

# TERMINATING A 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 Evolve Housing terminates a tenancy.

## 2. Scope

This Policy applies to all Evolve Housing Tenants.

## 3. Policy Statement

Evolve Housing will comply with the rights and obligations of a Landlord under the Residential Tenancies Act 2010.

Tenants are expected to comply with the terms and conditions of their Residential Tenancy Agreement. This Policy explains how Evolve Housing or a Tenant may end a tenancy.

**Evolve Housing will only end a tenancy in accordance with:**

- The Residential Tenancies Act 2010 (the Act) and associated regulations;
- The terms and conditions of the Residential Tenancy Agreement and
- Evolve Housing Policies.

Both the Tenant and Evolve Housing have rights and obligations under the above Act, the Residential Tenancy Agreement and Evolve Housing Policies.

### 3.1 When a Tenant may end a tenancy

A Tenant may end their Tenancy Agreement with Evolve Housing by giving the following amount of notice in accordance with the Residential Tenancies Act 2010:

- Fourteen (14) days' notice to end a fixed term

agreement, on or after the end of a fixed term. The notice must be given before the end of the Tenancy Agreement;

- Twenty-one (21) days' notice to end a periodic Tenancy Agreement, at any time;
- Fourteen (14) days' notice if the landlord has breached the Residential Tenancy Agreement;
- Fourteen (14) days' notice to end a fixed term Tenancy Agreement without compensation if the Tenant has accepted alternative social housing accommodation or is to enter an aged care facility;
- If co-Tenants have signed the Tenancy Agreement and one Tenant wishes to end the agreement, arrangements will be made for a new Tenancy Agreement with the remaining Tenant.

#### 3.1.1 A Tenant's obligation when they end their tenancy

Tenants may end a fixed term lease before it is due to end if they obtain the agreement of the landlord. Evolve Housing may agree to termination of a lease early if a Tenant wishes to move out before the end of a fixed term, provided the following has occurred:

- The Tenant notifies Evolve Housing of their intention to vacate and gives the correct number of days' written notice, according to their type of Tenancy Agreement;
- The notice specifies the date the Tenant wants the tenancy to end and the end date allows for the correct number of days for giving notice;
- Rent is due up to and including the end day of the notice, or up to the date the keys are returned, if after the end date.

The Tenant must remove all their belongings, including any rubbish from the Property and leave the Property in a clean and tidy condition that is as near as possible to the condition it was at the beginning of the tenancy, apart from fair wear and tear.

Fair wear and tear means deterioration over time as a result of reasonable use and the action of natural elements, even though the Property receives reasonable care and maintenance. Tenants are responsible for locking the Property and returning all keys and remote access tags to Evolve Housing within the agreed timeframe.

### **3.2 Evolve Housing ends the tenancy – Notice of termination**

There are various reasons why Evolve Housing may end the tenancy including when a fixed term lease has ended or the Tenant is no longer eligible for social housing. In accordance with the Act, Evolve will advise the Tenant in writing and within the required timeframe, as to the reason for seeking to end the tenancy.

The action taken to end a tenancy will only occur after all other appropriate housing management options have been fully explored. The matter will be dealt with confidentially and sensitively and Evolve will ensure the Tenant receives natural justice.

Evolve Housing will provide information to the Tenant as to where and how to obtain support, which may include Tenancy Advisory Services and Government Interpreters.

If the issue has not been resolved at the expiry of the Notice of Termination, Evolve Housing may then apply to the NSW Civil & Administrative Tribunal (NCAT) for a resolution of the matter, which may result in vacant possession being granted to Evolve Housing.

#### **3.2.1 Ending a fixed term agreement**

Once a fixed term of the Tenancy Agreement ends, the agreement continues in force on the same terms as a periodic agreement unless the agreement is terminated by Evolve Housing in accordance with the Residential Tenancies Act 2010.

- Evolve Housing, at any time before the end of a fixed term Tenancy Agreement, may give a termination notice for the termination to take effect after the end of the fixed term.
- The termination notice must specify a termination

date that is on or after the end of the fixed term and not earlier than thirty (30) days after the day on which the notice is given.

#### **3.2.2 Sale of premises**

- Periodic Agreements - where a contract for the sale of land or property requiring vacant possession has been exchanged (for Evolve Housing owned Properties), Evolve Housing may give a termination notice not less than thirty (30) days after the day on which the notice is given, for periodic agreements.
- Fixed term agreements - Evolve Housing may only give a termination notice for a termination date that is after the end of the fixed term agreement.

#### **3.2.3 Breach of agreement or non-payment of rent**

- If the Tenant has breached their Tenancy Agreement or the rent has remained unpaid for fourteen (14) days or more, Evolve Housing may issue a fourteen (14) day notice of termination.
- If the Tenant does not move out at the expiry of the notice, Evolve Housing may seek an Order for Termination and Possession from NCAT.
- This order may compel the Tenant to vacate the Property and sets a date for Evolve Housing to take possession of the Property

#### **3.2.4 90 day notice of termination**

- Evolve Housing may issue a ninety (90) day notice of termination in exceptional circumstances, or in the event of a Management Transfer. For the purposes of this Policy, a Management Transfer is where a Tenant of a Leasehold Property can no longer continue the tenancy because the Property owner has issued Evolve Housing with a ninety (90) day notice under the Residential Tenancy Agreement to return the Property.
- In cases of Management Transfer, Evolve Housing will make every effort to solve the Tenant's housing needs subject to the Tenant's eligibility, in accordance with Evolve Housing's Transfer Policy.
- A 'no grounds' notice of termination must give at

least ninety (90) days' notice.

### 3.2.5 Ending a tenancy due to an Apprehend Violence Order

If a Tenant is issued with an Apprehended Violence Order (AVO) that prohibits a Tenant or co-Tenant from having access to the Property, Evolve Housing may issue a Notice of Termination against the Tenant.

The termination order does not affect the tenancy of any other Tenant or co-Tenant that is not subject to the AVO.

### 3.2.6 A Tenant becomes deceased

Upon notification of the death of a Tenant, Evolve will follow the Evolve Housing Deceased Tenant Policy. Evolve will initially ensure the Property is secure and ascertain if there are additional Approved Occupants of the household or if the Tenant was the sole occupant. If there are other Approved Occupants, Evolve may consider offering a succession of tenancy in accordance with the Evolve Housing Succession of Tenancy Policy.

### 3.3 A Tenant vacates their Property without giving notice

Evolve Housing will inspect a Property suspected of being abandoned and make enquiries to find out if the Tenant has vacated.

If Evolve is satisfied the Tenant has abandoned the Property, the Evolve Housing Abandonment of a Tenancy Policy will be followed.

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

### 3.4 Tenant accounts at the end of a tenancy

If a Tenant moves out on or after the notice period (14 days for a fixed term Tenancy Agreement or 21 days for a periodic Tenancy Agreement):

- Evolve Housing will charge rent up to the end of the 14 or 21 day period.
- If the Tenant fails to return the keys on a pre-arranged date, Evolve Housing will charge rent up to the actual date keys are given to Evolve Housing.

### 3.5 Appeals

If a former Tenant believes Evolve Housing has made a wrong decision they should first discuss their concerns with a Housing Manager. If the former Tenant continues to be dissatisfied after speaking with a Housing Manager, they have the right to lodge an Appeal which will be assessed in accordance with the Evolve Housing Appeals Policy. Further information including Fact sheets, can be obtained from Evolve Housing's website [www.evolvehousing.com.au](http://www.evolvehousing.com.au) or by contacting our office.

## 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.
- **Approved Occupant** – a person, in addition to the Tenant, who is approved in writing by the Landlord to reside in the Property
- **NSW Civil & Administrative Tribunal (NCAT)** - an independent NSW statutory body which resolves a wide range of disputes including tenancy and other residential Property issues. NCAT decisions must be followed and are enforceable.
- **Non-rent Charges / Non-rent account** - any charges that are not rent, for example water charges or charges to repair damage to Property. Non-rent Charges are paid separately to rent.
- **Partner** – the person an individual is married to, or in a registered or de facto relationship with, as defined from time to time by Centrelink.
- **Rental Bond** - money paid by a Tenant at the start of a Tenancy Agreement as financial protection for the

Landlord, in case the Tenant breaches the terms of the Tenancy Agreement.

- **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).
- **Tenant** – a person who signs the Residential Tenancy Agreement with Evolve Housing and who has certain rights and obligations under that Agreement.
- **Termination Notice** – a Notice to Terminate Tenancy Agreement under the Residential Tenancies Act 2010

## 5. Related Resources

- Evolve Housing Abandonment of a Tenancy Policy
- Evolve Housing Appeals Policy
- Evolve Housing Deceased Tenant Policy
- Evolve Housing Privacy Policy
- Evolve Housing Rental Bonds Policy
- Evolve Housing Succession of Tenancy Policy
- Evolve Housing Visitors and Additional Occupants Policy
- Residential Tenancy Agreement
- Residential Tenancies Act 2010 (NSW)

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)