

Ending Tenancy Policy QLD

1. Purpose

To ensure tenancies are ended in a way that is legal and minimised the impact on tenants and HOME in PLACE (Queensland) (HOME in PLACE QLD).

2. Scope

This policy applies to all tenancies managed by HOME in PLACE QLD.

This policy applies to HOME in PLACE and the entities it controls (Home in Place). References to HOME in PLACE in this policy refer to all HOME in PLACE companies unless specified otherwise.

The policy applies to all workers, directors and members of HOME in PLACE decision-making committees and advisory bodies. The policy applies to third parties engaged to carry out activities on behalf of HOME in PLACE if stipulated by agreements.

3. Policy Statement

This policy covers ending a tenancy within the legal requirements of the Residential Tenancies and Rooming Accommodation Act 2008 (Act).

The aim of this policy is to:

- Ensure that the legal requirements for ending a tenancy are understood and adhered to by HOME in PLACE QLD 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 Act;
- Ensure the principles of natural justice are applied; and
- Have efficient administration and record keeping at the end of tenancy.

HOME in PLACE QLD 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 HOME in PLACE QLD to initiate ending a tenancy due to the sale or termination of a leasehold property, renovations, disposal or redevelopment.

HOME in PLACE QLD may also initiate a termination of a tenancy where there is a breach of the tenancy agreement or, where the tenant is no longer eligible for housing assistance. Where a tenant has breached a term of their tenancy agreement, they will be advised and given every opportunity to remedy the breach. HOME in PLACE QLD is committed to ensuring the long-term sustainability of tenancies within the context of maintaining the viability of the organisation. HOME in PLACE QLD will always endeavour to effectively resolve any breaches and disputes relating to the tenancies. HOME in PLACE QLD 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.

Guiding Principles:

HOME in PLACE QLD will:

- Advise our tenants of their rights and responsibilities when a Notice of Leave is issued and when action is taken in the Queensland Civil and Administrative Tribunal (QCAT) 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 a Notice to Leave in accordance with the Act;
- 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 Act.

Reasons for Ending a Tenancy

Residential tenancy agreements can be ended in the following ways:

- At the end of a fixed term agreement or during a periodic agreement by giving the correct notice;
- The tenant and the landlord mutually agree in writing;
- Abandonment of the property;
- Death of a sole tenant;
- Significant or repeated breaches of the agreement;
- By order of the tribunal;
- Excessive hardship;
- Sale of the property or possession by a mortgagee;
- The household is no longer eligible for housing assistance.

Tenancy ended by Tenant

If a tenant wants to end their tenancy the tenant gives notice to the landlord using a Notice of Intention to leave (Form 13) allowing the minimum notice period, as follows:

With Grounds

Grounds (reasons)	Minimum notice period
Unremedied breach	7 days
Non-compliance with QCAT order	7 days
Failure to comply with repair order	14 days
Non – liveability	The day notice is given
Compulsory acquisition	14 days

Grounds (reasons)	Minimum notice period
Intention to sell	14 days
Condition of premises	14 days
Death of a sole tenant	14 days
Death of a co-tenant	14 days
Tenant experiencing domestic and family violence ¹	7 days, but can vacate immediately
Condition of the property ²	14 days (within the first 7 days of occupying the property)

Without Grounds

A tenant is required to give not less than 14 days' notice unless the landlord has breached the agreement. The tenancy ends on the end date of the agreement or the end date of the notice period, whichever is longer.

Type of tenancy agreement	Minimum notice period
Periodic agreement	14 days
Fixed term agreement	14 days or the day the agreement ends

Tenancy terminated by HOME in PLACE QLD

HOME in PLACE QLD may at any time issue a Notice to leave (Form 12) to end a fixed term or periodic tenancy agreement. A Notice to leave can be issued for the following reasons and must provide the required notice period:

With Grounds

Grounds (reasons)	Minimum notice period
End of a fixed term agreement ³	2 months
Unremedied breach – rent arrears	7 days
Unremedied breach – general	14 days
Non-compliance with QCAT order	7 days
Grounds (reasons)	Minimum notice period

¹ Tenant must also complete a 'Notice ending tenancy interest (domestic and family violence)' (Form 20) and provide it to HOME in PLACE QLD with any relevant evidence

² The tenant may give a 'Notice of intention to leave' (Form 13) within the first 7 days of occupying the property if the property is not fit for the tenant to live in, the property is not in good repair, the property or its inclusions do not comply with the minimum housing standards, and where any of the above are not caused by an action or failure of the tenant

³ This reason cannot be used to end a fixed term agreement early. The tenancy only finishes on the end date of the agreement or the end date of the notice period (whichever is later), unless agreed by all parties in writing

Non-liveability	The day it is given
Compulsory acquisition	2 months
Sale contract ³	2 months
Significant repairs or renovations ³	2 months
Planned demolition or redevelopment ³	2 months
Change of use ³	2 months
Ending of accommodation assistance	4 weeks
Ending of housing assistance	4 weeks
Serious breach (public or social housing)	7 days
Death of sole tenant (parties can agree on an earlier date)	14 days

Prior to issuing a Notice to leave for rent arrears or other types of breaches, HOME in PLACE QLD will provide the tenant with the opportunity to remedy the breach and will issue the tenant with a Notice to Remedy Breach (Form 11). This provides the tenant with a minimum of 7 days to remedy the breach.

Breach not Remedied

- If the tenant(s) do not comply with the Notice to remedy breach HOME in PLACE QLD will issue a Notice to Leave to end the tenancy.
- If tenants do not vacate the property, in compliance with the Notice to leave, HOME in PLACE QLD will make an application to the QCAT for a termination order and warrant of possession.

Non-compliance with Tribunal Order

- If the tenant has not complied with an order of the tribunal (QCAT) HOME in PLACE QLD will issue the tenant with a Notice to Leave.
- If the tenant does not vacate the property, an application will be made to the tribunal for a termination order and warrant of possession.

Other Grounds

Application will be made to the tribunal if, the tenant fails to handover the property after being issued with a Notice to Leave, on the following grounds:

- Serious breach;
- Non-liveability;
- Compulsory acquisition;
- Sale contract;
- Ending of accommodation assistance; or
- End of housing assistance.

HOME in PLACE QLD can make application to the tribunal for a termination order, and warrant of possession, without giving a Notice to leave to the tenant for any of the following reasons;

- Failure to leave as intended;
- Repeated breaches;
- Damage;
- Injury;
- Objectionable behaviour;
- Excessive hardship; or
- Incompatibility.

Repeated Breaches

A repeated breach is when 2 or more notices have been given for the same breach within a 12 month period, if a third breach occurs, HOME in PLACE QLD will apply to QCAT to have the tenancy agreement ended provided:

- A Notice to Remedy Breach (Form 11) was given each time;
- Each breach was for the same problem and was not rectified, and
- The problem is of a serious nature.

Warrants of Possession

If a warrant of possession is granted, it will authorise a police officer or stated authorised person to enter the property to take possession of the property. HOME in PLACE QLD cannot enter the property or force the tenant to leave without a warrant of possession in place.

Withdrawing Notice to Leave for remedied breach

A Notice to Leave may be withdrawn by HOME in PLACE QLD if a breach is remedied after the notice has been issued. The withdrawal

- Must be made before the handover day;
- Must be made in writing to the tenant, and
- May be made with the tenant's written agreement.

If a Notice to Leave is withdrawn, the tenancy continues as if the notice had not been given.

Death of Sole Tenant

Following the death of a sole tenant the tenancy ends when one of the following occurs first:

- 14 days after the tenant's representative or relative gives HOME in PLACE QLD written notice of the end of the agreement due to the tenant's death;
- 14 days after HOME in PLACE QLD give the tenant's representative or relative written notice of the end of the agreement due to the tenant's death;
- The day agreed between HOME in PLACE QLD and the tenant's representative or relative;
- The day decided QCAT on application by HOME in PLACE QLD.

In circumstances where:

- No notice is given, or

- No agreement is made between HOME in PLACE QLD and the tenant’s representative or relative, or
- No application is made to the tribunal to end the tenancy

The tenancy agreement ends 1 month after the tenant’s death for both fixed and periodic agreements.

HOME in PLACE QLD 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 of time following the death. HOME in PLACE QLD will consider such requests on a case-by-case basis.

Finalising Accounts (Death of Sole Tenant)

In order to refund rent credits and/or rental bonds to deceased tenants’ estates, the Finance Department requires a signed written request from the beneficiary or Executor of the Estate. The written request must provide details of the beneficiary’s bank details for payment into an account.

Where no beneficiary or Executor is identified, HOME in PLACE QLD will lodge any account credits or unclaimed funds to the Queensland Public Trustee.

Entitlement to Supported Accommodation Ends

If a tenant in supported accommodation is no longer eligible

- To be provided with approved supported accommodation; or
- To continue to occupy the particular premises.

HOME in PLACE QLD may give a notice to leave for ending of accommodation assistance. HOME in PLACE QLD will support and assist by making appropriate referrals to find appropriate alternate accommodation.

Entitlement under Affordable Housing Scheme

If a tenant is occupying premises under an affordable housing scheme and is no longer eligible under the scheme to:

- Receive assistance; or
- Continue to occupy the particular premises

HOME in PLACE QLD may give a notice to leave for ending of housing assistance. HOME in PLACE QLD will support and assist by making the appropriate referrals.

Without Grounds

Type of tenancy agreement	Minimum notice period
Periodic agreement	2 months
Fixed term agreement ⁴	2 months or the day the term of the agreement ends

⁴ A Notice to Leave can be given for the end of a fixed term agreement up to one day prior to the end of the tenancy, with a minimum notice period of two months.

Social Justice Interventions

In managing breaches of tenancy agreements HOME in PLACE QLD will apply the principles of social justice to ensure all tenants are treated in a fair and equitable manner. Tenants will be given the opportunity to remedy the breach prior to HOME in PLACE QLD taking action in the tribunal.

HOME in PLACE QLD Responsibilities

When a tenancy ends the tenant can expect HOME in PLACE QLD to:

- Conduct a property inspection and identify and repairs and maintenance that is deemed the responsibility of the outgoing tenant;
- Allow the tenant, where practicable, the opportunity to do any cleaning, minor repairs, garden maintenance;
- Finalise the tenant's end of tenancy accounts, repay any credits or rental bond or take steps to recover outstanding debt from the tenant;
- Negotiate the settlement of outstanding debt with the tenant;
- Commence action in the QCAT for recovery of unpaid debt;
- Record a forwarding address on the former tenant's file (if known) and details of unpaid debt and/or payment plans;
- Dispose of any belongings left in the premises in accordance with the Residential Tenancies and Rooming Accommodation Act 2008 (Act); and
- Where practicable HOME in PLACE QLD will seek feedback from tenant at the end of their tenancy. The information obtained will be used to assist with HOME in PLACE QLD's commitment to continuous improvement.

Tenant Responsibilities

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, HOME in PLACE QLD will contact the tenant to discuss payment options and/or apply to the QCAT for orders to pay.

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. HOME in PLACE QLD will, where possible conduct a pre vacate inspection to identify and cleaning, damage or unauthorised works, the tenant will be requested to rectify prior to vacating. If a tenant declines to undertake works to rectify identified issues, HOME in PLACE QLD will arrange for the works to be completed and the costs will be charged to the tenant.

Goods left on the premises

A tenant is responsible for removing all goods and belongings from the property at the end of the tenancy. Any goods left on the premises will be managed by HOME in PLACE QLD in accordance with the Residential Tenancies and Rooming Accommodation Act 2008 (Act).

Review of Decisions

If a tenant disputes HOME in PLACE QLDs' 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 to Leave, HOME in PLACE QLD may take action in the QCAT, if HOME in PLACE QLD takes this action, tenants are notified and provided with the opportunity to formally dispute the decision to end the tenancy.

4. Definitions and Acronyms Glossary

For clarification of any definitions or acronyms contained within this document, please click on the [Glossary](#) for information.

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