

Ending Tenancies

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1. Purpose

The purpose of this policy is to provide guidance in relation to the ending of tenancies within the Women's Housing Ltd (WHL) portfolio.

2. Statement of Commitment

WHL is committed to sustaining tenancies through positive renter support and early intervention.

WHL acknowledges the personal and financial vulnerability of many of our clients and that these vulnerabilities can result in tenancies being placed at risk.

We are committed to ensuring, through this policy and others, that all our renters are afforded every opportunity to sustain their tenancies.

WHL is therefore committed to the rights of renters to have safe and secure accommodation.

We are also committed to applying the provisions of the *Residential Tenancies Act 1997* ("RTA").

WHL apply these provisions fairly and accurately. Further, the *Charter of Human Rights and Responsibilities Act 2006* ("The Charter") remains at the forefront of all decisions relating to the ending of tenancies. WHL will actively consider these rights at each stage of decision making.

3. Scope of Policy

This policy is applicable to renters in all WHL housing programs.

4. Policy Overview

This policy addresses the ending of tenancies in accord with the legal requirements of the RTA and the terms of residential rental agreements.

WHL policy seeks to ensure from the outset that renters and their support workers have a clear understanding of the purposes of the specific WHL housing program.

There are several circumstances where tenancies might end. Some end by agreement; others will be unilaterally terminated. In summary the different scenarios are:

- The renter breaches the conditions of the residential rental agreement and, as a last resort, action is taken by WHL to terminate the tenancy in accord with the RTA.
- The renter finds alternative long-term housing and vacates the property in an orderly manner.
- Death of a sole renter.
- The renter abandons the property without notifying WHL.
- In the case of properties that are privately owned and leased to DHHS and then leased to WHL, the owner may want to reclaim the property, in which case WHL is obliged to terminate the tenancy.
- A fixed term rental agreement with a renter in the transitional housing program ends.

In all cases WHL will follow due process. Renter's rights will be upheld, statutory requirements will be met and, where needed, the exiting renter will be provided with clear and accurate information about alternative housing.

5. Tenancy Terminations

5.1 Breaches of Tenancy Agreement

WHL will be required from time to time to issue Notices to Vacate and pursue an action for eviction because of serious breaches of residential rental agreements.

In general terms, WHL's breach of tenancies system incorporates the following features:

- Advice and information provision at beginning of tenancies concerning breaches.
- Immediate response to neighbour complaints and reports of tenancy breaches of duty.
- Immediate engagement with renters, support workers and other affected parties to address alleged breaches of duty and ensure a fair and just process.
- Application of appropriate breach measures to quickly address the situation.
- Referral of renters to specialised counselling and support if appropriate.
- Protection of the safety and rights of all parties.
- Institution of legal action and eviction proceedings where necessary.

5.1.1 Advice and information provided at sign up

At the beginning of the tenancy, renters will be supplied with an information package intended to assist and inform the renter about a range of matters related to their residency.

Both the residential rental agreement and the sign-up package include a clear statement of renter responsibilities and the possible reasons for ending tenancies and eviction. WHL will verbally reinforce these provisions by emphasising that eviction proceedings may occur if the renter breaches the residential rental agreement.

5.1.2 Prompt Response to Breaches of Duty by Renters

The general duties of renters are specified within the RTA. In summary, these provisions state that a renter must:

- not use premises for an illegal purpose;
- not cause nuisance or interference to neighbours;
- avoid damage to premises or common areas;
- must give notice of damage;
- keep rented premises clean; and
- not install certain fixtures without consent.

Failure to comply with these duties can result in the issue of a breach notice in accord with the RTA.

In all cases, WHL will respond to all alleged breaches in a timely and appropriate manner.

In the cases of more serious incidents, WHL will respond immediately and urgently to alleged breaches where:

- the renter or the renter's visitor by act or omission has caused a danger to any neighbours;
- the renter or the renter's visitor has intentionally or recklessly caused serious damage to any part of the property.

Dangerous and violent behaviours by renters or their visitors will not be tolerated.

If the allegation involves serious acts of danger or violence by a renter or a visitor, either in the property or its neighbourhood, WHL will immediately gather information where possible from the renter and/or the visitor, neighbours and other affected parties. Police information if available will be sought.

5.1.3 Other Causes of Termination

The RTA specifically refers to other instances where termination of tenancies may be taken. In addition to those already mentioned, these sections refer to:

- failure of a renter to comply with Tribunal order;
- successive breaches by a renter;
- sale of the property;
- repairs to or demolition of property;
- notice by property mortgagee.

These all entail varying notice periods. A table summarising all notice periods is attached as Appendix 1.

5.2 Institution of legal action and eviction proceedings

Eviction proceedings will be taken only as a last resort.

Every effort will be made to resolve the situation with the renter to prevent a forced termination of a tenancy. Renters will be constantly encouraged to meet with WHL to discuss and resolve the matter.

If the matter is not resolved and proceedings continue, renters will be encouraged verbally and, in all correspondence, to attend all related tribunal hearings.

If eviction is necessary, information about alternative housing options will be provided to renters prior to and at the time of eviction.

5.3 Orderly Ending of Tenancy

Renters can also find alternative housing and vacate the property in an orderly manner.

Under THM arrangements renters are not required to give notice of their intention to vacate their property.

Renters residing in other WHL properties are required to provide notice, Rooming House Renters are required to provide 2 days' notice and all other renters are required to provide 28 days' notice.

All renters are advised that:

- An exit condition report will be completed and the renter will be given a reasonable opportunity to attend this inspection
- Rent will be charged until the keys to the property /premises are returned to WHL
- Renter's belongings are to be removed from the property
- The property should be left in a clean and tidy state
- Renter must resolve any outstanding rental issues

When a renter notifies WHL of their intention to vacate, WHL will engage with the exiting renter to try to ensure that these conditions are met.

5.4 Abandoned Properties

A renter might abandon a property without notifying WHL.

If a property is suspected of having been abandoned, WHL will attempt to contact the renter and their support worker to ascertain if the property has been abandoned. If the investigation indicates clearly that the property has been abandoned, WHL will apply to VCAT for a declaration of abandonment in accord with RTA.

Indicators of abandonment may include uncollected mail, disconnected utilities, unpaid rent and lack of belongings at the property, among other things.

6. Exit Interview

All exiting renters will be provided with a copy of an exit interview and asked to provide reasons as to why they are vacating the property and provide any comments that can feed into ongoing improvements of the WHL service.

7. Definitions

Term	Definition
Eviction	The process of removing a person(s) from the occupation of a property, after a Warrant of Possession has been obtained. The Warrant of Possession is executed by the Police.
Hearing	A proceeding conducted at VCAT to resolve tenancy related issues based on the evidence presented.
Housing Act 1983	Legislation that governs the provision of housing assistance and the associated financial framework.
Legal Action	Where WHL has commenced proceedings to have a matter concerning rental arrears determined at VCAT.
Notice to Vacate	A legal notice served on a renter as per section 91ZM or 142ZF of the <i>Residential Tenancies Act 1997</i> , where rental arrears of 14 days or more have accrued on a renter's rental account.
Order for Possession	An order granted by VCAT giving WHL the right to obtain a Warrant to evict the occupants and regain possession of the property. The order is valid for a six-month period.
Rental Arrears	Unpaid rent owing to WHL.
Residential Tenancies Act 1997	Victorian legislation that governs residential tenancies outlining the rights and responsibilities of renters and rental providers.
Support worker	A worker for community, welfare, health, local government or departmental service or funded service for tenancy support management.
VCAT	Victorian Civil & Administrative Tribunal. A legal institution set up to administer several Acts. For residential tenancies, the Tribunal administers the <i>Residential Tenancies Act 1997</i>
Warrant of Possession	A legal document issued by VCAT authorising the Police to evict renters from a property.

8. Reviewing

This policy will be reviewed every two years following formal approval or sooner when changes in the policy or legislative environment require.

9. Supporting Resources

- Managing Abandoned Goods Policy
- Bond Management Policy
- Vacating the Properties Checklist
- End of Tenancy Form
- Exited Renter's Survey

10. Relevant Legislation

- The Charter of Human Rights and Responsibilities Act 2006 (Vic)
- Residential Tenancies Act 1997
- Housing Act 1983 (Vic)
- VCAT Act
- Information Privacy Act 2000 (Vic)
- Privacy Act 1988 (Cth)