

T 4.15 Breach of Tenancy Policy

1. Purpose

This policy outlines how Common Equity NSW (CENSW) manages tenancy breaches, in line with the *Residential Tenancies Act 2010 (NSW)*. The purpose is to ensure all breaches are dealt with fairly, consistently and in a way that helps tenants to sustain their housing wherever possible.

2. Scope

This policy applies to all tenancies managed by CENSW. This policy does not cover rent arrears or financial non-compliance, which are addressed in the *Rent and Debt Management Policy*.

3. Policy

CENSW is committed to upholding the terms of all tenancy agreements while treating tenants with fairness and respect. When a breach occurs, we aim to resolve it early through communication and support. However, where issues continue or are serious, formal action may be required. This includes the issue of written breach notices and applications to the NSW Civil and Administrative Tribunal (NCAT).

3.1 What is a Breach of Tenancy?

A breach of tenancy is when a tenant, or someone they are responsible for, does not comply with the terms of their lease agreement.

Common breaches may include:

- damaging or neglecting the property
- excessive noise or disruptive behaviour
- dumping rubbish or creating fire hazards
- keeping pets without approval
- letting people stay long-term without permission
- making unauthorised changes to the property
- using the property for illegal purposes
- failing to maintain cleanliness or safety

3.2 Serious Breaches

Some breaches are considered serious because they create immediate risks to health, safety or community wellbeing. Examples include:

- violence or threats towards neighbours, staff, contractors or other tenants

- serious damage to the property, including vandalism or intentional destruction
- drug-related activity, such as the manufacture, supply or use of illegal drugs in the property
- possession of prohibited items, such as unlicensed firearms
- harassment, hate crime, or intimidation based on race, culture, gender, sexuality, age, disability or religion
- ongoing antisocial behaviour that causes repeated distress or fear to neighbours
- endangering health or safety, for example tampering with smoke alarms, storing dangerous goods or creating fire hazards
- using the property for unlawful purposes, such as organised crime

CENSW may proceed directly to formal action in the event of a serious breach, including issuing a Notice of Termination and applying to the NSW Civil and Administrative Tribunal (NCAT) for orders.

3.3 Responding to Breaches

When a breach is reported, CENSW will:

1. Investigate the issue and gather relevant information
2. Contact the tenant to explain the concern and give them a chance to respond
3. Provide support if needed (e.g. referral to support services)
4. Issue a Remedy Letter requesting the breach be fixed
5. Take formal action if the issue is not resolved or if the breach is serious

In some cases, this may include issuing a Notice of Termination or applying to NCAT for a Specific Performance Order (SPO) or other outcome.

3.4 Three Strikes System

CENSW has adopted the three-strikes system for managing antisocial or repeated tenancy breaches, in line with the provisions available in the *Residential Tenancies Act 2010 (NSW)*. This process includes:

- **Strike 1:** First confirmed serious incident - formal warning letter issued
- **Strike 2:** Second incident within 12 months - second formal warning
- **Strike 3:** Third incident - may lead to Notice of Termination and NCAT application to end the tenancy

Each strike is recorded in writing and includes a right to respond or appeal.

3.5 NCAT and Legal Action

If a tenant fails to fix a breach, or if the behaviour is severe, CENSW may:

- issue a Notice of Termination as allowed under the Act

- apply to NCAT for a legal order
- request NCAT to issue a Specific Performance Order, Termination Order, or other action

Eviction is considered a last resort. Wherever possible, CENSW works to resolve issues cooperatively.

4 Appeals

Tenants have the right to appeal decisions made under this policy. The CENSW Appeals Policy has more information on appeals.

5 Related Legislation, Documents and Policies

- Residential Tenancies Act 2010 (NSW)
- Ending a Tenancy Policy
- Rent and Debt Management Policy
- Sustaining Tenancies Policy
- Appeals Policy

6 Variations

Name and Designation of Approver	Head, Co-operative Services
Contact/Responsible Delegation	Cooperative and Tenant Services Manager
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