

# Policy for Ending Tenancy – Customer-initiated (POL-349)

<b>Issue Date</b>	<b>September 2021</b>	<b>Approved by</b>	<b>General Manager, National Services</b>
<b>Owner</b>	<b>National Services</b>	<b>Author</b>	<b>Operational Policy</b>

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## 1. Purpose

The purpose of this policy is to assist Kāinga Ora staff in providing a consistent approach in the application of the 28 days' notice period when a tenant would like to end their tenancy.

## 2. Scope

This policy applies to the right of Kāinga Ora under the Residential Tenancies Act (RTA) to enforce the 28 days' notice period.<sup>1</sup>

The policy specifically includes:

- i. Circumstances for when the 28 days' notice period will be applied, during which period the tenant will be required to continue paying rent
- ii. Guidelines around what criteria could result in consideration to waive or reduce the 28 days' notice period
- iii. Delegations for waiving or reducing notice.

This policy does not apply in instances where a tenancy is abandoned, where there is non-occupancy, where there is the death of the sole tenant or where the tenant is transferring to another Kāinga Ora property.

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<sup>1</sup> Section 51 (2B) Residential Tenancies Act 1986, inserted by Residential Tenancies Amendment Act 2020 on 11 February 2021.

### 3. Operating Principles

The operating principles from the Kāinga Ora - Homes and Communities Act 2019 that are most likely to be relevant to this policy are the following:

- supporting tenants to be well connected to their communities and to lead lives with dignity and the greatest degree of independence possible and to sustain tenancies
- being a fair and reasonable landlord, treating tenants and their neighbours with respect, integrity and honesty.

Any actions taken under this policy should be taken in line with these operating principles. Other operating principles may apply to this policy as the circumstances require.

### 4. Background

Kāinga Ora is committed to listening and seeking to understand the housing and support needs of our customers.

We also want to empower our customers to increase their independence, meaning that they have the skills, support and confidence to make decisions that give them more control of their lives and wellbeing. This can help our customers to move towards an exit from public housing into private rental or home ownership.

We are committed to ensuring that the voice of our customer is at the heart of our decision-making. The guiding principles from our Customer Strategy should be considered in the implementation of this policy. These include:

- Adaptability: we will aim to accommodate our customers' changing needs over the life of their tenancy, including transferring customers to homes that better meet their needs.
- Trust: mutual trust and reciprocity is at the heart of our relationship with our customers, we will value our customers' contribution and knowledge.
- Cultural respect: the values of people of all cultural and ethnic backgrounds will be respected and we will work with our customers to gain mutual understanding and outcomes.

### 5. Policy

When a tenant serves notice to end their tenancy agreement as set out in Section 51(2B) of the RTA, Kāinga Ora has the right to enforce a 28 days' notice period.

#### **Understanding tenants' reasoning for ending the tenancy**

Where possible, the Housing Support Manager should attempt to collect and understand information on the reasons why the tenant is vacating the premises and give due consideration to these reasons. Kāinga Ora can use this information to understand if ending the tenancy is in the tenant's best interest and if there are other options available to meet the tenant's needs

and sustain the tenancy. For example, a tenant may seek to end a tenancy due to a circumstance or situation that Kāinga Ora can influence and/or improve.

### Application of a 28 days’ notice period

Where the tenant does not give the required 28 days’ notice, Kāinga Ora will be entitled to charge the tenant rent for the full 28 days’ notice period.

### When does the notice period end?

If	Then
A tenant provides verbal and/or written notice.	Kāinga Ora will start the notice period from the date of verbal notice, subject to receiving written notice <u>within</u> 3 working days. If written notice is received <u>after</u> 3 working days, the notice period begins from the date the written notice is received.
A tenant only provides verbal notice and Kāinga Ora has been unsuccessful in receiving written notice from the tenant.	If the Housing Support Manager/Void Specialist is confident that the tenant has vacated once the 28 days have passed then the tenancy can be ended with Team Leader Housing Support approval.
The tenant vacates the property and returns the keys prior to the expiry of the notice period.	Kāinga Ora agree with the tenant to end the tenancy at the date the keys are surrendered and will take possession from that date.
A tenant provides written notice to terminate the tenancy but keys are not returned at the end of the notice period.	Kāinga Ora can take action to check if the property has been vacated because we hold a written agreement with the tenant to end the tenancy.  The Housing Support Manager/Void Specialist will confirm the property has been vacated at expiry of the notice period and end the tenancy.
A tenant provides written notice to terminate the tenancy, has vacated the premises but has left belongings at the property.	If the items are foodstuffs or other perishable goods, Kāinga Ora can dispose of them. If the items are not foodstuffs nor other perishable goods, Kāinga Ora will make all reasonable efforts to contact the tenant and to agree with the tenant on a period within which they will collect the belongings.  The Housing Support Manager/Void Specialist must deal with the belongings as per the T-237 Abandoned Goods Guidelines and RTA Section 62.

## **Waiving or reducing the 28 days' notice period**

In order for Kāinga Ora to provide more comprehensive and empathetic tenancy management that responds to our customers' needs, we recognise that there are circumstances in which we may need to consider a lesser notice period from the tenant.

The examples below provide guidance for cases where a lesser notice period may be considered. Each situation should be assessed on a case-by-case basis, recognising the need for our approach to be adaptable to customers' needs:

- The tenant is no longer able to care for themselves
- The tenant is at significant and imminent risk of harm if they remain in their current tenancy
- The tenant puts others at significant and imminent risk of harm if they remain in their current tenancy
- The tenant considers that the property is uninhabitable for their needs
- The tenant vacates the property and returns the keys prior to the expiry of the notice period
- Enforcing the notice period will have a significant negative impact on neighbours or others in the community (for example through anti-social behaviour)
- Enforcing the notice period significantly impacts the tenant's wellbeing and dignity
- Enforcing the notice period significantly impacts the tenant's employment circumstances and income
- A new tenant is found for the property who can move in before the end of the notice period and the current tenant wishes to vacate early.

A tenant in debt may be sufficient reason to waive or reduce the notice period. However this can be considered with other extenuating factors at the discretion of the Team Leader Housing Support and according to the Kāinga Ora Rent Debt Policy (to be published).

### **Delegations for waiving or reducing notice**

The Team Leader Housing Support has discretion to waive the requirement for, or reduce the 28 days' notice period in instances such as those listed in the criteria above.

## **6. Related policies, procedures, legislation and documents**

Related Kāinga Ora documents:

- He Toa Takitini – our Partnership and Engagement Framework
- Customer Strategy
- Sustaining Tenancies Policy
- CT-POL-101 Family Violence Policy
- Rent Debt policy
- CT-749 Manage Tenant Vacating

- CT-FRM-101 Notice to end your tenancy agreement
- CT-755 Manage vacant account
- Open Term Services Agreement between the Ministry of Housing and Urban Development and Housing NZ Corporation and Housing NZ, dated 30 Sept 2019.

Relevant legislation, regulations and standards:

- Residential Tenancies Act 1986

## 7. Records

Retain all records within the Kāinga Ora records system - refer 'Records retention and disposal' (R-105).

## 8. Review

This policy will be reviewed by the Operational Policy team on an as-needed basis. It will also be reviewed in due course to reflect the approach established in under the Customer Programme.

## 9. Document Control

Date	Reviewed/Modified by	Comments/Descriptions of changes
July 2021	Operational Policy, Customer Programme, Issues and Operations, Legal	Updated to reflect operating principles.

Details of previous versions of policies and procedures will be stored in the document management system (Objective).