



Tenancy Agreement

Policy Category	1. Tenancy	Policy Number	1.31
Author	Carla McFaul (Housing Services Manager)	Board Approval Date	July 2019
Position Responsible	Housing Services Manager	Scheduled Review Date	July 2020

Purpose:

This policy outlines how Homes Out West (HOW) manages Residential Tenancy Agreements.

Policy:

In accordance with the **Residential Tenancies Act 2010**, a signed **Residential Tenancy Agreement, New Tenant Checklist** (Department of Fair Trade publication) and Property Condition Report will be provided to the tenant at lease sign up.

The Residential Tenancy Agreement outlines the rights and responsibilities of the tenant and of HOW as the landlord/head tenant.

Relevant Service Standards:	<p>National Community Housing Standards</p> <ul style="list-style-type: none"> • Standard 1.2 – Establishing and maintaining tenancies • Standard 1.4 – Ending tenancies • Standard 3.1 – Tenant rights • Standard 3.2 – Tenant Participation • Standard 3.5 – Confidentiality and privacy • Standard 3.6 – Complaints and appeals • Standard 4.1 – Tenants’ access to support <p>Legislation</p> <ul style="list-style-type: none"> • Residential Tenancies Act 2010 (NSW) • Residential Tenancies Regulation 2010 (NSW) • Housing Act 2001 • Community Housing Providers (Adoption of National Law) Act 2012 (NSW) <p>National Regulatory System for Community Housing (NRSCH) Performance Outcome and Performance Requirement</p> <p>Performance Outcome 1: Tenant and Housing Services</p>
Related HOW Policies:	<ul style="list-style-type: none"> • Access Policy • Allocations policy • Property Inspections and Home Visits Policy
Related HOW Forms & Internal Documents	<ul style="list-style-type: none"> • Residential Tenancy Agreement • New Tenant Checklist

	<ul style="list-style-type: none"> • Property Condition Report • Tenant Information Kit • Tenant Handbook • Checklist for Beginning Tenancy • Support Agreement • Tenants Rights Manual – NSW • Agreement between HOW and the named Tenant • Maintenance request sheet
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Procedure and Guidelines:

The rights and obligations of the lease will be clarified and explained to the tenant at the time of signing the Residential Tenancy Agreement. Tenants will be given the opportunity to ask any questions pertaining to these rights and obligations.

Interpreter services will be accessed by phone when required to assist tenants in understanding their rights and obligations.

To ensure the legality of the lease agreement both parties being tenant and Housing Services Manager (HSM) are required to sign the document in the presence of a witness, acknowledging any alterations and omissions.

Persons under the age of 18 years are able to sign a lease under the Minors (Property and Contracts) Act 1970 (refer to **Tenants Rights Manual – NSW**). The contract will be legally binding if it is to their benefit and they understand it is a legally binding document. As a requirement a supporting adult (someone over the age of 18) is to be present during the time of the agreement signing to ensure that all details pertaining to the contract are fully understood by all parties. It is recommended that this supporting adult is a support worker as all tenants under the age of 18 years are encouraged to have a Support Agreement in place.

The market rent of the property the tenant is leasing is to be declared on page 1 of the **Residential Tenancy Agreement**. This is the maximum amount of rent that can be charged to the tenant for the property. A rebated rent is then determined based on the tenant/household's income details provided to HOW, this rebated rent amount is also displayed on page 1 under the market rent amount and this is what the tenant pays to HOW.

The majority of HOW's leases are continuation leases, however there may be certain occasions where a tenant is placed on a fixed term lease i.e. transitional housing.

The right to sublet the property to another party (RTA - Clause 32) is removed from the **Residential Tenancy Agreement** for tenants of HOW.

At the time of signing the lease tenants will be asked to sign a consent form to allow their tenancy files to be used for auditing purposes. See **Agreement between HOW and the named Tenant to allow tenant files to be used for auditing purposes**.

Tenants have the right to refuse external access to their files. If a tenant does not wish to sign the audit consent form the file is to be marked on the front - CONFIDENTIAL – NOT AVAILABLE FOR AUDIT PURPOSES

The Property Condition Report is to be completed by the CSO prior to the lease sign up, one copy is supplied to the tenant and explained that the report must be returned

within 7 days of the lease sign up. It must also be explained to tenants not to write any repairs that need to be repaired on the condition report, only general wear and tear and cleanliness is to be written on report. Any repairs that are needed to be done to the property are to be noted on the maintenance request sheet. When the tenant returns the condition report, the CSO must ensure it is signed by both parties, date stamped, and a photocopy is provided to the tenant.

All new tenants shall receive a Tenant Information Kit at the commencement of their tenancy See – **Tenant Information Kit**.

The Checklist for Beginning Tenancy 2019 form will be used for every lease sign up.

Maintenance procedures shall be outlined to tenants at the commencement of the signing of the lease and are contained in the Tenant Handbook. See Tenant Handbook 2018.

At the signing of the Residential Tenancy Agreement sign up tenants are to be advised of the preferred tradespersons for out of hours emergency call outs, these tradespersons are listed on page 2 of the residential lease. HOW also has an emergency after hours maintenance phone – 1300 038 233, this phone is attended by a HOW on call staff member.

Tenants will be informed at the beginning of their tenancy that all HOW staff are mandatory reporters.