

Illegal Use of a Dwelling

Policy

Date effective: 16 December 2016

1. Policy Statement

This policy outlines the Department of Housing and Community Development's ('the Department') response to illegal use of public housing, including drugs.

2. Purpose

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.

3. References

Misuse of Drugs Act

Residential Tenancies Act

Home Businesses and Self-Employment policy

Tenancy Agreement Breach policy

4. Scope

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

5. Roles and Responsibilities

Roles	Responsibilities
Front-line staff	<ul style="list-style-type: none">• Approve a home business• Move quickly to arrange for a Drug Premises Order to be removed once the tenant has vacated
Managers	<ul style="list-style-type: none">• May recommend to terminate a tenancy agreement for illegal use of the dwelling
Directors	<ul style="list-style-type: none">• May approve termination of a tenancy agreement for illegal use of the dwelling

6. Policy Details

6.1. 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 and the *Residential Tenancies Act* to use the dwelling for illegal purposes. Under the *Residential Tenancies Act*, Department may terminate a tenancy agreement if 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.

6.2. Drugs

The Department will work in conjunction with police to eradicate the use of drugs in public housing. Police are able to issue warnings, known as drug notices, to a household under the *Misuse of Drugs Act* 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, Department Housing will take action to terminate the tenancy through the courts.

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.

7. Document change control table

Release Date	Version Number	Approved by (position)	Section amended	Category
16/12/2016	1.01	Director Policy	all	Editorial amendment
2/09/2013	1.00	Executive Director, Housing Operational Client Support	all	New separate policy derived from Housing Services Operational Policy Manual, Chapter 11