

Rental Subsidy Fraud

Purpose

The purpose of this policy is to set out how Housing Trust will respond to situations involving suspected and proven rental subsidy fraud due to the non-disclosure of household income changes (including occupancy and income).

Definition

The rent subsidy is the difference between the rent paid by the tenant and the market rent. A rent subsidy is based on the assessable and/or gross income and assets of a household.

Policy

Housing Trust provides the opportunity for all social housing tenants to apply for a rental subsidy. It is a tenant's responsibility to satisfy Housing Trust that they are (and remain) entitled to this rebate by declaring any changes to income or occupancy.

Tenants must notify Housing Trust of changes to either household occupancy or income by completing a Rental Subsidy Application Form within twenty one (21) days of a change occurring. Failure to notify changes may result in action being taken against a tenancy due to rental fraud.

A tenant may be receiving a rent subsidy they are not entitled to if they have not told Housing Trust about changes to:

1. Household occupants.
2. Income received by the household occupants (including the tenant).
3. Financial interests of the household occupants (including the tenant), for example, shares, savings or inheritance.
4. Property ownership interests of the household occupants (including the tenant).

Investigating Rental Subsidy Fraud

Tenants subject to an investigation will be advised that the Housing Act 2001 prescribes penalties which could include a maximum penalty of three (3) months imprisonment for wilfully making a false statement to claim a rent subsidy to which the tenant is not entitled to, or failing to notify a change of circumstances with the intention of retaining or continuing to obtain a benefit which the tenant knows they are not entitled to.

Housing Trust will ensure the rules of natural justice are applied to ensure tenants are aware of any allegations made against them and they have the opportunity to refute.

Outcome in Cases of Rental Fraud

Where Housing Trust concludes on the balance of probability that a tenant has received or is receiving a rent subsidy they are not entitled to, it may take a range of actions including but not limited to:

1. Cancelling or adjusting rent subsidies which may be backdated to the date of change or the date a tenant became ineligible for a rental subsidy.
2. Seeking specific performance orders in the NSW Civil and Administrative Tribunal (NCAT).
3. Termination of the tenancy.
4. Action to recover an outstanding debt.
5. Criminal prosecution.

Cancelling or adjusting rent subsidies that are backdated within a six week time frame can be actioned by the Rent Review Coordinator. Cancellations or adjustments exceeding a six (6) week period must be approved in accordance with the delegated authority.

Confidentiality

All allegations of rental fraud will be treated in confidence, unless disclosure is required by law, or unless the information source agrees to disclose their identity.

Housing Trust will provide tenants with a reasonable opportunity to remedy instances of rental fraud by repaying any outstanding amounts due within a reasonable time period. 'Reasonableness' will be considered on the basis of the extent of the fraud as well as the history of the tenancy.

Referral to Other Agencies

Depending on the nature of alleged fraud, Housing Trust may refer the matter to NSW Police or other authorities such as Centrelink, irrespective of any confidentiality or privacy policy that may apply.

Right of Appeal

If a tenant believes Housing Trust has made a wrong decision a formal review of the decision should be requested. To do this, the tenant is required to complete a Housing Trust Appeals Form stating why they disagree with the decision. Housing Trust's Appeals Policy and form are available by contacting the Housing Trust office or alternatively, may be downloaded from our website www.housingrust.org.au

If the appellant is not satisfied with the outcome of the internal appeal they can make an appeal to the Independent Housing Appeals Committee (HAC). HAC is an independent appeals agency for all NSW Social Housing clients. Housing Trust will advise the appellant on how to lodge an appeal with HAC. Alternatively HAC may be contacted directly by visiting www.hac.nsw.gov.au or by calling 1800 629 794.

Reference or Related Documents

Internal Documents

1. Form
 - 102001 Rent Subsidy Application
2. Letters
 - 102019 Cancellation of Rent Subsidy
 - 102021 Subsidy Review - Rent advice
 - 102022 Subsidy Review - Rent Advice Market Rent Increase
 - 102023 Rent Subsidy Review –General
 - 102024 Rent Subsidy Review - Market Rent
3. Rent and Rent Management Policy
4. Privacy Policy
5. Appeals Policy
6. Form
 - 106001 Review of decision and 1st tier appeal

External Documents

1. Residential Tenancies Act 2010
2. Housing Act 2001

Policy Version Control

Version No	Details of Improvements	Release Date	Approval/Release Details
V 1.0	Original policy	20.09.2016	Approved for release by GM:C&C
V 2.0	Reviewed and updated in line with current Residential Tenancies Act 2010 No 42 dated 01.07.18 and current Housing Act 2001 dated 01.07.18 with no change to policy intent. Policy titled updated from Rental Fraud and Non-Disclosure Policy to Rental Subsidy Fraud Policy	19.10.2018	Approved for release by Amanda Winks Chief Housing Officer