

Ending a Tenancy Policy (HCWA)

1 Purpose

The purpose of the Policy is to define Housing Choices WA's approach to the various ways in which a tenancy may end.

2 Scope

This policy applies to the activities of Housing Choices WA Operational Services (Community Housing and Property Assets) who are interacting with Housing Choices WA tenants, household members and carers. This policy applies irrespective of whether staff undertaking activities are employed by that entity or another entity within Housing Choices.

3 Policy Statement

Housing Choices Western Australia (Housing Choices WA) recognises that as tenant's circumstances change, tenants may choose to voluntarily vacate their property to move onto new opportunities.

Housing Choices WA provides services to meet tenant's changing needs including transfers to more suitable properties and allowing household members to succeed a tenancy where eligible.

In other instances, tenants may experience difficulties in meeting their tenancy responsibilities. We will offer early assistance and work flexibly with partnership agencies to support tenants to sustain their tenancies and achieve a positive resolution. In some situations, however, our obligation to the broader community, protection of our asset and remaining a sustainable business means that we have no option but to take reasonable steps to end a tenancy.

4 Policy Content

4.1 Tenant wishes to end a tenancy

All notifications by a tenant to voluntarily end a tenancy must be in a written form by way of letter, recognised email address, 'Notice of termination by tenant to lessor' (Form 22) or by Housing Choices WA's Termination of Tenancy form.

Notice periods for a tenant to voluntarily end a tenancy are (at least):

Periodic tenancy	21 days
Fixed term tenancy	21 days during tenancy or 30 days prior to the lease end date if the tenant does not wish the fixed term to be extended or renewed.
Crisis Accommodation on Tenancy Agreement	End of fixed term lease or by mutual consent
License to Occupy	3 days

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In exceptional circumstances or where a tenant may face undue hardship by continuing the tenancy, a termination date less than the required notice period may be agreed with the mutual consent of both Housing Choices WA and the tenant.

Delivery of the termination notice may be in person, by email or by post. If sending by post, tenants should allow at least 3 working days postage, considering weekends and public holidays.

All notices are effective from the date of receipt.

If the date on a Notice of Termination from the tenant is earlier than the original lease end date, the lease end date is the date that tenant's obligations cease unless mutual agreement is reached.

4.2 Joint to Sole or Sole to Joint

A Joint to Sole can occur when one party wishes to remove their name from the tenancy agreement. This may be due to one party wanting to relocate or the death of someone listed on a tenancy agreement.

Sole to Joint occurs when a tenant wishes to add another party to the tenancy agreement

Housing Choices WA has [procedures/workflows](#) for managing instances of Joint to Sole or Sole to Joint.

4.3 Succession

In some situations, the tenant of a property may leave the property or pass away, resulting in vulnerable household members facing homelessness and/or hardship.

In such circumstances the household member may apply to 'succeed' the tenancy.

Succession provides approval for a tenancy with Housing Choices WA; - it does not necessarily provide approval to continue to live in the current property (for example if a tenant is under occupying).

We will consider such requests sensitively, compassionately and in conjunction with our legal and contractual obligations and in consideration of applicants on the Joint Wait List who may have a greater need for housing.

There is no automatic right to a succession by a household member who is not named on the tenancy agreement. Applicants may be asked to enter into a short-term fixed term tenancy agreement, usually 4 weeks, whilst their application for succession is being processed.

Separate to this policy, a household member may apply under Section 59C of the Residential Tenancies Act 1987 for recognition of certain persons as tenants which Housing Choices WA will support or defend, as appropriate.

Housing Choices WA has [procedures/workflows](#) for managing eligibility and instances of Succession.

4.4 Transfer or mutual exchange

Housing Choices WA supports tenants transferring to more suitable properties where possible and undertaking mutual exchanges.

The Transfer and Relocation Policy and Procedure provides more detail.

5 Housing Choices WA wishes to end a tenancy

5.1 Non-Renewal or Extension of Fixed Term Tenancy

Housing Choices WA will review all fixed term leases with enough time to ensure a considered decision on whether to end the tenancy, remain with fixed term tenancy or roll over to periodic tenancy.

A fixed term tenancy does not automatically expire on the lease end date. If the fixed term is not to be extended or renewed, Housing Choices WA will provide the tenant with a minimum 30 days' written notice of intention not to renew the fixed term tenancy, stating the date the tenant must vacate the property.

- If the date on the Notice of Termination is later than the lease end date, the date on the notice will apply (effectively extending the fixed term until the end of the Notice of Termination period).
- The tenant can choose to move out after the lease end date if they choose, rather than the date on the Notice of Termination.

5.2 Breaches and Terminations of a Tenancy Agreement

Tenancies may be breached for the following reasons:

- Failing to make rent or non-rent payments on time
- Not maintaining satisfactory property standards
- Keeping unauthorised pets
- Causing a nuisance or demonstrating anti-social behaviour or allowing visitors to do so
- Using the premises for illegal activities
- Making alterations, modifications or additions to the property without approval
- Running a home business without approval
- Changing or adding locks without approval
- Subletting without approval

Tenants will be advised in writing of a breach of the Tenancy Agreement and given details of what the breach is, and how it can be rectified. Tenants have 14 days to rectify the problem.

Failure to rectify may result the issuing of a Notice of Termination, seeking to end the tenancy no sooner than 7 days after the Notice of Termination is received.

In instances of non-payment of rent, a Notice of Termination (no Breach issued) may be issued with a Termination date of no less than 7 days.

If the breach is resolved, no further action will be taken.

If the tenant fails to make efforts to rectify the situation within the required time, Housing Choices WA may issue a Notice of Termination seeking to end the tenancy no sooner than 7 days after the Notice of Termination is received.

In instances of non-payment of rent, a Notice of Termination can be issued with or without the issuing of a Breach. Where no Breach is issued, a Termination date of no less than 7 days applies.

All Notice of Terminations require the approval of the General Manager Community Services or their delegate.

5.3 Serious damage, violence or threats of violence

Housing Choices WA will apply to the Magistrates Court for an order under Section 73 of the Residential Tenancies Act for immediate termination for tenants who are causing, or are believed to be causing, serious damage to the property or displaying aggressive, violent or threatening behaviour to neighbours or staff. In such instances, no breach notice will be issued.

5.4 Abandonment

Where there are reasonable grounds (as defined by the Department of Mines, Industry Regulation & Safety) to suspect a property has been abandoned, Housing Choices WA will issue the required notices and take action to secure and recover possession of the property according to the requirements of the Residential Tenancies Act.

Housing Choices WA has a comprehensive [Abandonment Policy and procedure](#).

5.5 60 days' Notice of Termination

The Residential Tenancies Act (Section 64) allows for a Notice of Termination (Form 1C) to be issued to a tenant on a periodic tenancy, requesting vacant possession without specifying any ground for doing so.

Housing Choices WA is committed to working with tenants and support partners to sustain tenancies. However, there may be occasions when a tenant is no longer eligible for a property or it is in the best interests of the business, we will issue a Notice of Termination without specifying a reason.

5.6 Relocation

When Housing Choices WA requires a tenant to be moved from their current property to another property for compliance, safety or other business reasons they will provide the tenant with a Notice of Relocation.

The reasons for a relocation may include:

- The property becomes uninhabitable and requires maintenance or demolition.
- Housing Choices WA wishes to sell the property.
- The tenant is no longer eligible for the property e.g., it is too small, or they no longer meet specific program requirements.
- The legal owner of the property wants the property back.

A Notice of Relocation may be issued for any property and tenancy. Housing Choices WA will provide tenants with as much notice as possible and support tenants during the relocation process however, the process may vary depending on the conditions of the tenancy agreement.

Tenants on periodic and fixed tenancy agreements who receive a Notice of Relocation will be given the option to apply for a transfer via the transfer process. Where a tenant on a periodic tenancy agreement refuses suitable properties, Housing Choices WA may issue a 60-day Notice of Termination or 30-day Notice of Termination if the property is being sold. If the tenant is on a fixed term tenancy, Housing Choices WA may issue a 30-day Notice of Termination to end the tenancy agreement on its expiry date.

5.7 Ineligibility

Housing Choices WA is a not-for-profit company with the purpose of providing social and affordable housing for people on very low and low incomes. Tenants must remain eligible throughout their tenancies by having income or assets within the income and assets thresholds.

Tenants housed under special program or funding such as NRAS and supported housing, may be required to provide additional information to confirm eligibility.

Tenants who no longer meet the eligibility criteria will be assisted to plan an exit into alternative housing within 6 months of the notification of ineligibility where a 60-day notice will be issued. Tenants may leave by mutual consent at any time during the exit period. Extensions to the exit period may be given where tenants are genuinely attempting to secure alternative accommodation but are unable to do so.

The Termination Notice will be enforced for tenants who fail to engage in an exit plan and do not make genuine efforts to secure alternative accommodation. In the case of periodic tenancies, this will be 60 days and for fixed term tenancies, 30 days' notice will be given to end the tenancy on its expiry date.

Tenants who fail to provide satisfactory proof of household income and assets when requested within the time frame nominated, may be deemed ineligible.

Refer Eligibility, Applications and Allocations Policy

5.8 Court orders and evictions

Where Housing Choices WA has sought to end the tenancy by issuing a Notice of Termination and the tenant does not leave on the vacant possession date stated in the notice, Housing Choices WA will apply to the Magistrate's Court for an order to obtain possession of the property.

If an order for possession is granted and the tenant fails to leave on the date on the order, Housing Choices WA will obtain a Property (Seizure and Delivery) Order. This order is issued under the Civil Judgements Enforcement Act (2004) WA and allows a bailiff to enter the property and evict anyone unlawfully on the premises, if required.

6 Death of a Tenant

Where all tenants on the tenancy agreement die, the tenancy ends. Housing Choices WA will negotiate the actual vacant possession date with the next of kin to allow the removal of personal belongings.

The rent will cease on the date of death and Housing Choices WA staff will work to ensure the keys are returned in a sensitive and timely manner in consultation with management.

7 End of Tenancy Responsibilities

7.1 Tenant Responsibilities

Tenants are responsible for:

- Giving Housing Choices WA vacant possession on the vacancy date & returning all keys
- Providing housing choices with a forwarding address
- Removing all furniture, personal items and rubbish
- Cleaning any carpets in the property
- Leaving the property clean and tidy
- Removing any approved alterations or additions and making good any damage
- Paying any outstanding debts such as rent, water and tenant liability
- Attending the outgoing property inspection
- Signing a joint application for disposal of security bond, if in agreement.

7.2 Housing Choices WA's Responsibilities

- Confirming the tenant's vacate date and outlining the end of tenancy process in writing
- Offering the tenant a pre-vacate inspection to identify any potential tenant liability charges, to give the tenant an opportunity to avoid such charges
- Issuing a key receipt when keys are returned
- Inviting the tenant for a joint Outgoing Property Condition Inspection
- Identifying any non-fair wear and tear and taking photographic evidence

- Managing any abandoned goods & documents in line with the Abandonment Policy
- Issuing a final account to the tenant advising of any outstanding charges
- Signing a joint application for disposal of security bond, if in agreement.

8 References:

LEGISLATION & STANDARDS	RELATED INTERNAL DOCUMENTS
<ul style="list-style-type: none"> • Residential Tenancies Act (WA) 1987 • Community Housing Allocations Policy 	<ul style="list-style-type: none"> • Eligibility, Applications & Allocation Policy • Discretionary Decision-Making Policy • Transfer and Relocation Policy and Procedure • Rent Setting Policy • Succession procedures

8.1 Glossary

[add terms specific to this policy/delete section if not appropriate]



English:

If you need an interpreter, please call TIS National on 131 450 and ask them to call **Housing Choices Australia** on **1300 312 447**. Our business hours are **9am to 5pm, Monday to Friday**.

You can also visit the TIS National website for translated information about the service TIS National provides. Visit: www.tisnational.gov.au

Arabic:

إذا كنت بحاجة إلى مترجم، يرجى الاتصال بـ TIS الوطنية على الرقم 131 450 وأطلب منهم الاتصال بنا على هاتف رقم **1300 312 447** Housing Choices Australia. ساعات العمل الخاصة بنا **9am to 5pm, Monday to Friday**.

يمكنك أيضا زيارة موقع TIS الوطنية للحصول على معلومات حول الخدمات التي تقدمها TIS الوطنية. قم بزيارة: www.tisnational.gov.au

Farsi (alt Persian):

اگر به مترجم نیاز دارید، لطفاً با شماره تلفن تیس نشنال 131 450 تماس بگیرید و از آنها بخواهید با **Housing Choices Australia** به شماره **1300 312 447** تماس بگیرید. ساعت کاری ما **9am to 5pm, Monday to Friday** است.

www.tisnational.gov.au شما همچنین می توانید به وب سایت تیس نشنال برای اطلاعات در مورد خدماتی که تیس نشنال فراهم می کند مراجعه کنید. به

Vietnamese:

Nếu quý vị cần thông dịch viên, xin hãy gọi cho Dịch vụ Thông Phiên dịch Quốc gia (TIS Quốc gia) theo số 131 450 và yêu cầu họ gọi cho **Housing Choices Australia** theo số **1300 312 447**. Giờ làm việc của chúng tôi là **9am to 5pm, Monday to Friday**. Quý vị cũng có thể vào thăm trang mạng của TIS Quốc gia để có thông tin về các dịch vụ mà TIS Quốc gia cung cấp. Hãy vào thăm www.tisnational.gov.au

Somali:

Haddii aad u baahan tahay turjumaan, fadlan ka wac TIS National taleefanka 131 450 waxaad ka codsataa inay kuu wacaan **Housing Choices Australia** iyo **1300 312 447**. Saacadaha Shaqadu waa **9am to 5pm, Monday to Friday**.

Waxaad kaloo booqan kartaa website-ka TIS National ee macluumaadka turjuman oo ku saabsan adeegga TIS National ay bixiso. Ka eeg: www.tisnational.gov.au

Simplified Chinese:

如果您需要口译员，请拨打TIS National 的电话131 450，请他们打电话给**Housing Choices Australia**，电话号码：**1300 312 447**。我们的营业时间是**9am to 5pm, Monday to Friday**。

你也可以访问TIS National 的网站，了解TIS National提供的服务。网址：www.tisnational.gov.au

Traditional Chinese:

若你需要口譯員，請撥打TIS National電話131 450並請他們轉接 **Housing Choices Australia** 的電話 **1300 312 447**。我們的工作時間是 **9am to 5pm, Monday to Friday**。

你也可以瀏覽TIS National 網站瞭解TIS National 的服務資訊，網址：www.tisnational.gov.au

Spanish:

Si necesita un intérprete, por favor llame a TIS National en el 131 450 y pida que lo comuniquen con **Housing Choices Australia** en el **1300 312 447**. Nuestro horario de oficina es **9am to 5pm, Monday to Friday**.

También puede visitar el sitio web de TIS National para obtener información acerca de los servicios que provee TIS National. Visite www.tisnational.gov.au

Italian:

Se hai bisogno di un interprete, telefona a TIS National al numero 131 450 e chiedi di chiamare **Housing Choices Australia** al **1300 312 447**. I nostri orari d'ufficio sono **9am to 5pm, Monday to Friday**.

Puoi visitare anche il sito web TIS National per informazioni tradotte sul servizio che TIS National fornisce. Visita il sito: www.tisnational.gov.au

For other languages, access to an interpreter is available by contacting Housing Choices Australia on 1300 312 447.