

BREACH OF TENANCY POLICY

HOUSING & HOMELESSNESS

Purpose

Operating in line with the *WA Residential Tenancies Act 1987*, a Residential Tenancy Agreement (also known as lease) forms a legally binding contract. If tenants breach the terms of their lease, legal action can be taken.

The WA Magistrates Court may order tenants to pay damages, legal costs and/or put right any breach if possible to do so. The ultimate sanction open to Accordwest acting as the landlord would be to seek termination of a lease and in some cases eviction.

A tenant can breach their tenancy agreement by, for example, failing to pay their rent or other outgoings, causing damage to the property, or refusing access to the property for legally authorised visit (such as an inspection).

The purpose of this policy is to:

- Explain why Accordwest may issue a notice for breach of tenancy.
- Outline requirements for staff involved in issuing notices for breach of tenancy.
- Outline how Accordwest manages tenants who receive a notice for breach of tenancy and subsequent actions that may be taken when a breach is not rectified.

Definitions

Breach of tenancy

A breach of tenancy occurs where a tenant, household member, visitor or resident fails to comply with one or more of the terms the tenant agreed to abide by in the Residential Tenancy Agreement or Licence to Occupy (lodging accommodation) Agreement they signed at the start of their tenancy/occupancy.

Guiding principles

Accordwest:

- Encourages a consistent approach to managing breaches of tenancy across community housing, transitional housing, crisis and lodging accommodation.
- Adheres with the requirements of the Residential Tenancies Act RTA (1987) and lodging accommodation legislation wherever a notice for breach of tenancy is issued.

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- Works with clients requiring additional support to sustain their tenancy wherever appropriate.
- Acts to prevent breaches to help create safe and thriving living environments and communities.
- Provides tenants/residents with opportunities to appeal organisational decisions and to complain about services received from Accordwest.

Policy

Accordwest applies a consistent rationale and process for issuing tenants with a notice for breach of tenancy. Whenever a tenant fails to abide by the terms of the Residential Tenancy Agreement or Licence to Occupy Agreement that they signed upon accepting their property, the relevant Tenancy Officer will inform them in writing.

Actions that may result in the issuing of a notice of breach of tenancy include:

- Failure to maintain the property in a reasonable state of repair
- Failure to maintain the property in a clean and sanitary condition
- Anti-social behaviour towards property, staff, neighbours and other tenants/residents
- Disturbing the right of neighbours/residents to live in reasonable peace, privacy and security
- Use of and/or supply of the drugs at the property
- Using a property in a manner which is not permitted under the Residential Tenancies Act (1987) or lodging accommodation legislation
- Obstructing access to a property after a request has been made by staff, and after appropriate notice has been given by either Tenancy Officer and/or Support Worker
- Failing to inform Accordwest of changes to income
- Failing to inform Accordwest of changes to household composition
- Increasing rent and non-rent debts, including debts resulting from rent arrears, utilities and property damage
- Making changes to a property without the approval of Accordwest
- Breaches to any strata by law
- Keeping pets at the property without Accordwest's approval
- Smoking at the property in non-designated areas
- Failure to actively engage with the Support Worker and/or support plan
- Changing locks without permission
- Using the property for business purposes
- Installing a portable pool or spa.

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Tenants who receive a notice for breach of tenancy may be required to rectify the situation that has caused them to receive a notice within fourteen (14) days.

The Tenancy Officer will provide relevant information to the tenant/resident, confer with their Support Worker and Team Leader (if applicable) to adjust the client's support plan, and make referrals to other support services to aid compliance with the tenancy or lodging accommodation agreement.

Where a tenant/resident has failed to rectify a situation after they have received a notice for breach of tenancy/occupancy, depending on the nature of the breach and their client history, they may be given a subsequent notice or a termination notice to end their tenancy/occupancy. For its Community Housing, Accordwest may also list for the matter to be heard in the Magistrates Court closest to the property.

Accordwest reserves the right to monitor the progress of tenants/residents who have been requested to rectify a breach, including where required through accessing their property. This applies particularly where a breach has involved damage to, or inappropriate use of, a property.

Tenants will routinely be informed of their right to complain about Accordwest's services and to appeal organisational decisions.

The Tenancy Officer will store records of any breaches of tenancy/occupancy in Accordwest's tenancy management system.

Procedures

Issuing a Notice for Breach of Tenancy

Where a tenant, their household member, their visitor or a resident has been responsible for a breach of tenancy, the Tenancy Officer will speak to the relevant Team Leader (generally in the Support area) to discuss the breach and whether a written warning or a breach is required.

The Team Leader will (generally) work with the Support Worker to determine how to integrate the warning letter/breach into the existing support plan.

With community housing tenants, the Tenancy Officer will determine the breach/warning letter option and can refer to either Accordwest applicable programs and/or outside support services should the tenant wish to seek support to improve their tenancy.

The tenant will be advised to contact Accordwest to discuss the matter generally with their direct contact and if able arrange a meeting to explore other supports including:

- Refer housing tenants/resident to other Accordwest services such as emergency relief, financial counselling and tenancy advocacy
- Contacts for relevant tenancy advisory services
- Refer housing tenants/residents to services offered by external community partners
- For certain types of breaches/warning letters, additional information will be supplied to the tenant such as rent statements, invoices, quotes and photos of damage.

The Tenancy Officer (community housing tenants) or Support Worker (supported tenancies) will describe any actions that led to the warning letter and/or breach and outline steps the tenant will need to take to prevent subsequent breaches from occurring. To rectify the situation, the staff member will provide a follow-up timeframe or specify a date by which the situation must be rectified.

For serious and/or repeated breaches of tenancy, a termination notice to end a tenancy is likely to be issued. The Tenancy Officer will present this option to the Executive Manager Corporate Services to consider the entire tenancy and give instruction on whether to proceed.

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Accordwest can move to terminate the tenancy with a 7-day termination notice. Should the tenant not vacate, Accordwest may apply to the closest Magistrates Court to seek termination and for vacant possession of the property.

Appeals Process

If you do not agree with any of our decisions or actions, you can appeal using our *Appeals Policy (HHPP006)*.



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If you are deaf, or have difficulty speaking or hearing English,
we are committed to helping you to access our services.

Accordwest acknowledges the Australian Aboriginal and Torres
Strait Islander peoples as the first inhabitants of the nation and
traditional custodians of the land we live, learn and work.



Agencies for South West Accommodation (ASWA) Inc. trading as Accordwest
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