

ABSENCE FROM PROPERTY

POLICY

1. PURPOSE

This document defines Evolve Housing's approach to ensuring Properties are not left vacant for long periods of time.

2. SCOPE

This Policy applies to all Tenants of Evolve Housing Properties.

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 used as homes and not left vacant for long periods of time. Consequently, when Evolve Housing provides a property for a client, we expect them to live in the property. This Policy outlines the circumstances under which Evolve Housing will approve a Tenant's absence from their Property.

Evolve Housing will not approve absences of more than twelve (12) months in total, in any five (5) year period.

3.1 Tenant's acceptable absence from their Property

Tenants who are away from their Property for more than six (6) consecutive weeks need approval for that absence from Evolve Housing, even if other household members will remain in the Property. Evolve will approve an absence from a Property if it is satisfied that the Tenant has an acceptable reason for being away.

Acceptable reasons for a Tenant's absence from their Property for up to three (3) months include:

- Caring for sick/frail family members;
- Hospitalisation, institutional care, respite, nursing home care or rehabilitation;
- Escaping domestic violence, harassment or threats of violence;
- Assisting with immigration matters in the Tenant's country of origin;

- Holidays;
- Employment, education or training; and
- Incarceration.

Evolve Housing will not automatically approve repeat absences relating to holidays, employment, training or assisting with immigration matters in the Tenant's country of origin. Each request will be considered on its merits.

3.2 Obtaining approval for absences

The Tenant must obtain written approval from Evolve Housing to be away from their home for six (6) weeks or more. Evolve Housing may approve a Tenant being absent from their home for up to three (3) months under certain circumstances, including if it is satisfied that all rental and non-rental accounts are paid up to date at the time of the request for approval, and that the rent and non-rent charges will continue to be paid during the Tenant's absence.

Evolve may require the Tenant to provide evidence to support their absence, for example, a passport and airline ticket showing the date of return.

The Tenant must also appoint an agent to act on their behalf while they are away. Full contact details for both the Tenant and their Agent must be provided.

3.3 Absence without approval or in excess of agreed time limit

If a Tenant is away without written approval from Evolve Housing, or has stayed away for longer than the time approved, Evolve will try to contact the Tenant to discuss the matter including any action that is to be taken. Evolve may decide to:

- Charge market rent from the time the Tenant's absence is discovered, or from the date the approval had expired; or
- Apply to the NSW Civil & Administrative Tribunal (NCAT) for an order to terminate the tenancy.

3.4 Tenants who are incarcerated

If a Tenant is going into prison, they can apply to retain their tenancy for up to three (3) months. However, if Evolve Housing is reasonably satisfied the imprisonment will last in excess of three (3) months; Evolve may ask the Tenant to relinquish their tenancy immediately.

If the reason for imprisonment is related to a breach of the Tenancy Agreement, Evolve Housing will take action to immediately terminate the tenancy. Each case will be considered on its merits.

If the Tenant has not been released from prison at the end of three (3) months, Evolve will consider an application for succession of tenancy from a remaining household member, provided they meet all the requirements of the Evolve Housing Succession of Tenancy Policy.

If an application for succession of tenancy is not successful, Evolve may seek termination of the tenancy through NCAT.

3.5 Tenants moving into a nursing home

If the Tenant is to enter a nursing home, Evolve Housing will not approve requests for absence beyond three (3) months. If the Tenant's stay in the nursing home is expected to be longer than three (3) months, the Tenant should relinquish their tenancy or ask Evolve Housing to consider an application for succession of tenancy from a remaining household member.

3.6 Care of the Property while the Tenant is away

The Tenant has certain obligations while they are away from their Property. The Tenant:

- Is required to make arrangements to pay their tenancy charges, such as rent and water usage, while they are away. (During the Tenant's absence, rent and water charges will remain the same as they were prior to the Tenant going away); and
- Must make arrangements for the Property to be adequately cared for while the Tenant is away.

The Tenant must appoint an agent to act on their behalf while they are away. The Agent:

- Must be over 18 years of age;
- Could be another household member, a family member, friend, support provider or a solicitor; and
- Must inspect the Property regularly and ensure it is maintained to the standard stated in the Tenant's Residential Tenancy Agreement.

If the Agent is not a member of the household and wants to live in the Property while the Tenant is away, the Tenant must apply to Evolve Housing for their Agent to become an Approved Additional Occupant. Even though the Tenant must appoint an Agent to act on their behalf, the Tenant is still legally responsible for meeting their obligations under the Tenancy Agreement.

Any breaches of the Tenancy Agreement that occur while the Tenant is away may result in Evolve Housing taking action through NCAT. A serious breach may lead to termination of the tenancy.

3.7 Succession to appointed Agents

Evolve Housing will only consider approving an application for succession of tenancy to the Tenant's Agent if they are already an Approved Occupant, or they are the Tenant's Partner and are currently living in the Property.

Evolve Housing will consider each case on its merits. The application for succession of tenancy must meet all requirements of the Evolve Housing Succession of Tenancy Policy. If an application for succession of tenancy is not successful and the Tenant does not return to the Property, Evolve Housing may seek termination of the tenancy through NCAT.

3.8 Review of decision and opportunity to Appeal

If the Tenant's application for absence from the Property is declined, the Tenant should first discuss their concerns with a Housing Manager. If the 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.

4. DEFINITIONS

- Agent – a person who is at least 18 years of age who the Tenant has authorised to act on the Tenant’s behalf while the Tenant is absent from their Property.
- Appeal – a disagreement by a Tenant with a decision made by Evolve Housing that affects their tenancy, and which the Tenant has requested be reviewed.
- Approved Occupant (or Approved Additional Occupant) – a person, in addition to the Tenant, who is approved in writing by the Landlord to reside in the Property.
- Landlord – Evolve Housing (as it grants the right to a Tenant to occupy residential premises under a Residential Tenancy Agreement).
- 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.
- 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.
- Property – the property or residential premises as described in the Residential Tenancy Agreement between Evolve Housing and the Tenant.
- Residential Tenancy Agreement (or Tenancy Agreement) – a written agreement between Evolve Housing (as Landlord) 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. (A Tenant is also a Resident.)

5. RELATED RESOURCES

- Evolve Housing Abandonment of a Tenancy Policy
- Evolve Housing Appeals Policy
- Evolve Housing Succession of Tenancy Policy
- Evolve Housing Terminating a Tenancy Policy
- Evolve Housing Visitors or Additional Occupants Policy
- *Residential Tenancies Act 2010 (NSW)*
- www.facs.nsw.gov.au/housing

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 Limited Delegations of Authority Policy. Further information on this Policy and other topics, is available on the Evolve Housing website 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.