



POLICY:	BREACH AND TERMINATION
DOCUMENT NUMBER:	HGS-PP-4094
BUSINESS UNIT:	HOUSING SERVICES
ENDORSED BY THE EM:	30.09.2020
DATE OF ISSUE:	30.09.2020

1. STATEMENT OF PURPOSE

- 1.1. The purpose of this policy is to outline the management of breaches and termination of SVDPWA's tenant's/resident's accommodation agreements in SVDPWA's owned or managed premises.
- 1.2. SVDPWA aims preserve the financial sustainability of SVDPWA owned or managed properties in providing services to people in need.
- 1.3. SVDPWA endeavors to uphold the rights of tenants/residents and persons in the immediate vicinity to quiet enjoyment of premises they are occupying.
- 1.4. SVDPWA is committed to communicating its management practices in relation to disruptive, dangerous or illegal activities and complaints received relating to the SVDPWA owned or managed premises.
- 1.5. SVDPWA undertakes to support tenants/residents to address behaviours of concern and ultimately sustain their accommodation; with termination of accommodation agreement as a last resort.
- 1.6. SVDPWA manages any tenancy complaints or breaches in a fair and transparent manner taking into account the principles of natural justice including providing tenants/residents with the opportunity for appeal.

2. SCOPE

- 2.1. This is a Specialist Community Services (SCS) policy, applicable to all staff, volunteers and tenants/residents residing within or accessing the following SCS services;
 - Housing Services (HGS)

3. DEFINITIONS

- 3.1. **Accommodation Agreement means** collective name for Residential Tenancy Agreement and Licence to Occupy Agreement.
- 3.2. **Breach means** when a tenant/resident breaks the terms and conditions outlined in their Accommodation Agreement
- 3.3. **Dangerous behaviour means** activities conducted by a tenant/resident that intentionally or recklessly risk the safety or security of another Tenant/resident



or property; or have resulted in injury to a person in the immediate vicinity or sharing the accommodation regardless of Police charges/convictions.

- 3.4. **Disruptive behaviour and/or harassment means** activities conducted by a tenant/resident that cause a nuisance, or unreasonable disruption to the peace, privacy or comfort of persons in the immediate vicinity of the property or other tenants/residents.
- 3.5. **EM means** Executive Manager, Specialist Communities Services.
- 3.6. **Licence to Occupy means** the legally binding contract between the Society and a resident for accommodation services and the Residential Tenancies Act 1987 (WA) does not apply to this Agreement.
- 3.7. **MHGS means** Manager, Housing Services.
- 3.8. **Notice of Termination means** a document advising a tenant/resident that their Accommodation Agreement has been revoked by the Society and the reasons for it, as a consequence the tenant/resident has to vacate the occupied premises immediately or within a specified timeframe
- 3.9. **Notice of Vacate means** A SCS form completed by the tenant/resident advising HGS that the tenant/resident wishes to end their Accommodation Agreement and vacate the occupied premises providing a minimum of 2 weeks' notice (unless specified in RTA) or more if agreed with the Society in writing.
- 3.10. **Resident**, also called a Lodger, means a person granted right of occupancy of residential premises in accommodation managed by SVDPWA's Housing service, under a Licence to Occupy agreement. This is under conditions other than those provided by the Residential Tenancies Act 1987 (WA) where they are considered 'lodger' under common law or otherwise. Also referred to as clients/consumers in other SVDPWA policy and procedures.
- 3.11. **Residential Tenancy Agreement means** the tenancy agreement used by the Society for Housing Services, (not including our share houses) which is compliant with the Residential Tenancies Act 1987.
- 3.12. **Serious disruptive behaviour means** activities conducted by a tenant/resident that intentionally or recklessly cause disturbance to persons in the immediate vicinity of the premises or other tenants/residents (if applicable) or which could reasonably be expected to cause concern for the safety or security of a person.
- 3.13. **Stakeholders means** support workers, family, other tenants/residents, HGS staff, contractors, neighbours, members of the community and other interested parties.
- 3.14. **Tenant** means a person granted right of occupancy of a residential premises in accommodation managed by SVDPWA's Housing Service under a Residential Tenancy Agreement as per Residential Tenancies Act 1987 (WA). Also referred to as clients/consumers in other SVDPWA policy and procedures.
- 3.1. **Tenancy Complaint** means a complaint or issue raised by tenants/residents,



neighbors, community members, housemates about HGS tenants/residents. These issues can include noise, anti-social behaviours and vandalism and are not considered complaints as they do not relate to dissatisfaction of HGS services. They can however become complaints if the complainant is not satisfied with how HGS manages the issue

(Complaint Management Framework for Community Housing Providers, Definitions, Page 10 NSW Federation of Housing Associations Inc and Registrar Community Housing, 2016).

- 3.2. **Termination of Accommodation means** the withdrawal of SVDPPWA from its obligations as a party to a Residential Tenancy Agreement or Licence to Occupy resulting in the tenant/resident being evicted from the occupied premises whether immediately or after a defined period.

4. POLICY STATEMENT

- 4.1. HGS investigates, monitors and responds to tenancy complaints and disruptive behaviour received in writing relating to SVDPPWA's owned or managed premises by tenants/residents in a fair, transparent and efficient manner.
- 4.2. HGS ensures the rights of the tenants/residents during the investigation process including privacy; and natural justice will be observed throughout the process of dealing with a complaint/breach.
- 4.3. HGS is committed to investigating and managing tenancy complaints or disruptive behaviour on a case by case basis, taking into account the individual circumstances of the tenant/resident involved, including cultural obligations and ability to control complaints/disruptions.
- 4.4. HGS ensures tenants/residents have a right of response to all tenancy complaints and are provided with details of the tenancy complaints/disruptions while respecting the privacy of the complainant.
- 4.5. HGS is committed to assisting tenants/residents retain their accommodation and work alongside their support agency to put support strategies in place.
- 4.6. HGS is committed to ensuring when tenancy complaints/disruptive behaviours arise support is provided to the tenant/resident alongside their support workers to address the underlying behaviours of concern.
- 4.7. HGS ensures that termination of an accommodation agreements is a last resort if remedial support strategies have been exhausted, non-engagement of tenant/resident in support strategies occurs or there is disruptive behaviour/dangerous behaviour which risks the health and safety of a person living in the vicinity of the premises or other stakeholders.
- 4.8. HGS requires that all tenancy complaints or records of disruptive behaviour are required in writing with the dates/time and description of the incident unless otherwise approved by MHGS.



5. PROCEDURE

5.1. **Breaches Management:** HGS categorises breaches into 2 categories depending on the severity of the disruptive behaviour and the potential impact on other tenants/residents, people in the vicinity and broader community and manages them accordingly.

5.1.1. HGS will take into account the level of disruptive/dangerous behaviour, commitment of tenant/resident to remedial support strategy and frequency of behaviours of concern when investigating and managing response to tenancy complaints/disruptive behaviour.

5.2. **Category A Breaches—Asset Danger:**

5.2.1. Failure to honour financial commitments outlined in the accommodation agreement (e.g. failure to pay rent, bond, tenant liability);

5.2.2. Failure to comply with requirements of the eligibility criteria outlined in the HGS Housing Plus Program (e.g. unwillingness to engage with the assigned support worker);

5.2.3. Breach of other provisions of the accommodation agreement (e.g. failure to comply with House Rules).

5.3. **Category B Breaches:**

5.3.1. Dangerous behaviour (e.g. interfering with gas and/or electricity networks, smoke alarm/RCD);

5.3.2. Disruptive behaviour and/or harassment (e.g. ongoing argumentative behaviour or insulting behaviour causing nuisance, anti-social behaviour);

5.3.3. Serious disruptive behaviour or harassment (e.g. violence or threat of violence towards another tenant/resident, person living in the vicinity, staff or another member of the community).

5.4. **Category A Breach Management:** In line with the Housing Authority's breach management practices, HGS assumes the general principles of the "three strikes" model for Category A breaches. However, HGS supports a more supportive landlord, remedial, trauma informed, strengths based approach to complaint management, with the primary objective being to support tenants/residents to retain their accommodation and address disruptive behaviours rather than a solely punitive management response. See process below:

Warning	will be dealt with by way of a verbal or written warning with the tenant/resident reminded of their responsibilities as per their accommodation agreement and that any further incidents may result in a formal breach of accommodation agreement.
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First Breach	will be dealt with by way of a written warning/breach and a tenancy support plan put in place with the support agency and the tenant/resident to address the underlying behaviours of concern putting the accommodation at risk. For serious incidents at breach may be issued in lieu of a warning letter.
Second Breach	will be dealt with by way of a written warning/breach and the tenancy support plan is reviewed and amended as required with the support agency and the tenant/resident and additional referrals sourced as required.
Final Breach	may be dealt with in way of a Termination of Accommodation notice with HGS working with the tenant/resident and support agency to ensure the best possible exit for the tenant/resident.
Additional Breach	additional written warning/breach notices may be provided in lieu of a final breach under discretion of Management.

HGS Breach Management "Three Strike Model"

5.5. **Category B Breach Management:**

- 5.5.1. Depending on the gravity of the breach, MHGS may issue a First and Final breach in writing or a Termination of Accommodation notice, in each case the decision being made in consultation with the EM.
- 5.5.2. For exceptionally grave breaches and/or when the safety of other tenants/residents, people in the vicinity and other members of the community are at risk, MHGS may recommend in writing, with consultation with the EM, a Termination of Accommodation notice effective immediately.
- 5.5.3. SVDPWA is committed to ensuring natural justice, representation and confidentiality rights of the tenant/resident is observed throughout the process.
- 5.5.4. Any breach/Termination of Accommodation notice is issued by SVDPWA can be appealed by the tenant/resident via the SVDPWA's Compliments and Appeal process.
- 5.5.5. MHGS may consider the personal/extenuating circumstances of the tenant/resident in the breach management process (e.g. re-issue a warning instead of escalating to a breach or issue an additional breach instead of escalating to a Notice of Termination).



6. BREACH OF POLICY AND RELATED PROCEDURES

- 6.1. Failure to comply with this policy may be considered a breach of our policies and may result in disciplinary action.

7. REVIEW

- 7.1. This policy will be reviewed at least every two years, after consultation. Some circumstances may trigger an early review; this includes but is not limited to legislative changes, organisational changes, incident outcomes and other matters deemed appropriate by SCS Management Team and Executive Manager SCS.

8. REFERENCES

- 8.1. Complaint Management Framework for Community Housing Providers 2016, NSW Federation of Housing Associations Inc and Registrar Community Housing
- 8.2. HGS-PR-4091 Complaints and Appeal Procedure
- 8.3. SCS-PP-4004 Compliments, Complaints and Appeals Policy
- 8.4. HGS-FM-#### Licence to Occupy
- 8.5. HGS-FM-#### Licence to Occupy- Schedule 3: Lodging House Rules
- 8.6. SCS-FM-#### Tenancy Support Plan

9. RELATED DOCUMENTS AND LEGISLATION

- 9.1. A Better Way Report 2013, Equal Opportunity Commission, Government of Western Australia
- 9.2. Form 1A Notice of Termination for Non-payment of rent, Department of Mines, Industry, Regulation and Safety, Western Australia
- 9.3. Form 1B Notice of Termination for Non-payment of rent, Department of Mines, Industry, Regulation and Safety, Western Australia
- 9.4. Form 1C Notice of Termination, Department of Mines, Industry, Regulation and Safety, Western Australia
- 9.5. Disruptive Behaviour Management, Housing Authority, Government of Western Australia



- 9.6. Housing Assets Rental Policy 2020, Housing Authority, Government of Western Australia
- 9.7. Residential Tenancies Act 1987, Department of Mines, Industry, Regulation and Safety, Western Australia
- 9.8. Residential Tenancies (COVID-19 Response) Act 2020, Department of Mines, Industry, Regulation and Safety, Western Australia
- 9.9. HGS-PR-#### Tenancy Complaint Procedure (to be developed)
- 9.10. SCS-PP-4001 Continuous Improvement Policy
- 9.11. HGS-PR-#### Client Contact Procedure
- 9.12. HGS-PP-4072 Housing Policy
- 9.13. HGS-PR-4071 Critical Incident Procedure
- 9.14. SCS-PP-4048 Critical Incident Management Policy
- 9.15. HGS-PP-4070 Department of Communities Notification Policy