

## PURPOSE

This document defines Evolve Housing Vic Limited's (EHVL) policy on tenancy charges including rent and non-rent debts.

EHVL requires all Tenants living in a property owned or managed by EHVL to pay tenancy charges. Tenancy charges include rent and non-rent debts - including any combined former debt.

EHVL will establish a separate account for rent and non-rent accounts, as charges become due EHVL will add the charge to the relevant account. The Tenant is required to meet their obligations to pay those charges as they become due.

When a Tenant moves out of their property, all rent or non-rent debt including Tenant charge maintenance items remaining are known as ex-Tenant account debt.

<b>POLICY REFERENCE</b>	VHS016.1
<b>POLICY OWNER</b>	General Manager, Resident Services
<b>APPROVED BY</b>	Evolve Housing Ltd CEO
<b>APPROVAL DATE</b>	1 Mar 2022
<b>REVIEW DATE</b>	1 Mar 2025

## DEBT RECOVERY POLICY

### 1. SCOPE

This policy applies to Tenants and former Tenants of a property owned or managed by EHVL. EHVL will treat debt recovery with sensitivity and have an emphasis on privacy whilst recognising the capacity of the individuals to meet their commitments.

The impact upon an organisation such as EHVL to function as a social housing provider is dependent upon not carrying debt. Tenants are required to pay rent in advance, in accordance with their Residential Tenancy Agreement.

EHVL understands there are competing demands upon families to meet their commitments; however the payment of rent and non-rent charges should be considered a priority.

### 2. POLICY STATEMENT

EHVL is committed to maintaining its function as a social housing provider.

EHVL is able to apply and recover tenancy related charges in accordance with the provisions of the Residential Tenancies Act 1997 and the Housing Act 1983.

Tenants have a legal obligation to pay their tenancy charges as they become due. If Tenants do not make payments their accounts will fall into arrears; this will result in a breach of their tenancy agreement.

Tenants must notify EHVL immediately if they are unable to make payments. EHVL will work with Tenants to assist Tenants to meet their obligations to pay their tenancy charges however EHVL will take appropriate legal action when there are major or persistent arrears or failure to comply with an agreed payment plan.

Former Tenants must pay all money owing on ex Tenant accounts. EHVL will take action through the Victorian Civil & Administrative Tribunal (VCAT) to recover monies owing, or pursue legal action if former Tenants do not make repayments.

## Advising current Tenants of arrears on their tenancy accounts

EHVL may contact Tenants in writing, by phone, SMS, or by visiting them in their homes if their accounts fall into arrears. EHVL will act quickly to help ensure the Tenant pays their tenancy charges on time and to help prevent the debt from escalating.

### **2.1 Managing current accounts in arrears**

EHVL reserves its right to issue a Notice of Termination in accordance with the Residential Tenancies Act 1997, if there have been breaches of the Residential Tenancy Agreement.

EHVL expects all outstanding debts to be repaid as soon as possible and will seek all monies in full in the first instance.

Where a Tenant claims financial hardship or other difficulties that may affect their ability to pay in full, EHVL may accept a repayment arrangement which will require Tenants to supply evidence of their financial position. EHVL may also refer a Tenant to various financial and other support services in order to assist in managing their arrears.

If EHVL is unable to negotiate a reasonable repayment arrangement, it will escalate the arrears recovery process. Depending upon the circumstances, EHVL may apply to VCAT for a compliance order to repay debt or for an order to terminate the tenancy.

Before taking action at VCAT, EHVL will work with the Tenant to try to resolve any problem relating to their non-payment of monies owing to EHVL.

EHVL will consider the following:

- The Tenant's payment patterns;
- The amount of time the Tenant has been in arrears and the amount of arrears;
- The reason for the Tenant being in arrears, including any complex tenancy issues impacting the Tenant or household;
- The Tenant's ability and willingness to repay the arrears;
- Possible involvement of support services;
- Previous arrears patterns, including the steps that have been taken to resolve the

problem. EHVL will then consider whether to:

- Negotiate a repayment arrangement;
- Issue a notice to vacate;
- Apply to VCAT for a compliance order;
- Apply to VCAT for an Order of Possession.

### **2.2 Compliance Orders**

A compliance order will set out the method and amount of payment required to clear the debt within a reasonable period.

Should the Tenant breach the terms of the compliance order, EHVL will either ask for the debt to be repaid in full, or return to VCAT and seek an Order of Possession.

### **2.3 Order of Possession**

An Order of Possession is an order granted by VCAT which legally ends the tenancy on a certain date. If EHVL issues a notice to vacate and the Tenant does not vacate the property by the termination date, EHVL may apply to VCAT for an Order of Possession within 30 days of the notice to vacate termination date. An Order of Possession sets a date by which the Tenant must vacate. If a Tenant fails to vacate the property by the date in the possession order, EHVL will apply to VCAT for a Warrant of Possession which authorises the Victorian Sheriff's Office to evict the Tenant.

### **2.4 Managing ex-Tenant rent and non-rent accounts**

When a Tenant moves out of an EHVL property, all charges and payments relating to the property will be reconciled. This may result in an amount remaining as a credit or debit. In order to manage any refund or debt notices it is important the Tenant provides EHVL with a forwarding mailing or email address.

### **2.5 Tenants who vacate and are no longer being housed by EHVL**

EHVL will automatically transfer balances between the Tenant's accounts if the Tenant has left the property and will no longer be housed by EHVL.

If there is a credit balance on one account and a debit balance in another EHVL will use the credit to pay off the debit.

EHVL will advise the former Tenant in writing of their final accounts including whether any amount has been transferred between accounts and the reasons for the transfer.

#### **2.5.1 Credit balances if whereabouts known**

EHVL will refund any credit amount if the whereabouts of the former Tenant is known, following reconciliation of all accounts.

EHVL will refund credits where an account is in credit or an extra deduction has been made from the Tenants Centrelink payment after they have left the property or where the Tenant's financial institution has deducted an additional amount by direct debit after the Tenant has left the property.

If a former Tenant is deceased, EHVL will refund any credit to the Executor of the former Tenant's estate.

#### **2.5.2 Debit balances if whereabouts known**

EHVL will waive debit balances where the Tenant is deceased, or the former Tenant is declared bankrupt. The debt in this instance will be waived up to the date of the bankruptcy.

If a former Tenant does not repay the debt in full, EHVL will apply to VCAT for an order of payment of monies owing.

When the whereabouts of the ex-Tenant is known, EHVL may take recovery action either through a Letter of Demand or a mercantile agent.

If a joint tenancy account is in debit, all the former Tenants are liable for the debt. If one of the former Tenants reapplies for assistance, they will have to arrange to repay all money owing.

## **2.6 Tenants who vacate and are going to another social housing property**

Where a Tenant will be housed in another EHVL property, EHVL will transfer any credit balance on a current account to pay a debt on a previous account.

### **2.6.1 Credit balances**

Tenants will be encouraged to transfer a credit balance to their new account so that this tenancy commences with a credit balance.

### **2.6.2 Debit balances**

A Tenant who has an outstanding debt from a former tenancy must make a reasonable arrangement to repay the debt and continue making repayments, or EHVL may take action against their new tenancy through the Victorian Civil & Administrative Tribunal (VCAT).

## **2.7 Further Information**

When making decisions about managing accounts, EHVL will consider various information and evidence. If a Tenant disagrees with a decision EHVL has made they should first discuss their concerns with a Housing Manager.

The next step if they still believe EHVL has made an incorrect decision is to lodge a formal appeal of the decision.

For information on how an appeal works the Tenant can obtain a copy of the EHVL Appeals Policy.

The Tenant cannot ask for a formal review if rental arrears results in eviction proceedings. In these cases, VCAT, which is an independent body, will hear the matter. The role of VCAT is to resolve disputes between Tenants and Landlords.

EHVL can be contacted at:

Evolve Housing Vic  
Limited Henry Dodd  
House,  
9-13 Argyle Street  
Parramatta NSW 2150  
[myevolve@evolvehousing.com.au](mailto:myevolve@evolvehousing.com.au)  
☎ 1800 693 865

## **3. DEFINITIONS**

- **Residential Tenancy Agreement** – a written agreement between a tenant and EHVL (as property manager) which governs the terms on which the tenant occupies the property
- **Tenant** – a person who signs the Residential Tenancy Agreement with EHVL
- **VCAT** - Victorian Civil & Administrative Tribunal

#### 4. RELATED RESOURCES

- EHVL Appeals Policy
- EHVL Transfer Policy
- Residential Tenancies Act 1997 (Vic)
- Housing Act 1983 (Vic)

*This policy is subject to change from time to time at the discretion of EHVL. If you have any specific questions regarding this policy, please contact EHVL on 1800 693 865 or email your enquiry to [myevolve@evolvehousing.com.au](mailto:myevolve@evolvehousing.com.au).*

#### 5. VERSION CONTROL

VERSION	Date Approved	Author	Key Changes
1.0	1/03/2022	GAL	Policy adopted