

Red Card

Policy

Date effective: 23 November 2016

1. Purpose

To appropriately and effectively respond to incidents of antisocial behaviour related to public housing premises, and conduct that interferes with the reasonable peace and privacy of another person's use of premises or land in the immediate vicinity of the tenant's premises while adhering to the principles of natural justice.

2. Scope

This policy applies to all Department of Housing and Community Development ('the Department') public housing tenants, recognised occupiers and their visitors.

3. Policy

It is the Department's preference that antisocial behaviour cease and the tenancy continue.

Any conduct of a person who is on the premises with the consent of the tenant, will be legally considered to be the conduct of the tenant. The tenant is responsible for this conduct, unless that conduct is considered to be an act of domestic violence under the *Domestic and Family Violence Act* (refer to section 3.4).

The *Housing Act* (28A) states that behaviour is considered to be antisocial if it:

- i. involves abusive or violent behaviour directed to a person; or
- ii. creates alarm or fear in, or annoyance to, neighbours or others in the vicinity; or
- iii. involves graffiti, littering or vandalism.

Where an incident of antisocial behaviour is substantiated and constitutes a breach of the tenancy agreement, a tenancy may be issued with demerit points as outlined in section 3.1.

If a tenancy receives six demerit points the Department may initiate action to terminate the tenancy and take possession of the premises.

If a tenant completes a 12 month period from the date of the last substantiated incident without any further substantiated incidents of antisocial behaviour, all points accrued will expire.

3.1. Classification of severity

To determine the appropriate response to antisocial behaviour, the Department will consider the act of antisocial behaviour in terms of its nature and seriousness and whether or not the incident has caused a nuisance or has interfered with the reasonable peace and privacy of neighbours. Demerit points will be issued against a tenancy for substantiated incidents as follows:

Classification of severity	Demerit Points
Minor	1
Moderate	2
Serious	3

3.1.1. Minor

Minor antisocial behaviour is conduct that causes annoyance from a public housing premises, including behaviour on land adjacent to or opposite the premises. Examples of minor antisocial behaviour could include:

- nuisance from tenants, recognised occupiers, and visitors who are at the premises with the consent of the tenant;
- excessive noise from items such as televisions, stereos, radios, motor vehicles, party or behaviour that interferes with the reasonable peace and privacy of neighbours; and
- offensive/foul language that interferes with the reasonable peace and privacy of neighbours or causes annoyance to neighbours or others in the vicinity , including Department staff and/or contractors.

A substantiated minor antisocial behaviour incident will result in one (1) demerit point being issued.

3.1.2. Moderate

Moderate antisocial behaviour is abusive behaviour directed to a person, or behaviour that causes fear or alarm to neighbours or others in the vicinity of the premises, including behaviour on land adjacent to or opposite the premises. Examples of moderate antisocial behaviour could include:

- threatening, intimidating, abusive, frightening and harassing behaviour directed at others, including Department staff and/or contractors;
- verbal abuse that creates alarm or fear in neighbours or others in the vicinity, including Department staff and/or contractors; and
- moderate damage to property belonging to the Department and/or neighbours that is intentionally caused or permitted (for example, a window of the premises smashed).

A substantiated moderate antisocial behaviour incident will result in two (2) demerit points being issued.

3.1.3. Serious

Serious antisocial behaviour is violent behaviour caused or permitted by the tenant towards a person, neighbours or others in the vicinity of the premises, including behaviour on land adjacent to or opposite the premises, or vandalism or damage to Department property. Examples of serious antisocial behaviour could include:

- abusive, aggressive and/or frightening behaviour directed at others that extends beyond verbal abuse, including behaviour directed at Department staff and/or contractors;

- threats to the health or safety of a person;
- use or threatened use of a weapon in a person's possession, including ceremonial weapons;
- physical assault and acts of violence; and
- extensive damage to property belonging to the Department and/or neighbours that is intentionally caused or recklessly permitted (for example, a number of windows of the premises smashed).

A substantiated serious antisocial behaviour incident will result in three (3) demerit points being issued.

Using public housing premises for an illegal purpose is considered a serious breach of a tenant's responsibilities and will be addressed in accordance with the *Residential Tenancies Act*, in addition to any criminal proceedings resulting from a report made to the Northern Territory Police.

3.2. Immediate termination action

This policy does not prevent the Department taking immediate action to terminate a tenancy under section 97 of the *Residential Tenancies Act* and seek possession of public housing premises where a substantiated incident has, or is likely to cause serious damage to public housing premises or personal injury to Department staff and/or contractors or other people on or in the vicinity of the premises. The Department's response to personal injury of tenants and/or recognised occupiers that result from an act of domestic and family violence is outlined under section 3.4 of this policy.

3.3. Other substantiated conduct

Incidents may also be recorded for substantiated conduct which is not antisocial behaviour under the *Housing Act* but is a breach of tenants' obligations under the *Residential Tenancies Act*, for example, conduct that interferes with the reasonable peace and privacy of another person's use of premises or land in the immediate vicinity of the tenant's premises. Such incidents will be recorded as minor, moderate or serious by reference to the definitions and examples provided under sections 3.1.1, 3.1.2 and 3.1.3 above.

3.4. Domestic and family violence

As per section 124A of the *Domestic and Family Violence Act*, any incident found or thought on reasonable grounds to involve an act of domestic or family violence will be reported to the Northern Territory Police. For more information, refer to the Domestic and Family Violence policy.

In the application of this policy, any substantiated incident of antisocial behaviour which is found or thought on reasonable grounds to have occurred because the tenant or recognised occupier was a victim of an act of domestic or family violence, the incident will not result in demerit points being issued against the tenancy.

3.5. Expired demerit points

In cases where demerit points expire and new demerit points are issued, expired demerit points and substantiated incidents of antisocial behaviour may be used as evidence in legal proceedings to establish a pattern of repeated behaviour by the tenants. Expired demerit

points will not be used as a reason to issue or substantiate further demerit points against a tenant.

3.6. Transfers

In cases where a tenant with existing demerit points transfers to another public housing premises, demerit points will transfer to the new tenancy. The Chief Executive Officer (Housing) or their delegate will also consider whether the tenant will be required to enter into an Acceptable Behaviour Agreement.

3.7. Acceptable Behaviour Agreements

This policy does not prevent the Chief Executive Officer (Housing) from seeking to enter into an Acceptable Behaviour Agreement (ABA) with a tenant under section 28C of the *Housing Act* where appropriate. If a tenancy has demerit points issued, the Department may require a tenant to enter into an Acceptable Behaviour Agreement. Refer to the Acceptable Behaviour Agreement policy.

Demerit points will continue to be issued to the tenancy for substantiated incidents of antisocial behaviour, however, the Department may terminate the tenancy before six demerit points are issued, if the terms of the Acceptable Behaviour Agreement are seriously or repeatedly breached.

3.8. Assessment

All complaints of alleged antisocial behaviour will be investigated in accordance with the principles of natural justice to ascertain if there is sufficient evidence to demonstrate a breach of a tenancy agreement. The investigation includes raising allegations with the tenant where it is safe to do so and allowing the tenant to respond to the allegations. This may be verbally if the alleged incident requires immediate attendance by Department staff or Northern Territory Police.

In addition to interviewing tenants, neighbours and other witnesses to incidents, the Department may substantiate incidents if Department staff witness the incident or a Northern Territory Police report substantiates the incident. Northern Territory Police records will only be used to substantiate an incident if:

- the Northern Territory Police have attended the premises and verified the incident;
- the behaviour is attributed to tenants, recognised occupiers or their named visitors; and
- the outcome of the investigation is recorded.

Where an incident is substantiated, the Department will make a record of the details of the investigation, including the outcome. Demerit points will be recorded against the tenancy as at the date the incident occurred regardless of the time taken to substantiate the incident.

The Department will send a letter to a tenant whenever a demerit point is issued against their tenancy. The letter will outline the specific conduct that has led to the issuing of the demerit point and will be sufficiently detailed to enable the tenant to fully understand and respond to the allegations.

In dealing with these matters, the Department will take into account all of the circumstances, including the psychological and social needs of the tenancy, and will attempt to engage with

tenants to develop and implement strategies to support and assist the tenant to sustain their tenancy.

3.9. Privacy

Tenants will be informed of each allegation of an incident of antisocial behaviour. This may be verbally if the alleged incident requires immediate attendance by Department staff or Northern Territory Police. Tenants will be informed in writing each time their tenancy is issued a demerit point.

Neighbours and/or complainants will be advised when a matter has been investigated. Except as required or permitted by law, no other information about the status of a tenancy or in relation to the Red Card policy will be released to a third party without the consent of the tenant.

4. Former policy

All strikes issued against public housing tenants before the release of this policy will be converted to demerit points and tenants advised of the conversion.

5. Discretionary decision making

Discretion can be applied to this policy using the Discretionary Decision Making policy.

6. Complaints and/or appeals

If a client is not satisfied with either a decision or action of the Department, they can access the Department's complaints and/or appeals processes. For further information, please refer to the Complaints and/or Appeals policies.

7. Review of the policy

If at any time the legislative, operating or funding environment is so altered that the policy is no longer appropriate in its current form, the policy shall be reviewed and amended accordingly. This policy will be reviewed within two years of release.

8. References

Legislation

Domestic and Family Violence Act

Housing Act

Residential Tenancies Act

Policies

Acceptable Behaviour Agreement policy

Appeals policy

Complaints policy

Domestic and Family Violence policy

Tenancy Agreements for Public Housing policy

Termination of a Tenancy policy

Visitor Management policy

9. Document change control table

Release Date	Version Number	Approved by (position)	Section amended	Category
23/11/2016	1.01	Director Policy	all	Editorial amendments
1/08/2016	1.00	Chief Executive Officer	all	New