

Rental Fraud

Purpose and Objective

The purpose of this document is to explain the policy for *Rental Fraud*. This includes social housing, affordable housing, and transitional housing.

Scope

- This policy applies to all clients (including applicants, former tenants and existing tenants) who accept accommodation in properties owned or managed by Housing Plus
- This policy applies to all Housing Plus properties.
- This policy describes the organisation's objectives and policies regarding *Rental Fraud*.

References

Housing Plus will start a tenancy in accordance with:

- a) The Housing Act 2001
- b) Residential Tenancies Act 2010 and Regulations
- c) Housing Plus Policies.

Both the client and Housing Plus have rights and obligations under the above Acts, the residential tenancy agreement and this policy.

Definitions

Term: Tenancy Agreement

Definition: The Residential Tenancies Act 2010(NSW) (the RT Act 2010) defines a residential tenancy agreement as 'an agreement under which a person grants to another person for value a right of occupation of residential premises for the purpose of use as a residence' (section 13(1)).

Term: Market Rent

Definition:Market rent is the amount of rent that a real estate agent or landlord would charge each week if the property were rented in the private market.

Term: Rent Subsidy

Definition: A rent subsidy is the difference between the market rent and the rent a tenant pays based on their household's assessable income and rent assessment rules.

Responsibilities

Executive

- 1) Establish policy objectives

Management

- 1) Develops policies and procedures to achieve policy objectives
- 2) Coordinates and implements policy for *Rental Fraud*
- 3) Oversees training and ensures adoption by all employees responsible for *Rental Fraud*

- 4) Reviews policy and procedure on biannual basis to ensure compliance with legislation and adopts accordingly

Employee responsibilities

- 1) Understand and comply with Housing Plus policies regarding *Rent Fraud*.

Policy Statement

Housing Plus may grant a rent subsidy if a tenant with a low or moderate household income applies for a rent subsidy. The rent subsidy will reduce the amount of money the tenant pays in rent.

The rent subsidy is the difference between the market rent and the rent the tenant pays based on their household's assessable income. Housing Plus does not pay the rent subsidy to the tenant, but deducts it straight from the market rent.

Housing Plus calculates subsidised rent according to the tenant's household size, type and gross assessable income. For more information, see the Charging Rent Policy

Tenants who receive a rent subsidy must advise Housing Plus of any changes to their household circumstances within 21 days of the change occurring. They must do this even if they are in the Centrelink Income Confirmation Scheme.

The intent of this policy is to:

- Ensure that tenants are receiving the correct rent subsidy
- Minimise fraud
- Outline appropriate action when Housing Plus finds that a tenant is receiving a rent subsidy they are not entitled to.

Housing has the authority to grant a rent subsidy under the provisions of the [Housing Act 2001](#).

A tenant is responsible for showing Housing Plus that they are entitled to receive a rent subsidy. If Housing Plus receives information that a tenant may be receiving a rent subsidy they are not entitled to, it will assess the situation to determine if:

- No further action is required, or
- Rent subsidy non-disclosure has occurred, or
- Rent subsidy fraud has occurred.

Rent subsidy non-disclosure occurs where a tenant has failed to advise Housing Plus of any change to their household circumstances but has not done so deliberately.

Rent subsidy fraud occurs where:

- A tenant is aware of their obligation to advise Housing Plus of any change to their household circumstances, and
- Deliberately does not advise of the change. This can occur either by deliberate omission, or through a false, incomplete or misleading statement.

Where Housing Plus investigates an allegation of rent subsidy non-disclosure, it will apply the principles of procedural fairness. This means that a tenant will:

- have the right to an impartial hearing, and
- be advised of the relevant policy and what is required of them, and
- be told about the information and any documentary evidence Housing Plus has obtained, and
- be given a reasonable opportunity to respond to any allegations made against them, and

- be advised of the outcome of the investigation and their right to appeal.

Where Housing Plus finds that a tenant has received a rent subsidy they are not entitled to, it may take a range of actions, depending on the circumstances. These actions may include cancelling or adjusting rent subsidies, through to termination of the tenancy and/or criminal prosecution. Housing Plus can take these actions under the provisions of the [Housing Act 2001](#) and the [Residential Tenancies Act 2010](#).

Dealing with an alleged failure to disclose a change in household circumstances

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

- All household occupants or a change to the household occupants
- All of the income received by the household occupants (including the tenant)
- A change to the income of any household occupant (including the tenant)
- All of the financial interests of the household occupants (including the tenant), for example, shares, savings, an inheritance
- All property ownership interests of the household occupants (including the tenant).

Where Housing Plus receives information that a tenant's household circumstances may have changed, or may not be correct, and the tenant has not told Housing Plus, it will investigate the matter by:

1. Where relevant, asking the person who supplied the information (informant/complainant) if they are willing to provide their information in writing
2. Conducting an initial assessment of the allegation to determine if possible rent subsidy non-disclosure or fraud has occurred.

Where this initial assessment indicates that possible rent subsidy non-disclosure has occurred, Housing Plus will continue to investigate the matter by:

- Advising the tenant in writing of the details of the allegation and giving them an opportunity to respond to the allegations during an interview
- Interviewing the tenant and giving them a reasonable opportunity to respond to any allegations. The tenant may have a support person present at the interview. If an interpreter is required, Housing Plus will arrange for one to be present
- Assessing the information. Housing will take a range of information into account when deciding whether a tenant's alleged failure to disclose information about their household circumstances is an unsubstantiated allegation, rent subsidy non-disclosure or possible rent subsidy fraud. For more information, go to [Assessment criteria and evidence for determining subsidy non-disclosure](#)
- Deciding on the action to take based on the outcome of the assessment.

Assessment Criteria and Evidence for determining subsidy non-disclosure

Housing Plus will consider a range of evidence when deciding:

- Whether a tenant's alleged failure to disclose information about their household circumstances amounts to an unsubstantiated allegation, rent subsidy non-disclosure or possible rent subsidy fraud
- If any mitigating or extenuating circumstances apply.

Housing Plus will take into account the following information when deciding whether a tenant's alleged failure to disclose information about their household circumstances amounts to an unsubstantiated allegation, rent subsidy non-disclosure or possible rent subsidy fraud:

- Whether the tenant has denied the allegations
- Whether the tenant has admitted the allegations in part or in full
- Whether the tenant has a reasonable explanation for failing to disclose information about changes to their household circumstances
- Whether the tenant was aware of their obligation to disclose information about the change to their household circumstances. If the tenant claims they were not aware of this obligation, whether this claim is reasonable
- Whether the tenant signed a rent subsidy application during the relevant period
- Any previous history of the tenant's failure to disclose information about changes to their household circumstances
- The estimated monetary value (in terms of arrears of new weekly rent)
- Length of time involved
- The number of times Housing Plus has previously interviewed the tenant in relation to current and/or previous allegations
- Whether the tenant has a reasonable ability to obtain the information required to clarify the circumstances
- Whether the tenant has refused or failed to supply information that is reasonably available to them to clarify the circumstances
- Relevant evidence/information provided by the tenant
- Any extenuating circumstances or mitigating factors.

Extenuating or mitigating circumstances may include:

- Diminished capacity of the tenant to understand their obligations, for example, due to disability barriers
- Any duress the tenant may have suffered to falsely declare, or not declare, changes to the household circumstances, for example, threatened or actual domestic/family violence.

Legislation and compliance

Housing Plus is able to grant, re-assess or cancel rent subsidies in accordance with the provisions of the [Housing Act 2001](#). Housing Plus is able to pursue any debt resulting from a rent subsidy cancellation or re-assessment in accordance with the provisions of the [Residential Tenancies Act 2010](#).

The Housing Act 2001 prescribes a maximum penalty of 200 penalty units (that is the equivalent of \$2,200 at the date of publication of this policy) and/or three months imprisonment for:

- Wilfully making a false statement or representation to claim a rent subsidy to which the tenant is not entitled, or
- Failing to notify of a change of circumstances with the intention of retaining or continuing to obtain a benefit, which the tenant knows they are not entitled to.

Privacy and confidentiality

Housing Plus will protect the identity of an informant/complainant at all times and cannot disclose information about the informant/complainant without their permission, unless required by law, for example, as part of a criminal proceeding.

In order to protect the tenant's privacy, Housing Plus will not tell the informant/complainant about the outcome of the investigation.

Criminal proceedings

Where an assessment indicates that possible rent subsidy fraud has occurred, Housing Plus will investigate this with a view to criminal prosecution. The standard procedures for criminal investigations will apply.