant will be given the opportunity to rectify any outstanding issues. The tenant will be given a reasonable opportunity to carry out the cleaning/repairs. A daily occupation fee will be charged for each day the tenant has possession of the premises. If the tenant declines the request to rectify the cleaning, gardening or repairs, Homes North will engage a contractor to carry out the work and the costs will be charged to the tenant.

#### 4.14 Debt, rent arrears and end of tenancy charges

If a tenant vacates a property and the Sheriff's fee, outstanding rent arrears, debt or the cost of end of tenancy cleaning, gardening and/or repairs exceeds \$500, Homes North will apply to the NCAT for an order for compensation.

Homes North will request a certified copy of any orders made through NCAT. If the amount owing exceeds the jurisdiction of NCAT, Home North may take alternative legal action such as lodging an application for compensation with the Local Court.

Homes North may record the debt of a former tenant on the NSW Housing Register where permitted by law.

#### 4.15 Final rent payment

The tenant is required to pay rent until the date that the property is handed back.

#### 4.16 Tenant Exit Survey

Homes North will seek feedback from tenants at the end of their tenancy. The information obtained will be used to assist with continuous improvement.

### 5 Appeals

Refer to the [Homes North Appeals Policy](#) for further information.

### 6 Responsibilities

It is the responsibility of the:

**Chief Executive Officer** to ensure this policy and associated procedures are applied and committed to by the Senior Management Team.

**Senior Housing Managers & Asset Manager** to provide the team with timely policy-related support and guidance, to ensure familiarity with this policy and related procedures, to commit to following them accordingly and where relevant, promote the policy to their team.

**Employees** to ensure they comply with this policy, be responsible for their own behaviour and if required, attend relevant training as provided by the company from time to time.

### Compliance obligations

- Residential Tenancy Act (2010)

### Related policies

- Residential Tenancies Act 2010 (NSW)
- Homes North Transfer Policy
- Homes North Debt Recovery Policy

### Forms or other organisational documents

- Notice to End Tenancy Form including Exit Survey (paper based form)
- Abandoned Premises Checklist
- End of Tenancy Checklist
- End of Tenancy Water Charges

### Policy Information

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