

Illegal Use of a Dwelling

Policy

Document title	Illegal Use of a Dwelling	Version 1.03
Contact details	Territory Families, Housing and Communities Operational Policy housing.policy@nt.gov.au	
Approved by	Director Operational Policy	
Date approved	18/03/2020	
Document review	24 months from date of approval	
TRM number	HSG2016/01863-4~001	

Version	Active from	Author	Changes made
1.03	30/03/2022	Operational Policy	Rebranded
1.02	18/03/2020	Director Policy	Editorial amendment
1.01	16/12/2016	Director Policy	Editorial amendment
1.00	02/09/2013	Executive Director, Housing Operational Client Support	New separate policy derived from Housing Services Operational Policy Manual, Chapter 11

Contents

1. Purpose	4
2. Scope	4
3. Policy detail	4
3.1. Illegal purposes	4
3.2. Misuse of drugs	4
4. Decision-making (delegation and discretion)	4
5. Complaints and/or appeals	5
6. Review of the policy	5
7. References	5
7.1. Legislation.....	5
7.2. Policies.....	5

1. Purpose

This policy outlines the Department of Territory Families, Housing and Communities ('the Department') response to illegal use of public housing, including drugs. The Department has an obligation to provide safe public housing, and has a range of penalties to deal with illegal uses of dwellings according to the severity of the crime.

2. Scope

This policy applies to all tenants in public housing, including residents and visitors.

3. Policy detail

3.1. Illegal purposes

Under the terms of a Department tenancy agreement, a public housing dwelling may only be used for residential purposes. Some exceptions are granted for legitimate commercial businesses – see the Home Businesses and Self-Employment policy for further information.

It is a breach of the tenancy agreement under section 100(1)(b) of the *Residential Tenancies Act 1999* to use a dwelling for illegal purposes. Under the *Residential Tenancies Act 1999*, the Department may apply to the Tribunal to seek termination of a tenancy agreement, if it is satisfied that the tenant has caused or permitted the premises to be used for an illegal purpose. See the Tenancy Agreement Breach policy for more information. The Department prefers that tenants stop using the dwelling for illegal purposes rather than terminate the tenancy, however leniency will not be given in the event of serious crimes.

3.2. Misuse of drugs

The Department will work in conjunction with police to eradicate the misuse of drugs in public housing. Police are able to issue warnings, known as drug notices, to a household under the *Misuse of Drugs Act 1990* given reasonable belief that a dangerous drug has been found at the dwelling.

Police can apply to the court to have a drug premises order issued, which results in a drug premises sign being attached to the front of the dwelling. At this point the Department will take action to terminate the tenancy.

Tenants who have been evicted due to a drug premises order will have their eligibility for future public housing affected.

Once a tenancy has been terminated, the Department will immediately apply to the court to have the drug premises order revoked before the next tenant moves in.

4. Decision-making (delegation and discretion)

The Chief Executive Officer (Housing) may delegate a power or function under the *Housing Act 1982* or other Act. Delegated officers may make decisions on behalf of the Chief Executive Officer (Housing) in line with the Department's 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.

5. 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.

6. 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.

7. References

7.1. Legislation

Housing Act 1982

Misuse of Drugs Act 1990

Residential Tenancies Act 1999

7.2. Policies

Appeals policy

Complaints policy

Discretionary Decision Making policy

Home Businesses and Self-Employment policy

Tenancy Agreement Breach policy