

# ABANDONMENT OF TENANCY POLICY



## 1. Purpose

The purpose of this Policy is to outline what action Evolve Housing will take in regard to abandoned Properties including abandoned goods left in a Property.

## 2. Scope

This Policy applies to all Tenants of Evolve Housing.

## 3. Policy Statement

Social housing is a scarce resource and a valuable asset for those in need. Evolve Housing maximises the benefit gained from this resource by making sure that Properties are not left vacant. Consequently, when Evolve Housing provides a Property for a client, we expect them to live in the Property. This Policy outlines Evolve Housing's approach to managing abandoned goods and Properties.

### 3.1 Abandoned Properties

Evolve Housing will consider that a Property has been abandoned by a Tenant only when it is clear that the Tenant is not living there. To assess whether a Property has been abandoned, Evolve Housing will conduct enquiries and carry out an inspection of the Property. A decision to treat a Property as abandoned will be based on a number of factors, including:

- Advice from neighbours that no one is living in the Property and/or they have witnessed the Tenant moving out;
- Evidence that the Tenant is not maintaining the Property, such as the Property appearing overgrown and unkempt;
- The Tenant not paying rent;
- No response received to letters posted by Evolve to the Tenant at that address, or to call notes left at the Property;

- Evidence (such as photographs and the outgoing Property condition report), which has come from the Property inspection conducted by Evolve, and which indicates that the Property has been vacated.

### 3.2 Application to seek possession of the abandoned Property

If it is clear that the Property has been abandoned, the Residential Tenancy Agreement is considered to be terminated and Evolve will take possession of the Property. However if Evolve Housing is not certain that the Tenant has abandoned the Property, an immediate application will be made to the NSW Civil & Administrative Tribunal (NCAT), seeking an order for termination of the Tenancy Agreement and possession of the Property, as allowed under Section 106 of the Residential Tenancies Act (the Act).

Evolve Housing also has the right to seek an order through NCAT for compensation for loss of rental income, property damage and cleaning costs (including removal of goods), as applicable.

### 3.3 Dealing with goods left on the Property

If goods remain at the Property after the Property has been found abandoned or is subject to a relevant NCAT order, an Evolve Housing Employee (and a witness where possible) will make a detailed inventory of the goods left behind, and will also take photographs of the goods to show their condition, particularly if they are of an estimated value greater than \$200. The goods will then be categorised to identify the most appropriate treatment. Evolve Housing can seek direction from NCAT under Section 133 of the Act if any issues arise as to the disposal of goods.

Evolve Housing is required by the Act to give a former Tenant notice that any goods left at the Property will be disposed of. Notice to the Tenant may be given in the following ways:

- In writing to the former Tenant or their legal representative, by email or by post to the last forwarding address known to Evolve Housing; or
- Verbally, in person or by telephone.

### 3.3.1 General Goods

If the goods are not collected within fourteen (14) days, Evolve Housing can arrange for disposal of the goods in any lawful manner, including by selling them. Any proceeds of sale of the goods, less all reasonable costs of sale, will be used to clear any outstanding debt on the former Tenant's rent or non-rental accounts. If an item has been leased or hired, Evolve Housing will notify the company who owns it (if known) and arrange for the company to collect the goods.

The former Tenant can claim and collect some or all of the goods while they are in storage, however prior to doing so they must pay a storage fee for each day the goods were left on the Property or in storage, to a maximum of fourteen (14) days.

Under no circumstances will Evolve Housing give or sell any goods to an Employee of Evolve Housing or their relatives, friends or agents.

### 3.3.2 Personal Documents

Where personal documents remain in the Property after it has been abandoned, Evolve Housing is required by Section 127 of the Act to give the Tenant notice that the documents will be disposed of after ninety (90) days of the notice being given. Personal documents include:

- A birth certificate, passport or other identity document;
- Bank books or other financial statements or documents;
- Photographs and other personal memorabilia;
- Licenses or other documents granting authorities,

rights or qualifications; and

- Any other record or class of record prescribed by relevant legislation.

If any personal documents are not claimed within ninety (90) days, Evolve Housing will where possible, return the documents to the authority that issued them – particularly if they are original documents, or if this is not practical, they may be placed on the Tenant's file or disposed of in a lawful manner which will not result in the Tenant's personal information becoming publicly available.

### 3.3.3 Perishable Goods

Perishable goods including foodstuffs and rubbish can be removed immediately without notice to the former Tenant. If necessary, Evolve will arrange for contractors to remove and dispose of any perishable goods.

## 3.4 End of tenancy accounts for abandoned Properties

If a Tenant moves out without giving notice and the Property is found abandoned:

- Rent will be charged to the Tenant as per the notice period set out in Section 107 of the Act; and
- Any damage to the Property will be assessed and charged to the former Tenant.

Evolve Housing may seek action through NCAT to recover costs.

## 3.5 Appeals and reviews of decisions

Former Tenants who may have concerns about the fairness or transparency of a decision or action taken by Evolve Housing are encouraged to discuss the matter with their Housing Manager in the first instance. The next step, if the former Tenant still believes Evolve Housing has made an incorrect decision, is to lodge a formal appeal of the decision.

## 4. Definitions

- **Abandonment of a Property** - when a Tenant leaves their Property without giving notice to Evolve Housing and the Property is found to be vacant.
- **Appeal** – a disagreement by a Resident or Applicant for social housing, with a decision made by Evolve Housing that affects their tenancy or their application for housing, and which the Resident or Applicant has requested be reviewed.
- **NCAT** - NSW Civil & Administrative Tribunal is an independent statutory body which resolves disputes including tenancy and other residential property issues. NCAT decisions must be followed and are enforceable.
- **Property** – the property or residential premises as described in the Residential Tenancy Agreement between Evolve Housing and the Tenant.
- **Resident** – a person who resides on a permanent basis in a property which is owned or managed by Evolve Housing under a Residential Tenancy Agreement (includes a Tenant).
- **Residential Tenancy Agreement (or Tenancy Agreement)** – a written agreement between Evolve Housing and a Tenant, which governs the terms on which that Tenant occupies the property described in the Agreement.
- **Tenant** – a person who signs the Residential Tenancy Agreement with Evolve Housing and who has certain rights and obligations under that Agreement.

## 5. Related Resources

- Evolve Housing Appeals Policy
- Evolve Housing Rent (Social Housing) Policy
- Residential Tenancies Act 2010 (NSW)
- Residential Tenancy Agreement

This Policy is subject to change from time to time at the discretion of Evolve Housing. Any approvals required under this Policy will be granted in accordance with the Evolve Housing Delegations of Authority Policy.

Further information on this Policy and other topics, is available on the Evolve Housing website [www.evolvehousing.com.au](http://www.evolvehousing.com.au). If you have any specific questions regarding this Policy, please contact Evolve Housing on 1800 693 865 or email your enquiry to [myevolve@evolvehousing.com.au](mailto:myevolve@evolvehousing.com.au).

### More information

For more information about your tenancy go to [www.evolvehousing.com.au](http://www.evolvehousing.com.au)