

Ending Tenancy Policy

1. Purpose

The purpose of this policy is to explain the circumstances and action to be taken when a tenant ends a tenancy or Compass Housing Services Co Ltd (Compass) ends a tenancy.

2. Scope

This policy applies to all tenancies managed by Compass.

3. Policy Statement

This policy covers ending a tenancy within the legal requirements of the *Residential Tenancies Act 2010*.

The aim of this policy is to:

- Ensure that the legal requirements for ending a tenancy are understood and adhered to by Compass employees and tenants;
- Ensure that the end of a tenancy is fair, efficient and effective for all;
- Adhere to our legal obligations as landlord and tenant under the Residential Tenancies Act 2010;
- Ensure the principles of natural justice are applied; and
- Have efficient administration and record keeping at the end of tenancy

Compass recognises that tenancies end for a variety of reasons. This includes where a tenant indicates they wish to leave their tenancy and move into the private rental market, interstate relocation or into home ownership. On other occasions it may be necessary for Compass to initiate ending a tenancy due to the sale or termination of a leasehold property, renovations, disposal or redevelopment.

Compass may also initiate a termination of a tenancy where there is a breach of the *Residential Tenancies Act 2010*. Where a tenant has breached a term of their Residential Tenancy Agreement, they will be advised in writing and given every opportunity to remedy the breach. Compass is committed to ensuring the long-term sustainability of tenancies within the context of maintaining the viability of the organisation. Compass will always endeavour to effectively resolve any breaches and disputes relating to the tenancies. Compass views legal proceedings as an action of last resort when all possible avenues, both internal and external, of resolving a breach or dispute have been exhausted.

4. Guiding principles

Compass will:

- Advise our tenants of their rights and responsibilities when a Notice of Termination is issued and when action is taken at the NSW Civil and Administrative Tribunal (NCAT) that may result in their tenancy being terminated;
- Ensure tenants have access to tenancy advice, interpreters and support if their tenancy is threatened or is ending;

- Only issue Notices of Termination in accordance with the Residential Tenancies Act 2010;
- Advise tenants what is required of them to meet their legal obligations when their tenancy ends, regardless of the reason for the tenancy ending; and
- Ensure abandoned goods at the end of a tenancy are managed in accordance with the requirements of the Residential Tenancies Act 2010.

5. Reasons for ending a tenancy

5.1. Tenancy ended by tenant

If a tenant wants to end a residential tenancy agreement, they are required to provide the landlord with a termination notice giving the following notice periods in accordance with the *Residential Tenancies Act 2010*:

- Fourteen days' notice before the end of the fixed term to end the agreement on or after the end of a fixed term;
- Twenty one days' notice to end a continuing agreement;
- Fourteen days' notice if the landlord has breached the residential tenancy agreement;
- Fourteen days' notice to end a fixed term agreement without compensation if the tenant:
 - has accepted an offer of social housing accommodation;
 - Has accepted a place in an aged care facility, or
 - Has been notified by the landlord of their intention to sell the property and was not notified of this before entering into the residential tenancy agreement, or
 - A co-tenant, occupant, former co-tenant or occupant is prohibited by a final apprehended violence order from having access to the property.

Compass may, at its discretion, agree to lesser periods of notice. All such decisions will be made by the relevant Executive Manager.

5.2. Tenancy terminated by Compass

Circumstances leading to a tenancy being ended by Compass include, but are not limited to:

- Breaches of the Residential Tenancy Agreement (RTA);
- Management objectives;
- Abandonment by the tenant;
- The making of an apprehended violence order;
- Death of a tenant;
- Tenant has reached/exceeded the maximum term of tenure or no longer meets the specific eligibility criteria for the relevant program;
- Property is uninhabitable or destroyed.

5.3. End of tenancy for a breach of the Residential Tenancy Agreement

- Compass takes action to end a tenancy for a breach only after all other options have been fully explored;

- When Compass takes action at the NCAT as the landlord, the objective is to maintain the tenancy whenever an acceptable specific performance agreement can be reached with the tenant;
- An order terminating a tenancy agreement, when a tenant is willing to make an agreement, will only be sought in cases of repeated unresolved breaches.

5.4. End of tenancy for management objective

A tenant may be asked to relocate from their property for management reasons, this may include:

- Over or under occupation
- Needing the property for another tenant, for example, an applicant with special needs and the current occupants of the property do not require that feature;
- Redevelopment of the site;
- Renovation of the property;
- Sale of the property.

If Compass terminates a tenancy for management purposes, a tenant will be made two reasonable offers of alternative housing.

Compass is committed to transferring tenants by consent and avoiding legal action. However, if a tenant declines two reasonable offers of alternative housing, Compass will terminate the tenancy in accordance with section 148 of the *Residential Tenancies Act 2010*. If a tenancy is ended under these provisions, Compass will follow the process required by the *Residential Tenancies Act* and the procedures approved by the Minister.

5.5. When a landlord terminates a leasehold tenancy

Where a tenancy agreement is legally terminated by the property owner, and the end of tenancy is not due to the action of the tenant, Compass will seek to rehouse the tenant in general social housing before the notice expires.

In these instances, Compass will work with tenants to locate a new property. As the property must be handed back to the owner within a defined timeframe, tenants will only be made **one** valid offer of housing. If this offer is declined, tenants will need to resolve their own housing need.

5.6. End of tenancy due to abandonment

If a property has been abandoned Compass may take immediate possession of the property or make an application to the NCAT to have the tenancy terminated.

Goods and belongings left at the premises will be managed in accordance with the Residential Tenancies Act 2010.

5.7. End of tenancy due to an apprehended violence order (AVO)

If an AVO prohibits a tenant or co-tenant from having access to the property, the tenancy of that person under the residential tenancy agreement is terminated. Such a termination does not affect the tenancy of any tenants/co-tenants that are not subject to the AVO.

5.8. Death of a sole tenant

When a sole tenant dies, the tenancy does not immediately end. Either Compass or the person responsible for the deceased tenant's estate can give a termination notice to the other person to end the tenancy in accordance with section 108 of *Residential Tenancies Act 2010*. The termination date can be before the end of the fixed term for fixed term agreements.

The legal personal representative of a deceased tenant who is given a Termination Notice by the landlord may give vacant possession of the residential premises at any time before the termination date specified in the Termination Notice. The estate of the deceased tenant is not liable to pay any rent for any period after the legal personal representative gives vacant possession of the residential premises and hands back the keys before the termination date.

Compass recognises that there may be cultural or religious reasons why the person responsible for the deceased tenant's estate needs to keep possession of the property for a period following the tenant's death. Compass will consider such requests on a case by case basis. Rent must be paid until the property is returned to Compass.

Where there are other members of the household, they may be eligible for Succession of Tenancy.

5.9. Transitional housing tenancies

Transitional housing tenancies are fixed term, temporary and established as part of a partnership with a support provider. Compass 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. Compass ensures that tenants are provided with written confirmation of the transitional housing requirements. Both the support provider and Compass will assist the tenant in finding long term accommodation.

5.10. Relinquishing a tenancy

A tenant may relinquish their tenancy when they are unable to continue living in the property. This may occur when a tenant goes into a rehabilitation program, prison or refuge accommodation.

In these situations, a tenant will receive confirmation that their tenancy has ended and, where appropriate, will be given information on the circumstances in which they can apply for tenancy reinstatement.

6. Service of notices

Compass will service notices in accordance with the requirements of the *Residential Tenancies Act 2010*.

A notice to a person must be in writing and may be served by:

- Posting the notice to the person's residential address or business address or, if an address is not specified, the person's last known residential or business address., allowing seven(7) working days for postal delivery;
- Hand delivering the notice to the person or a person believed to be 16 years of age or older at the person's residential or business address;
- Delivery the notice in an envelope addressed to the person and leaving it in the person's mailbox at their residential or business address;

- A notice may also be served by email if a tenant has given consent to receive notices by this means.

If the tenant has not vacated by the date specified on the notice, Compass will make application to the NSW Civil & Administrative Tribunal (NCAT) for orders terminating the agreement and possession of the property.

6.1. Legal minimum notice periods

- Fourteen days' notice if the tenant or landlord has breached the agreement (if the breach relates to rent areas, the rent must be at least 14 days in arrears at the time the notice is issued);
- Thirty days' notice to end the agreement on or after the end of a fixed term. The termination notice must be given before the end of the agreement;
- Thirty days' notice in a continuing tenancy if the premises are being sold with vacant possession;
- The NCAT may terminate a tenancy without a notice of termination being issued if the tenant, other household members or visitors threatens, abuses, intimidates or harasses the landlord, landlord's agent or employee/contractor of the landlord;
- If a tenant is given notice of termination from the landlord, the tenant may leave the residential premises at any time before the termination date and not be liable to pay rent unless the termination notice is for the end of a fixed term and the tenant leaves before the end of the fixed term.

7. Compass responsibilities

When a tenancy ends the tenant can expect Compass to:

- Conduct a property inspection and identify any repairs and maintenance, which are identified as the responsibility of the outgoing tenant;
- Give the tenant, where practicable, the opportunity to do any cleaning, minor repairs, garden maintenance;
- Carry out any repairs or maintenance on the property that are essential for re-letting the property or that are best carried out on a vacant property;
- Finalise tenant's end of tenancy account, repay any credits, rental bond or take steps to collect outstanding debt;
- Negotiate with the tenant for settlement of identified rent arrears or maintenance/repair charges;
- Take action through the NCAT for any outstanding rent arrears, debts or end of tenancy charges as required;
- Record a forwarding address on the ex-tenant file (if known) and details of any unpaid debts and/or payment plans
- Dispose of any belongings left in the premises in accordance with the Residential Tenancies Act 2010.
- Compass will seek feedback from tenants at the end of their tenancy. The information obtained will be used to assist with Compass commitment to continuous improvement.

8. Tenant responsibilities

8.1. Rent arrears and end of tenancy charges

A tenant is required to pay rent until the date the property is handed back. If a tenant vacates a property with outstanding rent arrears and/or other tenancy charges, Compass will contact the tenant to discuss payment options and/or apply to the NCAT for orders to pay.

8.2. End of tenancy cleaning and repairs

A tenant is responsible for returning the property to the landlord in the condition that it was in at the start of the tenancy, excluding fair wear and tear. Compass will, where possible, conduct a pre vacate inspection to identify any cleaning, damage or unauthorised works issues, the tenant will be asked to rectify prior to vacating.

Following the final inspection, post vacate, a tenant may be given the opportunity to return to the property to complete any identified cleaning or repairs. If a tenant declines to remedy the outstanding issues, compass will engage a contractor to carry out the work and the costs will be charged to the tenant.

8.3. Goods left on the premises

A tenant is responsible for removing all goods and belongings from the property at the end of the tenancy.

Compass will dispose of any rubbish and perishable items that are left at the property. For non-perishable goods of value and personal documents, Compass will give the former tenant notice that the goods will be disposed of after 14 days (for non-perishable goods other than personal documents) and 90 days (for personal documents).

If goods are not collected within the timeframe specified in the 'notice of disposal', Compass will dispose of the goods in accordance with the Residential Tenancies Act 2010.

9. Review of Decisions

If a tenant disputes Compass decision to end a tenancy they should first discuss their concerns with a Tenancy Relations Officer. When a tenant does not vacate the property in accordance with a Notice of Termination, Compass may take action in the NSW Civil & Administrative Tribunal, if Compass takes this action, tenants are notified and provided with the opportunity to formally dispute the decision to end the tenancy.

10. Legislation and Compliance

Compass manages tenancy in accordance with the:

- Housing Act 2001 (NSW)
- Residential Tenancies Act 2010 (NSW)
- Residential Tenancies Regulations 2010 (NSW)
- Community Housing Providers Nations Law (NSW)

- Community Housing Providers (Adoption of National Law) Act 2012 (NSW)
- Any jurisdictional housing and tenancy Acts and Regulations as may apply
- The terms of the residential tenancy agreement
- Compass policies

11. Policy Implementation and Review

This Policy will be implemented and published on Compass intranet once approved. Workers receive communications and training on new and reviewed policies and procedures.

Compass will review this policy on a regular basis. Refer to Compass Policy and Procedure Development Approval and Review (PROC-011) for information on the document review process.

Confirmation of internal compliance with this policy will be undertaken regularly.

12. Related documents and resources

- Absence from Property Policy
- Access to Property Policy
- Alterations to Properties Policy
- Arrears & Debt Management Policy
- Domestic & Family Violence Policy
- Occupancy of Property Policy
- Rental Bonds Policy
- Starting a Tenancy Policy

13. Definitions

Term	Definition
Abandonment of a property	When a tenant leaves the property without giving notice and the property is found to be vacant
Appeal	A request for a review of a decision made by Compass that the tenant is dissatisfied with
Approved occupant	A person who is approved to reside at the property with the tenant
Compass Group	The corporate structure that includes Compass (as the Parent Company) and the boards of Subsidiary Companies, Governance Committees and advisory groups as created from time to time.
Director	Has the same meaning as defined in the Corporations Act 2001 Part 1.2 Division 1 Section 9 Dictionary in Australia and as defined in the Companies Act 1992 Part 1 Section 2 Interpretation in New Zealand
NSW Civil & Administrative Tribunal (NCAT)	An independent statutory body that resolves disputes including tenancy disputes. Orders made by the NCAT are enforceable
Non-rent charges	Any charges that are not for rent, for example, water usage charges or maintenance charges.
Officer	Has the same meaning as defined in the Corporations Act 2001 Part 1.2 Division 1 Section 9 Dictionary in Australia and as defined in the Companies Act 1992 Part 1 Section 2 Interpretation in New Zealand
Parent Board	The current directors of Compass.

Term	Definition
Parent Company	Compass Housing Services Co Ltd (Compass)
Rental bond	Money paid by a tenant at the start of the tenancy and lodged with the Rental Bond Board.
Subsidiary Boards	The appointed board of directors of a Subsidiary Company.
Subsidiary Company	A company in which Compass owns all or at least a majority of the shares.
Tenant	A person who signs the Residential Tenancy Agreement with Compass.
Termination notice	A notice to end the tenancy given by the tenant or landlord under the Residential Tenancies Act 2010
Worker (Compass)	has the same meaning as defined in the NSW Work Health and Safety Act 2011 No 10 Subdivision 2 Part 7 Meaning of 'worker' (1) A person is a worker if the person carries out work in any capacity for a person conducting a business or undertaking, including work as: <ul style="list-style-type: none"> a) an employee, or b) a contractor or subcontractor, or c) an employee of a contractor or subcontractor, or d) an employee of a labour hire company who has been assigned to work in the person's business or undertaking, or e) an outworker, or f) an apprentice or trainee, or g) a student gaining work experience, or h) a volunteer, or i) a person of a prescribed class.
Worker (Compass QLD)	is 'a person who works under a contract and, in relation to the work, is an employee for the purpose of assessment for PAYG withholding under the Taxation Administration Act 1953 (Cwlth), schedule 1, part 2-5'. This applies to a person for whom PAYG tax instalments are required or would be required to be withheld by their employer.

End of document