**Ending a Tenancy Policy (HCAL)**

**Operations Victoria**

Document Owner

**1**

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15/09/2024

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16/09/2021

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Review Period

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# Purpose

The purpose of this policy is to explain how tenancies can end in accordance with the Residential Tenancies Act. 1997. This policy applies to all Housing Choices Australia [HCA] social housing properties in Victoria.

# Scope

This policy covers ending an HCA social housing tenancy within the legal requirements of the Residential Tenancies Act. 1997.

This policy applies to the following entities within the Housing Choices Australia Group:

|  |  |  |
| --- | --- | --- |
| **Organisation** | **Abbreviation** | **ACN** |
| Housing Choices Australia Limited  | HCAL | 085 751 346 |

# Responsibilities

It is the responsibility of all staff involved in the tasks associated with this policy to ensure that HCA complies with this policy. The Housing Services General Manager is responsible for the maintenance of this policy.

Where there is non-conformance or breach of this policy, the Housing Services General Manager is to be informed and remedial action is to be taken as part of the continuous improvement process.

# Scheduled Review

This policy will be reviewed every three years or in response to legislative or regulatory changes. Consultation will be undertaken across service areas and input welcomed from Residents and community stakeholders.

# Policy Statement

## OVERVIEW

HCA delivers social housing tenancy management to some of our most vulnerable community members. Where a tenancy is at risk of termination, in most cases all steps will be taken to support the Residents to sustain their tenancy. While Victorian Civil and Administrative Tribunal (VCAT) action and eviction may be the result in some circumstances, it is an act of last resort. HCA are committed to aligning our Ending a Tenancy Policy with the Victorian Charter of Human Rights and Responsibilities.

We want people to remain safe and secure in their homes, for as long as they desire.

HCA understands that there are varied reasons tenancies may end, both voluntary and involuntary in nature. For example, a Resident may voluntarily indicate they wish to leave their tenancy and move into the private rental market, or to relocate interstate.

There may be circumstances where HCA may seek to end a tenancy where a breach of the Residential Tenancies Act. 1997 has occurred. Where a Resident has breached a term of their Residential Tenancy Agreement, our aim is to consult to support Residents to rectify the breach and offer support, referrals to legal advocacy support etc to rectify the problem and to sustain their tenancy.

When HCA issues a notice to vacate, it will do so in accordance with the Residential Tenancies Act. 1997, detailing the reason for the notice and a reasonable timeframe for the Resident to vacate the premises.

## REASONS FOR ENDING A TENANCY

Where a tenancy ends either voluntarily through notice or terminated through VCAT. There are several reasons why tenancies may end.

## Common reasons are:

### Voluntary - when a Resident wants to end a tenancy on a voluntary basis

Residents are required to give at least **28 days written notice to HCA** when they decide to leave their tenancy. The Resident will receive confirmation in writing that their notice to terminate the tenancy has been received.

In certain circumstances a Resident may not be required to provide 28 days’ notice e.g safety or health and wellbeing circumstance.

A resident is able to give **14 days’ written notice** of intention to vacate if they have been offered and accepted accommodation by another registered housing agency.

A Resident may withdraw a notice to vacate at any time with HCA Assembles consent. The Resident may give a further notice on the same or other grounds at a future date.

HCA requests that Residents provide a reason for vacating and a forwarding address. This provides valuable information regarding social housing and enables us to forward information relating to the tenancy to the Residents new place of residence.

### Relinquishing a tenancy

A Resident may relinquish their tenancy when they are unable to continue living in their property. This will be when the Resident has gone into long term care, rehabilitation or other institutional care or prison.

### Family violence protections

Residents who are victims of family violence will be able to apply to have their abuser removed from the residential rental agreement, or if they themselves are not already listed on the agreement to have a new agreement created in their name. The Residential Tenancies Regulations list the evidence that VCAT can consider in an application for termination or creation of a new rental agreement due to personal or family violence.

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

HCA is committed to sustaining tenancies and will work in partnership with other government and non-government organisations to support Residents. HCA Assembles action will be under the provisions of the Residential Tenancies Act. 1997.

HCA will facilitate early intervention and referral to support services to minimise the risk of tenancy failure and the need to resolve cases through VCAT. All Residents will be provided with support to access community legal services, Residents Union Victoria, when a breach of the tenancy agreement has occurred. As a minimum this will include contact information for community legal services in all our communications with the Resident regarding breaches of tenancy.

At all times, HCA will endeavour to communicate with Residents before any actions are initiated so they are fully informed of their rights and responsibilities as Residents.

Where a Resident has breached a term of their Residential Tenancy Agreement, they will be advised in writing and given every opportunity and support and assistance to rectify the problem. Where there is a serious breach and the Resident does not rectify the problem, it may be necessary to proceed with action for termination of the agreement and possession of the premises. This action will involve an application for a hearing at the VCAT following due legal process as laid down by the Residential Tenancies Act. 1997.

Notice periods are determined according to the nature of the breach and the Residential Tenancies Act. 1997 and the Residential Tenancy Agreement in place and are outlined below:

|  |  |
| --- | --- |
| Reason | Minimum Notice |
| The renter or their visitor intentionally or recklessly causes **serious** damage to the property, including safety equipment and common areas. | Immediate |
| The renter or their visitor puts neighbours, the rental provider or the provider's agent, or the rental provider or agent’s contractors or employees, in danger*Renters, residents or site tenants can be asked to leave a property immediately when there is violent or dangerous behaviour.* | Immediate |
| The premises are unfit for human habitation, destroyed totally, or destroyed to the extent that they are unsafe. | Immediate |
| The resident has breached a duty owed under a duty notice for causing a nuisance or interfering with quiet enjoyment. | 7 days |
| HCA will be able to issue a notice to vacate to renters if they or any other person living at the rented premises has seriously threatened or intimidated HCA employees, our representing agent or contractor. | 14 days |
| The Resident owes at least 14 days’ rent. | 14 days |
| A resident incurs a fifth or subsequent notice for rent arrears is given **in the same 12-month period**, HCA may apply to VCAT for a possession order at the end of the notice period. VCAT may issue the order even if the resident pays the outstanding rent within the notice period or even if the resident could pay off the unpaid rent under a payment plan. | 14 days |
| The renter has failed to comply with a VCAT compliance order. | 14 days |
| The Resident has breached a duty owed under a duty provision for the third time (and has been given notice twice before to remedy the breach of that duty). | 14 days |
| The premises are being used for illegal purposes. | 14 days |
| Other Residents are brought in without consent. | 14 days |

For further information please refer to the following:

* Antisocial Behaviour Management Policy
* [Arrears Management Policy](https://housingchoicesaustralia.sharepoint.com/%3Aw%3A/s/knowledge/ER3RHRC_IGFRn7meWk73vZ8B2aY9YnPpRlxl3EmxGjtJ8Q?e=v3ByQc)
* [Rent Setting Policy (HCAL)](https://housingchoicesaustralia.sharepoint.com/%3Aw%3A/s/knowledge/EQD3D2aND-lOiPwBcwuiKiUBaEADIjfabYx7L6nA2ncHfg?e=6UpH0h)

### Death of a sole Resident

Where a sole Resident has died, HCA will liaise with the Resident’s family and /or legal representative to deal with the contents of the house and to end the tenancy. Confirmation that the tenancy has ended will be provided to next of kin or legal representative. In circumstances where the Resident has no family or support, the tenancy can be ended immediately. Confirmation that the tenancy has ended will be sent to the estate of the Resident.

## Property is uninhabitable or destroyed

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

## Abandonment

Where there are reasonable grounds to suspect a property has been abandoned, HCA will issue the required notices and take action to secure and recover the possession of the property according to the requirements of the Residential Tenancies Act. 1997 .

## Former HCA tenancies

At the end of tenancy, a check will be made on any outstanding rent, non-rent debts or damage to the property.

HCA will take VCAT action to recover any substantial outstanding Resident debt. All applicants who have debts must repay those debts. HCA will still consider the applicant for assistance if they demonstrate their commitment to repay the debt by making regular repayments.

## ELIGIBLE FOR RENTAL REFERENCE

A Resident will be eligible for a rental reference if requested.

## FEEDBACK INTERVIEWS

* *For all Residents who exit our homes we request that they complete an exist survey to provide feedback that HCA should consider in future.*

# References:

|  |  |
| --- | --- |
| legislation & Standards | Related INternal documents |
| * Housing Act 1983 (Vic)
* Residential Tenancies Act 1997 (Vic)
* Victorian Housing Registrar Performance Standard 1: Tenancy and Housing Services
 | * Antisocial Behaviour Management Policy
* [Arrears Management Policy](https://housingchoicesaustralia.sharepoint.com/%3Aw%3A/s/knowledge/ER3RHRC_IGFRn7meWk73vZ8B2aY9YnPpRlxl3EmxGjtJ8Q?e=v3ByQc)
* [Rent Setting Policy (HCAL)](https://housingchoicesaustralia.sharepoint.com/%3Aw%3A/s/knowledge/EQD3D2aND-lOiPwBcwuiKiUBaEADIjfabYx7L6nA2ncHfg?e=6UpH0h)
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**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 ﺒ TIS الوطنية على الرقم 131 450 وأطلب منهم الاتصال ﺒ
**Housing Choices Australia** على هاتف رقم **1300 312 447**. 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، لطفا با شماره تلفن تیس نشنال131 450 تماس بگیرید و از آنها بخواهید با
**Housing Choices Australia** به شماره **1300 312 447** تماس بگیرند. ساعت کاری ما **9am to 5pm, Monday to Friday** است.

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

**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 450và 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 450ypida 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.**