

# Breach of Tenancy

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## 1. Purpose

The purpose of this policy is to outline HT's approach to investigating and responding to possible breaches of residential tenancy agreements.

## 2. Guiding Principles

The Housing Trust provides subsidised housing to tenants on very low, low and moderate incomes. Tenants' responsibilities are set out in the terms of their residential tenancy agreement and the *Residential Tenancies Act 2010*.

In return for the provision of subsidised housing, Housing Trust expects tenants to comply with the terms of their residential tenancy agreement and the *Residential Tenancies Act 2010*.

Tenants are also responsible for the actions of all persons who either reside in or visit their home.

Where it is alleged (or confirmed) that a tenant is not meeting their obligations under their residential tenancy agreement or the *Residential Tenancies Act 2010*, HT will:

- Ensure the principles of natural justice are followed by giving the tenant an opportunity to respond to concerns about a possible breach of the agreement
- Advise the tenant of their rights and obligations under their agreement and the *Residential Tenancies Act 2010*, and of the potential consequences of breaching their agreement
- Deal promptly with all actual or alleged breaches of the tenancy agreement, taking into account the impact on other tenants, neighbours, and the tenant's own well-being
- Make reasonable attempts to resolve the situation with the tenant and to prevent future breaches to ensure the tenancy is sustained
- Where the breach is minor, provide the tenant with reasonable opportunity to remedy the breach within a defined timeframe
- Where the breach is persistent, ongoing, or serious HT will take more formal action against the tenancy, which may include action in the NSW Civil & Administrative Tribunal (NCAT) and, in some cases, termination of the agreement

Housing Trust will not act on vexatious, malicious, or unsubstantiated allegations that a tenant has breached their agreement.

Housing Trust welcomes and encourages the involvement of tenant advocates or other persons to support tenants where a breach of tenancy is being investigated. Housing Trust will only deal with those persons where a confirmed authority to act or exchange information is provided by the tenant.

Breaches that may result in a tenancy being ended include, but are not limited to:

- Failure to pay rent or other outstanding debts
- Non-occupancy of the property
- Significant damage to the property or failing to keep the property reasonably clean
- Persistent noise and nuisance that causes unreasonable impacts on the peace and comfort of neighbours

- Unauthorised use of the property, including rental fraud
- Use of the premises for illegal purposes

Housing Trust will deal with breaches of residential tenancy agreements in accordance with the *Residential Tenancies Act 2010*.

### **3. Action in the Tribunal**

Housing Trust may take action in the NSW Civil & Administrative Tribunal (NCAT) to remedy a breach of the residential tenancy agreement. Where this occurs, we will:

- Inform tenants that an application has been made
- Encourage tenants to seek independent advice and advocacy
- In most cases pursue a mutual agreement with the tenant to maintain their tenancy via a specific performance order (with a relist date)

Action may be taken to end a tenancy in the NCAT including situations where a tenant is willing to make an agreement where the breach has been serious, persistent or ongoing, involves violence or risk of harm to others, or the tenant has caused serious property damage (see End of Tenancy Policy).