



## Leases and Tenure Policy

<b>Policy Intent</b>	<p>The purpose of this policy is to provide a decision making framework for determining the type and duration of the residential tenancy agreement (lease) offered to new and existing tenants.</p>
<b>Legislative context</b>	<p>The Residential Tenancy Act 1997 provides for two types of lease: fixed term leases and leases for no fixed term.</p> <p>The fixed term lease provides secure tenure during the fixed term, subject only to the tenant complying with the conditions of the lease.</p> <p>The lease for no fixed term provides secure tenure indefinitely. The owner may only end the tenancy if the premises are to be sold, renovated or used for another purpose, or if the tenant has failed to comply with the conditions of the lease.</p>
<b>Lease compliance</b>	<p>Tenants must reasonably comply with the conditions of their lease as a part of ensuring long-term housing with Housing Tasmania.</p>
<b>Why does Housing Tasmania need a policy?</b>	<p>Housing Tasmania recognises that for many people, public housing offers the best opportunity to achieve good housing outcomes because this tenure option allows them to develop a sense of ownership and control over their housing.</p> <p>For this reason, Housing Tasmania will provide most public housing tenants with a home to live in for as long as they want by offering them a lease for no fixed term. Continued tenure is subject only to the tenant complying with their lease and the property continuing to be suitable for public rental.</p> <p>Housing Tasmania will use fixed term leases where this is required to ensure appropriate and efficient future use of specialised homes. Where appropriate, tenants will be offered longer fixed terms of up to three years to increase tenant control over their housing.</p>
<b>Factors affecting lease type offered</b>	<p>The most appropriate type of lease will be assessed in each case, taking into account the circumstances of the household, the type of home they are renting, and any special purpose of the tenancy.</p>



- New Tenants** Housing Tasmania will offer all new public housing tenants an initial lease for a fixed-term of up to six (6) months.
- Rationale** The aim is to encourage new tenants to understand and comply with the conditions of their lease, and to enable early identification and intervention of breaches that may otherwise lead to the termination of the tenancy.
- A new public housing tenant is someone who has applied for public rental housing, been approved as eligible and has accepted an offer of a home.
- Transfer applicants are not treated as new tenants.
- Existing Tenants** After the first 6 months of the tenancy, Housing Tasmania will provide most public housing tenants with a home to live in for as long as they would like by offering a lease for no fixed term. Tenants can choose to have another fixed term lease instead, for a term negotiated with their tenancy officer up to a maximum term of 3 years.
- Some tenants may be required to enter into further fixed term leases due to previous issues relating to their tenancy.
- Although Housing Tasmania may provide tenants with a home to live in for as long as they need, some tenants may not live in the same property for the duration of their time living in a public housing property.
- Breaches of initial or other fixed term leases** New tenants who fail to reasonably comply with the conditions of their lease during the initial 6 months, will not be offered a lease of no fixed term. Any extension of their lease will be for another fixed term of up to 6 months. For very serious or repeated breaches, the tenant may be required to vacate.
- Exceptions – Special types of homes and tenancies** For the small number of tenants occupying specific types of homes or tenancies that are not mainstream public housing, Housing Tasmania will use a lease of fixed term for the entirety of the tenancy.
- Effected homes include:
- Homes not owned by the Director of Housing (e.g. Head leased homes)
  - Homes with special attributes, including disability modified homes and GETSmart homes
  - Any tenancy established for a purpose other than provision of mainstream public rental accommodation (e.g. Supported tenancies).



## **Rationale for fixed term leases in these cases**

Homes not owned by the Director of Housing cannot be let to tenants indefinitely, as the Director of Housing's tenure is limited.

Homes with disability modifications have fixed term leases to ensure that they are reserved for use by Tasmanians with disabilities.



If a tenant household no longer needs the special attributes of the disability modified home, they may be required to transfer to mainstream housing stock to free the home for allocation to a person with a disability. Tenants who refuse to transfer may be required to vacate at the end of their fixed term lease.

Tenancies that are not mainstream public housing are usually highly targeted, have support attached to the tenancy or other special conditions.

## **Exceptions – Conditional tenancies**

Fixed term leases are used for all conditional tenancies. These are tenancies entered into on the basis that continued tenure within that home, or within public housing, is conditional upon a specified factor, such as the tenant's assets not exceeding eligibility limits following a sale of property or compensation payout.

If the tenancy becomes unconditional, then normal considerations about lease type will apply after the current fixed term expires.

## **Succession of tenure**

If the legal tenant ceases to reside in the home, Housing Tasmania may agree to transfer the tenancy to a remaining household member. The succeeding tenant/s is deemed to be a new tenant when determining the appropriate lease type for their tenancy. Exceptions may be made for a spouse, partner or long term carer in appropriate cases.

## **Delegation**

Customer Service Officers have the responsibility for signing tenants onto leases and for signing leases as a representative of the Director of Housing.

## **Fair procedures**

Fair procedures will be followed when Housing Tasmania makes a decision about the type and duration of lease a tenant will be offered. Tenants may apply for a review of decisions about lease type and/or duration.

For further information relating to this policy please email the helpdesk [housing.policyhelpdesk@dhhs.tas.gov.au](mailto:housing.policyhelpdesk@dhhs.tas.gov.au)