

# Breaches (Non-Rent) Policy

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<b>Location</b>	NSW/ACT
<b>Policy Type</b>	Social Housing Policy
<b>Version</b>	3.3
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<b>National Regulatory Code</b>	Performance Outcome 1 – Tenant and Housing Services

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## 1. Objective

- 1.1 This policy outlines how Argyle Housing will handle alleged and potential non-rent breaches of tenancy by our Clients which are not anti-social behaviour.
- 1.2 Alleged or potential breaches of a tenancy due to anti-social behaviour are managed in accordance with our Good Neighbour Policy.

## 2. Background and Scope

- 2.1 Argyle Housing promotes and respects the human rights and fundamental freedoms of all persons with a disability and provides a service to Clients in line with the principles of the NSW Disability Inclusion Act 2014, Disability ACT and the United Nations Convention on the Rights of Persons with Disabilities (CRPD).
- 2.2 Argyle Housing supports and encourages a person-centred and culturally sensitive approach to service delivery.
- 2.3 Argyle Housing promotes and respects the rights and freedoms of Aboriginal and Torres Strait Islander peoples.
- 2.4 The purpose is to:
  - make it easy for our Clients to comply with their Residential Tenancy Agreement
  - achieve sustainable tenancies and communities
  - prevent and minimise the occurrence of tenancy breaches
  - identify breaches of tenancy at the earliest possible time
  - investigate all alleged breaches of tenancy
  - deal promptly with all breaches of tenancy taking into account the impact on us as the landlord, the Client's neighbours and the Client's own wellbeing
  - protect the safety of Argyle Housing's employees, contractors and members of the public who may be impacted by the behaviour of Clients, occupants, or visitors at an Argyle Housing property
  - resolve breaches of tenancy without ending the tenancy if possible

- manage our tenancies in a way that maintains a balance between our social and business objectives
- help us offer a consistent service and treat everyone fairly

2.5 For explanation and clarification of terms, please see Argyle Housing Policy POL-0002 Policy Definitions. For Ainslie Village please refer to the Ainslie Village Eviction Policy.

### 3. Policy Definitions

<b>NCAT</b>	NSW Civil and Administrative Tribunal
<b>ACAT</b>	ACT Civil and Administrative Tribunal
<b>Appeal</b>	Occurs when a service user asks for a decision made by Argyle Housing to be formally reviewed.

### 4. Policy Details

#### Investigating and Responding to Breaches

- 4.1 Argyle Housing will investigate and respond to potential or actual breaches of a tenancy agreement, including:
- complaints from Clients, occupants, their advocates or support workers, property owners or neighbours about anti-social behaviour by a Client. These are managed in accordance with Argyle Housing's Anti-Social Behaviour Policy
  - potential or alleged illegal activity in our properties
  - unauthorised keeping of pets, additional occupants, sub-letting, or alterations to the premises
  - information regarding ineligibility of Clients
- 4.2 Argyle Housing provides Clients with clear information about their rights and responsibilities at the start of and throughout their tenancy, to prevent breaches wherever possible. Argyle Housing will enforce the terms of the Residential Tenancy Agreement comprehensively, consistently, and fairly. We take all breaches seriously and expect Clients to do the same.
- 4.3 As soon as we are aware of a potential breach, Argyle Housing will ensure that all available information is considered prior to determining whether a breach has occurred, this may include statements by neighbours, conversations or evidence from the Client and a review of the Client history to consider any pattern of behaviour to determine the most appropriate course of action.
- 4.4 If on the balance of information available, it is determined that a breach has occurred the Client will be issued with a Breach Notice which will specify the nature of the breach and what actions are required by the Client to remedy the breach. Where appropriate, referrals will be made to assist the Client to resolve the issues and sustain their tenancy. Notice periods for remedying the breach will be in accordance with the Residential Tenancy Act.
- 4.5 On the expiration of the Breach Notice the Client Support Specialist will take appropriate steps to determine if the breach has been remedied. If no action has been taken to resolve the issue, then an application to NCAT/ACAT will be made to seek an appropriate order. If action has been taken

but the matter has not been completely resolved a further Breach Notice may be issued allowing additional time to remedy.

- 4.6** Argyle Housing may choose to file an application in NCAT/ACAT prior to issuing any breach notice for serious or persistent matters.
- 4.7** Argyle Housing will ensure that all investigations apply the principles of procedural fairness.

#### **Client Support**

- 4.8** Argyle Housing will facilitate the involvement of an advocate, interpreter or support worker if appropriate, and advise the tenant how they can get independent tenancy advice when we are investigating or responding to a Client breach. The Client, and their advocates, where appropriate – will be kept informed of investigations and responses regarding the breach, verbally and in writing. All letters from the Client or advocates involved in the matter will be answered promptly and filed appropriately and accessibly.
- 4.9** Argyle Housing recognises that tenancy breaches relating to behaviour may involve factors such as:
- mental illness, including reaction to stress
  - alcohol or substance abuse
  - youth and inexperience
  - taking retaliation for other wrongs
  - thoughtlessness, or genuine mistake

These factors will be taken into consideration when investigating and responding to the situation, and in finding an appropriate solution.

#### **Adequate and Appropriate Records**

- 4.10** Argyle Housing will keep a record of the actions it takes when investigating a possible breach of tenancy agreement.

#### **Privacy and Confidentiality**

- 4.11** Argyle Housing will make every effort to ensure the privacy and confidentiality of our Clients and their neighbours is maintained, in our conversations about the breach, our letters and our written records (when they are used as evidence).

#### **Breaches involving Violence**

- 4.12** Argyle Housing will respond safely and effectively to domestic and family violence and other forms of violence by our Clients, members of their household or their visitors. Violence may include physical assault, sexual assault, emotional or psychological abuse, intimidation, harassment, sexual harassment, threats and stalking, or self-harm.
- 4.13** If a breach, or alleged breach, involves any form of actual violence or reasonable fear of violence, Argyle Housing will take immediate protective action to ensure the safety and wellbeing of our Client, other residents, neighbours and workers, before investigating the matter further. This may include assisting a person to link with a dedicated Domestic Violence Worker, Mental Health Crisis Team, or police to help with intervention. Argyle Housing may seek immediate re-housing, temporary relocation, or an application for an immediate Order of Possession at NCAT/ACAT.

#### **Tribunal Action**

- 4.14** Any breaches unable to be resolved may result in Argyle Housing issuing a Termination Notice and/or applying to the relevant State or Territory Residential Tenancies Tribunal for a Specific Performance Order.
- 4.15** Argyle Housing views going to the Tribunal as a positive way of resolving a dispute and a way of formalising an agreement between Argyle Housing and the Client. The conciliation process at the Tribunal aims to help Argyle Housing and a Client reach an agreement that meets all parties' obligations.
- 4.16** Argyle Housing will give best endeavours to sustain tenancies rather than seek termination wherever possible. Notwithstanding, if the Client is unwilling or unable to meet their obligations under the agreement action will be taken to terminate the tenancy where required.

#### **Breaches involving the use of methamphetamines**

- 4.17** Argyle Housing recognises that methamphetamine use can have a significant negative impact on mental health, psychological wellbeing, physical health, and the financial capacity of the person using it.
- 4.18** The impact of methamphetamine use, distribution and production includes a potential to reduce the Client's capacity to meet the responsibilities of a residential tenancy agreement.
- 4.19** Breaches of tenancy resulting from methamphetamine use can relate to:
- Client, occupant or visitor interactions with Argyle Housing Staff, contractors or neighbours and could include intimidation, stalking, threats, assault or anti-social behaviour
  - breaches of tenancy due to unpaid rent or non-rent charges
  - the use, distribution, or supply and manufacture of methamphetamine or related products at an Argyle Housing property
- 4.20** Argyle Housing will apply to Tribunal to end the tenancy immediately where there is a major breach of the residential tenancy or occupancy agreement such as threats, violence, intimidation or the suspected supply or manufacture of methamphetamine.
- 4.21** Multiple steps will be taken to ensure the safety and security of Argyle Housing employees and contractors as well as community members who may be adversely impacted. Actions may include reports to the police and local councils, and application for restraining orders where appropriate.

## **5. Appeals**

If a Client believes Argyle Housing has made a wrong decision, they can ask for a formal review of the decision. To do this, they can complete an Appeals Form stating why they disagree with the decision. An appeal can be lodged by completing the 'I Want to Appeal Form' found on the Argyle Housing website [www.argylehousing.com.au](http://www.argylehousing.com.au) or available from any Argyle Housing office. The form, or a letter, can be emailed, posted, or delivered in person to any Argyle Housing office or submitted online via the Argyle Housing website.

If the appellant remains unsatisfied with the outcome of the first appeal, they can appeal to the Housing Appeals Committee (HAC) which is an independent appeals body specifically set up to consider appeals made by social housing tenants in NSW. An appellant can access HAC by calling free call 1800 629 794 or can get more information from their Client Support Specialist.

Matters that the NSW Civil and Administrative Tribunal (NCAT) or the ACT Civil and Administrative Tribunal (ACAT) can resolve are not able to be appealed. For example, if Argyle Housing issues a Notice of Termination for breaches of the tenancy agreement.

See Argyle Housing's Appeal Policy for further information.

## 6. Related Policies and Documents

- 6.1 Delegation of Authority Schedule
- 6.2 Good Neighbour Policy
- 6.3 Policy Definitions Policy
- 6.4 Argyle Housing Procedures
- 6.5 Argyle Housing Appeal Policy
- 6.6 Property-specific Complaints Policies, Procedures and Tools.
- 6.7 Service Response to Methamphetamine Use Policy
- 6.8 National Community Housing Standards Reference - 1.2 Establishing and maintaining tenancies

## Version Control

Version	Review Date	Author	Positions	Next Review Date
1.0	27/1/2014	D. Skelton	GM BD&R	26/1/2015
2.0	21/5/2015	M. Ward	Operations Manager ACT	19/5/2016
2.1	01/5/2016	M. Ward	GM Operations	1/5/2017
3.0	18/12/2017	M. Reader	GM Operations	18/12/2018
3.1	16/4/2019	C. Doherty	Housing Services Manager	15/6/2020
3.2	11/2/2021	C. Doherty	Housing Services Manager	11/2/2023
3.3	05/12/2023	C. Tizzoni	Client Services Manager	05/12/2025