

# Policy

## *Tenancy Exit*



### **Purpose**

This policy ensures that all tenancy exits are managed by Anglicare in an effective and professional manner according to the FACS Policies, and all relevant legislation including the Residential Tenancies Act 2010, Residential Tenancies Amendment (Social Housing) Act 2005, and the Residential Tenancy Regulations.

### **Scope**

This policy applies to all tenants of the Service Package Dwellings.

### **Policy Statement**

At the commencement of a tenancy, Anglicare will ensure that all Tenants and Household Members understand and agree to adhere to the legal requirements for ending a tenancy as detailed in this policy.

## Policy

### Notice Required

<b>Tenant initiated termination</b>	<b>Notice required</b>
Tenant exiting from continuing lease	21 days
Tenant exiting from fixed term lease	14 days
Tenant exiting to a residential aged care facility	14 days
Tenant exiting or transferring due to domestic violence	no notice required
<b>Anglicare initiated termination</b>	<b>Notice required</b>
Continuing lease	90 days*
Fixed term lease	30 days
For breach of tenancy agreement	14 days

*\*Note: a Tenant can elect to leave at any time once the Notice has been served*

Once an official notice has been issued in writing, the Tenancy Manager will contact the Tenant to discuss vacating procedures and to provide other relevant information. The End of Tenancy Process conducted by Anglicare is outlined below, and further illustrated in the process map.

If the Tenant has not moved out by the termination date in accordance with the Notice, Anglicare has 30 days to apply to the NSW Civil and Administrative Tribunal (NCAT) for an Order for Termination and Possession. In accordance with the FACS NSW Housing Pathways guidelines and the *Residential Tenancies Act 2010*, Tenants can also appeal to the NCAT if they believe Anglicare has breached the Residential Tenancy Agreement or the *Residential Tenancies Act 2010*.

### Termination of Tenancy

Anglicare may seek to end a tenancy if the Tenant has breached their Residential Tenancy Agreement. Please refer to the Breach of Tenancy Agreement Policy for more details on this process.

### Ending a Lease Early

Anglicare may end the lease on a Service Package Dwelling for management reasons whilst upholding the tenancy. Reason may include:

- Under-occupancy;
- Over-crowding;
- The particular the Service Package Dwelling has features, such as modifications for people with a disability that are no longer needed by the people living in the Service Package Dwelling;
- Where the Service Package Dwelling is subject to upgrade or requires repairs that will be undertaken over an extended duration;

- Management of neighbour disputes or social disharmony that involves or affects the Tenant; or
- An event that leaves the Service Package Dwelling uninhabitable (e.g. natural disasters).

Where the transfer circumstances are triggered by the condition of the Service Package Dwelling or some other reason, Anglicare will make arrangements to facilitate the relocation of the Tenant into suitable alternative housing that:

- meets the tenant's known housing and locational needs, and
- allows continued access to services, and
- supports the creation of a successful and sustainable tenancy in the new location.

This may also involve finding temporary accommodation.

Refusal of a reasonable offer of an alternate property may be grounds to terminate a tenancy.

Housing transfers are referred to in the Housing Transfers Policy .

## Tenant Evictions

Anglicare will not evict a Tenant or Household Member into homelessness, and commit to acting with compassion and understanding in all circumstances to address any issues arising which may trigger an eviction process under the Residential Tenancy Agreement. Anglicare recognises that life is full of trials, and that people may be forced to face hardship due to events both within and beyond their control. In responding to circumstances that may give rise to potential tenant evictions, **Anglicare is committed to working with the Tenants and Households in navigating through the difficulties they face, and would provide the support they need to get back on their feet.** At all times, responsive and accessible support will always be available to Tenants and Household Members from the Tailored Support Coordinator, Tenancy Manager and broader Anglicare support network.

However, if termination of a Residential Tenancy Agreement becomes inevitable due to underlying issues that cannot be mitigated **Anglicare is committed to finding and arranging an alternative accommodation first.** This may arise due to a severe breach of the Residential Tenancy Agreement and if the underlying issues have an adverse impact on other Tenants and Household Members within the resident communities (e.g. substance abuse, behavioural patterns, criminal activities etc.). In these instances, Anglicare is committed to providing a fair and transparent process to determine and manage the termination of Residential Tenancy Agreement.

In all tenancy eviction events, Tenants have the right to lodge an application with NCAT to appeal the decision.

All other avenues with the NCAT in relation to termination of the tenancy must have been exhausted and procedural fairness and tenant rights maintained.

### *Section 85 no grounds termination notice*

Under Section 85 of the Residential Tenancies Act 2010, Anglicare may apply for a 90 days no grounds termination of a periodic tenancy agreement. Anglicare recognises that a no grounds notice is a last resort available within the Residential Tenancies Act 2010 and that the principles of continuing tenancy and tenant rights will prevail as far as possible.

The application for a Section 85 notice will only be made in rare and exceptional circumstances. Anglicare defines these instances where the tenant is committing acts of extreme violence or behaviour that constitutes a serious risk of serious injury or danger to persons or properties or where a tenant has refused to sign a valid lease.

A Section 85 no grounds termination can only be issued with the approval of the General Manager, Housing.

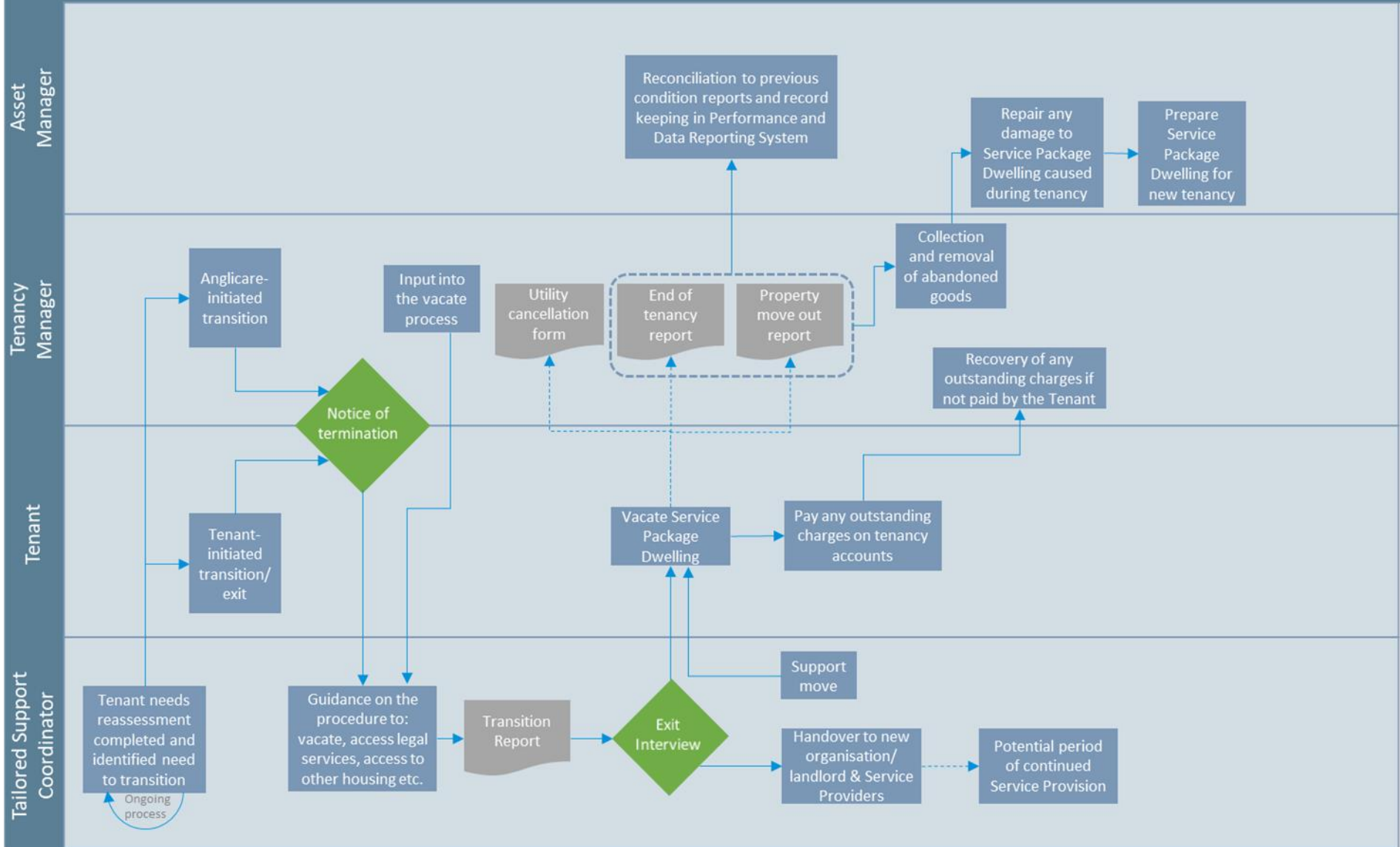
## End of Tenancy Process

Anglicare's End of Tenancy Process is outlined in the table below including the division of roles and responsibilities for Tailored Support Coordinator, Tenancy Manager and Asset Manager, and is further illustrated in the process map on the next page.

End of Tenancy Process	Tailored Support Coordinator	Tenancy Manager	Asset Manager
Identified need to transition	Accountable / Responsible	Inform	Inform
Tenant initiated transition/ exit	Consult	Responsible	Inform
Anglicare initiated transition	Responsible or Consult (depending on the circumstances for transition)	Accountable / Responsible	Inform
Notice of termination	Inform	Accountable / Responsible	Inform
Guidance on the procedure to: vacate, access legal services, access to other housing etc.	Accountable / Responsible	Inform	Inform
Transition Report	Inform	Accountable / Responsible	Inform
Exit interview	Inform	Accountable / Responsible	Inform
Vacate premises (refer to the Vacating Process below)	Inform	Accountable / Responsible	Inform
Utility cancellation form	Inform	Accountable / Responsible	Inform
End of tenancy report	Consult	Accountable / Responsible	Inform
Property move out report	Inform	Accountable / Responsible	Inform
Hand-over to new organisation/ landlord & Services Providers	Accountable / Responsible	Inform	Inform
Ensure tenant has paid all outstanding charges and rent	Inform	Accountable / Responsible	Inform
Collection and removal of abandoned goods	Inform	Accountable / Responsible	Inform

<b>End of Tenancy Process</b>	<b>Tailored Support Coordinator</b>	<b>Tenancy Manager</b>	<b>Asset Manager</b>
Repair any damage to dwelling caused during tenancy	Inform	Inform	Accountable / Responsible
Prepare dwelling for new tenancy	Inform	Inform	Accountable / Responsible
Potential period of continued service provision	Accountable / Responsible	Not Applicable	Inform
Reconciliation to previous condition reports and record keeping in Performance Data Reporting System	Inform	Inform	Accountable / Responsible

# End of Tenancy Process – Social and Affordable Housing



## **Vacating Process**

*The Tenant is to undertake the following when vacating a Service Package Dwelling.*

- Ensure that the premises are in a reasonably clean condition.
- Ensure all keys, including letterbox keys and swipe cards, are returned to the site coordinator by a specified date. Rent will continue to be charged until all keys are returned.
- Remove all unwanted furniture and rubbish from the premises and grounds. Tenants are responsible for arranging removal and any costs associated with removing left items will be charged to the tenant.
- Remove any alterations made to the Service Package Dwelling and return the Service Package Dwelling to its original condition.
- Arrange a joint inspection of the property with the Tenancy Manager during which the Property move out report will be completed.

## **Further Information**

Persons requiring further information about tenancy exits at Anglicare should contact the Tailored Support Coordinator.

## Definitions and Abbreviations

Term or Abbreviation:	Definition:
FACS	Department of Family & Community Services
NCAT	NSW Civil and Administrative Tribunal

## References

Related documents could be external documents, such as legislative or other requirements, or internal documents such as: policies, standards and operational documentation (e.g. procedures, guidelines, checklists, templates etc.).

No.	Document / Reference
1.	FACS Policies
2.	Residential Tenancies Act 2010
3.	Residential Tenancies Amendment (Social Housing) Act 2005
4.	Residential Tenancy Regulations

Document Owner: *General Manager Housing*

Date: *August 2018*