

Home Businesses and Self Employment

Policy

Date effective: 30 January 2017

1. Policy Statement

Tenants require written approval to earn an income through self-employment, operation of a home based business, or a not for profit organisation based at a residential property subject to a Department of Housing and Community Development ('the Department') tenancy agreement.

2. Purpose

This policy details a tenant's additional responsibilities and obligations related to self-employment and operating a home based business or organisation (activity); and criteria under which an application to begin or continue the activity at a public housing premises may be considered.

3. Definition

A home-based business is any business where the primary office is located in the owner's/tenants home instead of a commercial premises.

4. References

Appeals policy
Complaints policy
Eligibility for Public Housing policy
Illegal use of a Dwelling policy
Income and Assets policy
Property Management policy
Red Card policy
Rental Rebate policy
Tenancy Agreement Breach policy

5. Scope

This policy applies to all tenants and residents of any rental property leased by the Chief Executive Officer (Housing) which is designated as residential. This includes all forms of public housing tenancies, industry housing allocations and/or government employee housing tenancies.

6. Roles and Responsibilities

Roles	Responsibilities
Front Line Staff	<ul style="list-style-type: none">Apply all appropriate housing policies and procedures including assessment of applications, and developing recommendations for the Manager's consideration.

	<ul style="list-style-type: none"> • Ongoing management of tenancies, properties and actioning of complaints as required in accordance with the Home Business and Self-Employment policy.
Manager	<ul style="list-style-type: none"> • Exercise delegated authority under this policy, including final discretion on whether or not the activity is approved and the duration of the approval period.
Investigation and Appeals Unit	<ul style="list-style-type: none"> • Consideration of decisions made on complaints and appeals lodged as a result of home based businesses and self-employment activity in relation to this policy.

7. Policy details

Tenants must obtain approval to begin or continue operating any business, self-employment, and not for profit activities, from a residential premises subject to a Department tenancy agreement. Consent is conditional to the operation meeting Home Based Business Activity criteria and other requirements identified in this policy.

7.1. Home Based Business Activity Criteria

Tenants are required to:

- obtain approval to commence or continue to conduct the activity from a public housing premises;
- ensure the activity complies with all responsibilities and obligations detailed in the tenancy agreement;
- comply with all appropriate public housing policies published from time to time;
- ensure the premises continues to be used predominantly for residential purposes;
- obtain and comply with any required council/local government/shire approvals or permits required to conduct the specified activity from the premises;
- hold an appropriate level of public liability insurance where required;
- declare any income derived from the business to the Department on request;
- seek approval from the Department prior to making alterations or additions to the property to facilitate the activity, including erecting or displaying signs or advertisements;
- manage the impact of the business on neighbours and the premises; and
- comply with all laws and regulations relating to the conduct of the work/business.

7.2. Primary use of the property to be residential

Ongoing approval for the activity is conditional to the tenant ensuring the property continues to be used predominantly for residential purposes. Only people who are declared residents of the public housing household can be employed/engaged in the activity being operated from the premises.

7.3. Licences and permits

Local government, building authority or planning permission may be required to conduct a business or related activity from a residential property. It is the tenant's responsibility to establish the required licences and permits and disclose these in the application for approval.

Tenants must obtain, comply with and keep current, all appropriate permits or licences required to conduct the activity from the premises.

7.4. Alterations or modifications to the premises

The Department will not modify the property to enable tenants/residents to undertake home based business activities from the premises. This includes any additional security measures, smoke/fire detection devices or other safety requirements to enable a commercial or not for profit enterprise to operate from the residential premises.

However, approval may be given for the tenant to undertake minor modifications for these purposes at their own expense, see the Property Management policy for further information.

Tenants must seek written approval to erect and display any signs or advertisements on external surfaces of the property, including boundary fences.

7.5. Insurance

Tenants are required to hold adequate and appropriate insurance to indemnify the Chief Executive Officer (Housing)/Department against all claims of any nature suffered or incurred arising from the activity undertaken from the premises. This includes an indemnity in respect of both personal injury to any person and property loss or damage.

7.6. Declaration of income

Eligibility for public housing and rental rebates is subject to eligibility, income and assets criteria. Tenants must supply information related to their income through self-employment or home based business activity when requested, to allow assessment of continued eligibility for public housing services and rental rebate.

Self-employed clients are assessed on their average income over the previous twelve months, both for eligibility and for calculation of rental rebate. Documentation such as a tax return and/or Business Activity Statement (BAS) must be provided. A minimum income is assumed to be the relevant Centrelink payment which the client would otherwise be entitled to.

7.7. Impact on the premises/storage of equipment

The tenant will be responsible for any damage to the property which occurs as a direct result of conducting the activity at the premises.

Residents are permitted to store equipment at the dwelling, provided that the impact on the dwelling is acceptable and the items to be stored do not breach the tenancy agreement. The Department may ask the tenant to make alternative arrangements or change storage practices if complaints are received, or if there is a risk of damage to the dwelling or danger to residents or neighbours.

7.8. Complaints of antisocial behaviour, noise or nuisance

The nature of the activity being conducted may increase the scope for antisocial behaviour or noise/nuisance complaints by neighbours – particularly if it results in an increase in vehicle traffic or noise levels.

Complaints will be dealt with in accordance with the Red Card policy. Consent to conduct the activity from the premises may be revoked if the activity is proven to negatively impact neighbours and surrounding residents.

7.9. Illegal or unauthorised businesses

Illegal activities conducted from public housing premises are a breach of the tenancy agreement. When the Department becomes aware of an unauthorised activity being run from a public housing premises, retrospective approval must be sought by the tenant. If retrospective approval is denied, the tenant will be served notice to cease the activity. If the activity continues, the tenant will be considered to be in breach of the tenancy agreement.

7.10. Review of approval

Consent to allow the activity to continue at the public housing premises will be reviewed annually, or at the discretion of the Manager.

Approval will be contingent upon operators substantiating to the satisfaction of the Department that the activity continues to meet criteria established within this policy. Particular consideration will be given to the ongoing impact of the activity on the neighbourhood and its potential, or actual, damage to property as the activity grows or continues.

Unapproved activities and activities which are considered unsuitable, cause damage to the property, or garner complaints from neighbours may also be in breach of the tenancy agreement.

If consent to continue an activity is revoked, notice will be given allowing the tenant or resident time to move the operation or dissolve it – unless the business is considered illegal or unauthorised and retrospective approval has not been given – in which case, compliance may be required immediately.

Decisions in application of this policy may be appealed, see the Appeals policy for more information.

8. Document change control table

Release Date	Version Number	Approved by (position)	Section amended	Category
30/01/2017	1.01	Director Policy	all	Editorial amendments
26/06/2013	1.00	Executive Director, Housing Operational Client Support	all	New separate policy derived from Housing Services Operational Policy Manual, Chapter 9