

## Scope

This policy outlines how the end of a tenancy is managed by Pacific Link Housing Limited (PLH) according to legal requirements of the Residential Tenancies Act 2010 and the Residential Tenancy Agreement. This policy applies to all PLH-managed tenancies.

## Purpose

The policy is intended to ensure that tenancy terminations are carried out in a way that:

- Tell our tenants about their rights and responsibilities when we give them notice to end their tenancy or start legal action that may end their tenancy
- Tell our tenants how they can access advice about their tenancy and make sure that they have access to interpreters if needed, and
- Meet our legal duties when ending a tenancy and dealing with goods that our tenants leave behind.

PLH operates to support vulnerable tenants to sustain their tenancies. While NSW Civil and Administrative Tribunal (NCAT) action and eviction may be the result in some circumstances, in the majority of cases all steps will be taken to assist a tenant to keep their tenancy.

## Reasons for Ending a Tenancy

PLH recognises there are several reasons tenancies may end. Some of these are initiated by the tenant, where they wish to leave their tenancy and move into the private rental market, into an aged care home or to move to another area. On other occasions it may be necessary for PLH to initiate ending a tenancy due to a leasehold property being taken back by the landlord for sale, ending a fixed term transitional tenancy or in the case of a Management of Portfolio transfer. In these situations, PLH will issue notice in accordance with the Residential Tenancies Act 2010 and provide all possible support and assistance to the tenant.

PLH may also initiate a termination of a tenancy where there is a breach of the Residential Tenancies Act 2010, including non-payment of rent or other charges, illegal activity, malicious or negligent property damage or causing nuisance. Where a tenant has breached a term of their Residential Tenancy Agreement, they will be advised in writing and given every opportunity, support and assistance to rectify the problem and to sustain their tenancy.

## Notice of Termination

When PLH issues a notice of termination, it will, where possible, explain the reason for the termination and a reasonable timeframe for the tenant to vacate the premises. Notice to end the tenancy will be given in writing. The notice may be sent in the mail, hand delivered or put in the property's mailbox.

If the tenant doesn't move out by the date given on the termination notice, PLH will apply to NCAT to end the tenancy and to order the tenant to move out of the property. The decision to apply to NCAT must be approved by the Manager, Tenancy and Transitional or their delegate.

## When a tenant wants to leave – ending a tenancy on a voluntary basis

Tenants are required to give 14 days' written notice to PLH when they decide to leave their tenancy. The tenant's notice must be in writing, state the address of the property, the date when the tenant intends to move out and be signed and dated. The tenant will receive confirmation in writing from PLH that their notice to terminate the tenancy has been received.

### Notice Periods

A Termination Notice must specify a termination date in accordance with the notice periods set out below:

No grounds notice to end a periodic tenancy, or Ending a transitional fixed term tenancy	90 days' notice plus 7 days postage
Ending a fixed term tenancy (the termination date must be on or after the fixed term expires)	30 days' notice plus 7 days postage
Sale of premises (if not in a fixed term)	30 days' notice plus 7 days postage
Ending a tenancy due to Management of Portfolio	As required by the Act
Breach of tenancy agreement including non-payment of rent	14 days' notice plus 7 days postage

### When a landlord terminates a Leasehold Tenancy

Where a leased property is legally terminated by an agent or landlord and is not due to the actions of the tenant and if the eligibility criteria are still met, every attempt will be made to rehouse the tenant in another PLH-managed property before the termination notice expires. Upon receiving formal notice from the landlord, PLH as the head tenant, must then give notice to its tenant. PLH must give the tenant the same notice period as it received according to the notice periods above. Tenants will be made up to two reasonable offers of housing. Refer to Allocation Policy.

### Transitional (temporary) housing tenancies

Transitional housing tenancies are fixed term, temporary and established as part of a partnership with a support provider. PLH and the support provider make it clear at the start of the tenancy that the tenancy is for a fixed term and that a notice of termination will be issued to coincide with the last day of the tenancy. PLH ensures that tenants are provided with written confirmation of the transitional housing requirements. Both the support agency and PLH will assist the tenant in finding long term accommodation. The Housing Pathways application for these tenants remains live on the NSW Housing Register in recognition of the temporary nature of these tenancies.

### Relinquishing a Tenancy

A tenant may relinquish or be asked to relinquish their tenancy when they are unable to continue living in their property. This will be when the tenant has gone into long term care, rehabilitation or other institutional care or prison for more than three months in line with PLH's Absence from Property Policy and Succession of Tenancy Policy. In these situations, the tenant will receive confirmation that their tenancy has ended and where appropriate will be given information on the circumstances in which a tenancy can be reinstated.

### Transfer or Relocation

When a tenant is approved for a management transfer or relocation, their existing tenancy will be terminated. The tenant will then sign a Residential Tenancy Agreement before moving into the other property. Refer to Transfer Policy.

### Eviction proceedings for a breach of the Residential Tenancy Agreement

Where a tenant has breached a term of their Residential Tenancy Agreement, they will be advised in writing and given every opportunity and all possible support and assistance to rectify the problem. Where there is a serious breach and the tenant does not rectify the

problem, it may be necessary to proceed with action for termination of the agreement and possession of the premises.

If the tenant doesn't move out by the date ordered by NCAT, PLH will apply for a warrant for possession of the property. The decision to apply for a warrant must be approved by the Manager, Tenancy and Transitional or their delegate. Warrants are carried out by NSW Sheriff's Office.

If a leasehold property's agent or landlord gives PLH a termination notice due to property damage, care or neglect issues, abusive or obstructive behaviours, anti-social behaviour or other valid reasons as per the Residential Tenancy Agreement, or a combination of all or any of the above, PLH will issue termination notice and may not rehouse the tenant.

PLH will advise the tenant of other housing options and assist in placing the tenant back on the NSW Housing Register. Refer to PLH Tenancy Responsibilities, Disputes and Behaviour Policy.

### Section 85 No Grounds Termination Notice

Under Section 85 of the Residential Tenancies Act 2010, PLH may apply for a 90 days no grounds termination of a periodic tenancy agreement. PLH recognises that a no grounds notice is a last resort available within the Residential Tenancies Act 2010 and that the principles of continuing tenancy and tenant rights will prevail as far as possible. The application for a Section 85 notice will only be made in rare and exceptional circumstances.

A Section 85 no grounds termination can only be issued with the approval of the Board on recommendation from the Chief Executive Officer or their delegate following a review of the tenancy history. All other avenues with the NCAT in relation to termination of the tenancy must have been exhausted and procedural fairness and tenant rights maintained.

Prior to issue of a Section 85 termination notice, PLH may send a letter to the tenant in advance of issue of the section 85 notice advising of the date the notice will be issued. Further, to afford procedural fairness to the tenant, PLH may include the following in the letter that issues the notice:

- reasons for the issue of the notice and that PLH is not required to give grounds in the notice,
- that PLH has conducted an internal review of the case and the decision to issue the notice,
- that PLH is providing a final opportunity to take into account the proposed actions of the tenant to remedy the tenancy problems,
- that the tenant may appeal the issue of the notice with the Housing Appeals Committee, and
- inviting a written response from the tenant to be provided within 3 days.

If the tenant does not give vacant possession, PLH can make an application (within 30 days of the termination date specified in the termination notice) to NCAT for termination and possession. Providing the notice was validly given and the tenant has not vacated, Section 85 requires that the NCAT must make a termination order and an order for possession.

### Abandonment

Where a tenant has abandoned the property, PLH will take reasonable steps to contact the tenant to confirm that the tenancy has ended. Once PLH is reasonably certain that the property has been abandoned, it can apply to the NCAT for an order declaring that the

premises are abandoned and for a change of locks. Where there is no doubt that the property has been abandoned, PLH can change the locks and take possession.

### Death of a sole tenant

The death of a tenant should be reported to PLH as soon as practical. Once notified, PLH will reduce the tenant's rent to \$5 per week, effective from the date of death, and cancel any automatic rent deductions. This nominal "occupation fee" is charged for a maximum of 28 days only. Once the 28 day period has expired, market rent is charged.

Where a sole tenant has died, PLH will seek to promptly identify and confirm the legitimacy of the tenant's legal personal representative (LPR) to deal with in ending the tenancy. In situations where two or more potential LPRs are in dispute as to who will administer the estate, PLH will seek relevant legal advice. Where no next of kin or LPR is known, PLH will contact the NSW Police and/or NSW Trustee and Guardian.

Either party may issue a termination notice for the tenancy according to section 108 of the Residential Tenancies Act for which there is no minimum notice period. PLH may not enter the property of a deceased sole tenant until vacant possession has been offered by the identified next of kin/LPR, or by executing a warrant of possession obtained from NCAT. In all circumstances, access to the property and dealing with the tenant's good will be managed by PLH in accordance with the Act.

In situations where the keys have not been returned by the date nominated by the LPR or within 28 days of the date of death of the tenant, PLH will issue a termination notice under Section 108 of the Act, seeking possession, if required, through application to NCAT.

Where there are other members of the household, they may apply for succession in accordance with PLH's Succession of Tenancy Policy.

### Property is uninhabitable or destroyed

When a property becomes uninhabitable due to flood, fire or other causes, termination of the tenancy takes immediate effect.

### Circumstances of domestic violence

A tenant can end their fixed-term or periodic tenancy immediately, without penalty, if the tenant or their dependent child is in circumstances of domestic violence.

A tenant or their dependent child is in circumstances of domestic violence if they:

- Were the victim domestic violence offence during the tenancy
- Are protected by an in-force provisional, interim or final Domestic Violence Order (DVO)
- Are protected against family violence by an in-force family law injunction
- Have been declared by a competent person to be a victim of domestic violence perpetrated by the relevant domestic violence offender during the current tenancy.

PLH may require tenants to provide evidence of domestic violence in the form of; a certificate of conviction for the domestic violence offence, family law injunction, provisional, interim or final DVO, family law injunction, or a declaration made by a medical practitioner in the prescribed form.

### End of tenancy cleaning and repairs

The tenant is responsible for returning the property to PLH in the condition that it was in at the start of the tenancy (apart from fair wear and tear). After PLH conducts an end of

tenancy inspection, we will discuss with the tenant any damage, cleaning issues, or unauthorised changes to the property. A daily fee will be charged for each day that the tenant has possession of the property. After 48 hours from the notice date, if the tenant doesn't fix the issues, we will get a contractor to do the work and will charge the tenant for the work.

### End of Tenancy Process

Wherever possible the following steps are taken when a tenancy is ended:

1. The PLH Housing Officer will send a letter listing matters to be addressed for return of bond.
2. Arrangements will be made for key collection and outgoing inspection of the property within 24 hours of the key return.
3. Any claim to be made on bond monies for damages beyond normal wear and tear will be advised to the tenant. In these circumstances, the tenant will be asked to sign a bond release form that PLH sends to the Rental Bond Board.
4. The tenant may give an exit survey or interview prior to leaving, to enable PLH to understand satisfaction or otherwise with the tenancy, the quality of accommodation, any faults to be rectified, reasons for ending the tenancy and where they are moving to for NSW Department of Communities and Justice (DCJ) records.
5. Late Key Return – tenants will be charged a daily occupation fee at market rate until keys are returned.

### Goods or Documents left on the premises

Tenants are responsible for ensuring that all of their belongings are removed from the property at the end of the tenancy. Procedures for disposal or storage of goods left behind will be followed according to the Residential Tenancies Act.

PLH will dispose of any rubbish and perishable items without seeking tenant consent, provided that PLH is reasonably sure that what is being disposed of is in fact rubbish.

For low value goods worth less than \$1,000, PLH will give the tenant notice that we will dispose of the goods if they are not collected within 14 days. Notice can be given in writing (mailed to a forwarding address if known or to the property in case the tenant is having their mail redirected), in person or over the telephone. If we are unable to contact the tenant, we may leave a notice on the front door of the property. For medium value goods worth between \$1,000 and \$20,000 PLH will give the tenant 28 days' notice before removal. For high value goods worth more than \$20,000, PLH will apply to NCAT for an order to remove the goods. If the goods are not collected within the timeframe given in the notice we will dispose of the goods or may sell them where this is allowed by law. No goods are to be given or sold to PLH staff or related parties to avoid any perception conflict of interest.

For personal documents, we will give the tenant notice that we will dispose of the documents if they are not collected within 28 days. Personal documents will be disposed of in an appropriate manner to protect confidentiality.

### Reapplying for Housing Assistance

Under DCJ Housing Pathways, when an applicant for housing has been identified as being previously housed in social housing, their tenancy history will be reviewed to determine their eligibility for social housing or other PLH properties. Refer to Eligibility and Application Policy.

### Rent References

A tenant will be eligible for a rental reference if:

- Rent was paid up to date and has been paid regularly for the previous six months
- No proven complaints have been received against the tenant
- Notice has been properly given
- Property has been left in an acceptable condition
- Keys have been returned to PLH.

### Complaints and Appeals

If a tenant is not satisfied with a service provided by PLH or does not agree with a decision it has made, they should first discuss their concerns with their Housing Officer. If they are still not satisfied they can ask for a formal review. Refer Complaints and Appeals Policy.

This policy is appealable. If a tenant is unhappy with the outcome of an appeal to PLH, they can lodge a second level appeal with the Housing Appeals Committee. The Housing Appeals Committee is an independent agency that reviews certain decisions made by community housing providers. For information on the Housing Appeals Committee call 1800 629 794 or go to [www.hac.nsw.gov.au](http://www.hac.nsw.gov.au).

### Related Documents

Residential Tenancies Act 2010  
 Residential Tenancies Regulation 2010  
 Arrears Policy  
 Access to Property Policy  
 Tenancy Responsibilities, Disputes & Behaviour Policy  
 Bonds Tenant Charges & property Damage Policy  
 Eligibility and Application Policy

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