

Tenancy Agreements for Public Housing

Policy

Date effective: 17 December 2020

1. Purpose

This policy details the types of public housing tenancy agreements which may be offered to eligible Territorians.

2. Scope

This policy applies to Public Housing Tenancy Agreements agreed between the Chief Executive Officer (Housing) (CEO (Housing)) and public housing tenants including premises leased under the social head leasing initiative.

This policy also applies to Department of Territory Families, Housing and Communities staff that work with public housing tenants.

This policy does not cover Government Employee Housing or properties which fall under the Industry Housing Assistance Scheme.

3. Policy detail

Sections 15 and 16 of the *Housing Act 1982* enable the CEO (Housing) to let houses for the purpose of residential accommodation.

Section 34 of the *Housing Act 1982* states that the *Residential Tenancies Act 1999* applies to and in relation the premises of the *Housing Act 1982*.

Section 19 of the *Residential Tenancies Act 1999* enables the landlord, the CEO (Housing), to enter into a tenancy agreement with a tenant. A tenancy agreement provides the tenant and the landlord with rights and responsibilities prescribed in the *Residential Tenancies Act 1999*.

3.1. Fixed term probationary tenancies

All new tenants will be offered a six month fixed term probationary tenancy agreement.

The CEO (Housing) may also require a tenant to enter into an Acceptable Behaviour Agreement if it forms a reasonable belief that the tenant or a recognised occupier of the premises is likely to engage in antisocial behaviour.

Existing tenants who have a recent history of antisocial behaviour and who are transferring to a new tenancy may also be offered a six month probationary tenancy agreement.

The CEO (Housing) will provide focused tenancy management to support tenants to understand their rights and meet their obligations under the *Residential Tenancies Act 1999*. This support may be offered in conjunction with support from community organisations contracted by the CEO (Housing).

At the end of the fixed term probationary tenancy agreement, tenants who demonstrate the ability to meet the conditions of their tenancy agreement will transition to a periodic/ongoing tenancy agreement. Unsatisfactory tenancy behaviour may include:

- serious and repeated disturbances to neighbours;
- consistent failure to pay rent; and
- serious damage to premises or maintaining in an unreasonably dirty condition.

Where a tenant does not meet the conditions of their tenancy agreement, the fixed term tenancy agreement may either be extended for a further probationary period of up to six months or terminated as outlined in the Terminations of a Tenancy policy.

3.2. Periodic tenancy agreements

Eligible tenants will transition to a periodic/ongoing tenancy agreement at the end of the fixed term probationary tenancy agreement if the tenant has demonstrated the ability to meet the conditions of their tenancy agreement.

3.2.1. Existing (non-probationary) fixed term tenancy agreements

Eligible tenants who currently have a (non-probationary) fixed term tenancy agreement will be offered the option to enter into a periodic/ongoing arrangement before their fixed term ends, or will transfer to periodic/ongoing when fixed term agreements expire, if they remain eligible.

3.3. Employment Incentive Scheme

Under the Employment Incentive Scheme, a household is guaranteed a secure tenancy agreement for at least twelve months when their eligibility changes due to increased income from new employment or an increase in employment hours.

The Employment Incentive Scheme also applies to tenants on a probationary tenancy agreement. The CEO (Housing) may require the tenant to enter an Acceptable Behaviour Agreement if there is a reasonable belief that tenant or a recognised occupier is likely to engage in antisocial behaviour.

To access the Employment Incentive Scheme, eligible tenants will be required to enter into a fixed term tenancy agreement with the CEO (Housing) for twelve months. During this time the household's rent will increase gradually to the correct level over six months to offset any disincentive. Please refer to the Employment Incentive Scheme policy for more information.

4. Eligibility

To be eligible for public housing, applicants and tenants must meet qualifying criteria (refer to Eligibility for Public Housing policy). Staff will assess initial and continuing eligibility for public housing. The

CEO (Housing) will only enter into and maintain a public housing tenancy agreement with eligible applicants/tenants.

When a tenant or household has a change in entitlement and remains eligible for public housing, the delegate of the CEO (Housing) will identify a dwelling of the correct entitlement and the tenant will be required to transfer to that dwelling and enter into a new tenancy agreement.

If a tenant no longer meets eligibility criteria, or if a tenant refuses to move to a dwelling that matches their entitlement, a periodic/ongoing tenancy agreement may be terminated in accordance with Section 89 of the *Residential Tenancies Act 1999*.

Refer to the Eligibility for Public Housing policy, the Entitlement policy, the Public Housing Transfers policy and the Termination of a Tenancy policy for further information.

5. Decision-making (delegation and discretion)

The CEO (Housing) may delegate a power or function under the *Housing Act 1982* or other Act. Delegated officers may make decisions on behalf of the CEO (Housing) in line with the Housing Delegations and Financial Management Delegations.

A discretionary decision may be made outside the general application of policy if it supports the policy intent, will prevent a client from being unfairly disadvantaged, and is in line with the Department's delegations and legislative obligations. Refer to the Discretionary Decision Making policy.

6. Complaints and/or appeals

If a client is not satisfied with either a decision or action of the department, they can access the department's complaints and/or appeals processes. For further information, please refer to the Complaints and/or Appeals policies.

7. Review of the policy

If at any time the legislative, operating or funding environment is so altered that the policy is no longer appropriate in its current form, the policy shall be reviewed and amended accordingly.

8. References

8.1. Legislation

Housing Act 1982

Information Act 2002

Residential Tenancies Act 1999

8.2. Policies

Acceptable Behaviour Agreement policy

Appeals policy

- Complaints policy
- Discretionary Decision Making policy
- Eligibility for Public Housing policy
- Employment Incentive Scheme policy
- Entitlement policy
- Public Housing Transfers policy
- Red Card policy
- Renovation, Replacement or Demolition of Public Housing Policy
- Tenancy Agreement Breach policy
- Termination of a Tenancy policy

8.3. Key related documents

Public Housing Tenancy Agreement

9. Document change control table

Release date	Version number	Approved by (position)	Section amended	Category
17/12/2020	3.03	Executive Director Strategic Policy	3.1, 5	Editorial amendments
10/07/2017	3.02	Director Policy	3.1, 3.3	Editorial amendments
21/11/2016	3.01	Director Policy	all	Editorial amendments
1/08/2016	3.00	Chief Executive Officer	all	Revised
4/07/2016	2.00	Chief Executive Officer	all	Revised
24/03/2016	1.01	Director Policy	all	Editorial amendments
26/06/2013	1.00	Chief Executive Officer	all	New separate policy derived from Housing Services Operational Policy Manual, Chapter 9