

# *Cherbourg Aboriginal Shire Council*



## *Housing Policy*

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# CHERBOURG ABORIGINAL SHIRE COUNCIL

## HOUSING /TENANCY POLICY

### 1.1 APPLICATION FOR HOUSING:

All prospective tenants must complete a housing application form. Forms can be obtained from the Council Housing Officer or on Council website. Applicant must provide a rental reference from their previous lessor.

### 1.2 ELIGIBILITY FOR HOUSING:

1. The Council Housing Program provides rental housing primarily for Aboriginal and Torres Strait Islander families and individuals living on Deed of Grant in Trust land.
2. Housing is usually provided to applicants in accordance with their level of need on a wait turn basis.
3. Applicants must satisfy all primary criteria to be eligible for Council housing.
4. Each applicant's full circumstances will be examined to determine the level of housing need.
5. Applicant must have nil arrears with Council.

#### **Primary Eligibility:**

1. Applicants must be Australian citizens or permanent residents.
2. Applicants must be Aboriginal and Torres Strait Islander descent.

#### **Exception:**

*applicant is the registered care giver of Aboriginal or Torres Strait Islander children, they may be eligible for housing. This is to ensure that Aboriginal and/or Torres Strait Islander children are not disadvantaged through homelessness.*

#### **Applicants must have Queensland residency**

Applicants who will become tenants and sign the Residential Tenancy Agreement must demonstrate that they live in Queensland. People who will not sign the tenancy agreement do not have to satisfy this criterion. That means people who are not Queensland residents can live in the home as residents or dependents but cannot take responsibility for the tenancy by signing the tenancy agreement.

The Queensland residency requirement may be waived where interstate applicants can demonstrate and provide evidence of a definite need to move to Queensland. For example:

- A person with a disability who has lost crucial family support or is unable to coordinate housing and support services
- A person who must provide support for a family member
- A person who is an employee of a business and relocates to Queensland

- A person whose homeland is Queensland but cultural/family responsibilities required them to live outside of Queensland in the recent period, prior to applying

### **Applicants must have an Independent Income**

At least on applicant who will become a tenant and sign the Residential Tenancy Agreement must have an income to ensure the applicant can afford rent and other tenancy cost. An independent income may mean a Centrelink payment or a Community Development Employment Program income.

## **1.3 PROOF OF IDENTITY:**

Applicants must have **two original and valid (not expired)** proofs of identification documents with their application.

Ensure that either document provides:

- The Queensland address that is their place residence
- The Applicant's signature and date of birth
- A customer Reference Number (CRN) for all applicants providing Centrelink documentation as proof of identification

### **Some acceptable proof of identity documents**

- Full Birth Certificate or Extract of Birth Certificate or Birth Card as provided by other state Registries
- Drivers Licence with photograph
- Queensland Shooters Licence with photo
- Passport
- 18 Plus Card with photo
- Apprenticeship indenture papers
- Australian Taxation Notice of Assessment
- Bank, credit or ATM card containing signature (credit cards must not be photocopied)
- Centrelink correspondence, Pension Card or Health Benefit Card showing the clients name and Customer Reference Number (CRN)
- Divorce papers
- Medicare Card
- Life Insurance Policies
- Occupational registration documents
- Other recognised photographic ID (security identification, Cash Converters Card)
- Recent bank statements, bankbook, Credit Union or Building Society statement showing recent transactions
- Referrals or reports from incorporated organisations, e.g. social welfare bodies, trade union, employers or schools
- Student Card with photo

#### 1.4 ASSESSING APPLICANTS:

Applicants must apply for housing assistance using common application form.

- Applications are stamped with their "date received: - the date the application is lodged with Council.
- All applications are assessed, against a set of eligibility criteria to make sure people are eligible for housing assistance, and that housing is provided to the people most need it.
- All matters related to applications, tenancy management and other housing-related matters should be free of conflicts of interest and decided in a fair and transparent manner.
- All tenancy and housing-related decisions can be reviewed and appealed, either through Council appeal processes, or through the Residential Tenancies and Rooming Accommodation Act 2008.

If they are deemed eligible, applications are categorised into levels of need and go onto a waiting list for housing. When their turn comes, applicants will be allocated a house based on the household size, household composition and the applicant's needs and choices about location and the type of housing they want to live in. Refer to 2.5 Allocation of Housing.

#### 1.5 COUNCIL WAITLIST:

Council will maintain a list of all eligible applicants by date order. Council's waitlist will be utilised to:-

- Allocated Houses
- Set number of houses types to be built
- Apply for housing funding

The waitlist will contain the following information about each applicant.

- Bedroom entitlement
- Date of application
- Full names of members of household
- Ages
- Relationships
- Current address of applicant
- Previous Tenancy Information
- Previous rental information

#### 1.6 UPDATING OF COUNCIL WAITLIST:

The Housing Officer will review and update the waitlist on a monthly basis. Those applicants deemed not to meet the eligibility criteria will be removed and where possible notified by letter/email.

## SECTION 2 HOUSING ENTITLEMENT

### 2.1 HOUSING ENTITLEMENT:

Council will attempt to match client needs with a house which is appropriate to the client's housing needs and bedroom requirements and is well located.

Bedroom entitlements are assessed by considering the basic entitlement in the table below: -

Type of housing	Household Type
One Bedroom	<ul style="list-style-type: none"> <li>• Single person</li> <li>• Couple</li> </ul>
Two Bedrooms	<ul style="list-style-type: none"> <li>• 2 single people sharing</li> <li>• Single/Couple with 1 Child</li> <li>• Single/Couple with 2 children of same sex and less than seven years age difference, at the applicant's request.</li> </ul>
Three Bedrooms	<ul style="list-style-type: none"> <li>• Single/Couple with 2 children of same sex and less than seven years difference</li> <li>• Single people sharing</li> <li>• Single/Couple with 2-4 children</li> </ul>
Four Bedrooms	<ul style="list-style-type: none"> <li>• 4 single people sharing</li> <li>• Single/Couple with 3 – 6 children</li> </ul>
Five Bedrooms	<ul style="list-style-type: none"> <li>• 5 single people sharing</li> <li>• Single/Couple with 4 – 8 children</li> </ul>
Six Bedrooms	<ul style="list-style-type: none"> <li>• 6 single people sharing</li> <li>• Single/Couple with 5 – 10 children</li> </ul>
Seven Bedrooms	<ul style="list-style-type: none"> <li>• 7 single people sharing</li> <li>• Single/Couple with 6 – 12 children</li> </ul>

Entitlements can be approved outside of the basic guidelines for the following reasons:

- **Pregnancy** – if a pregnancy of three months or more has been confirmed, the bedroom entitlement must cater for a new child of either sex. Evidence of pregnancy in the form of advice from a medical practitioner should be provided unless the applicant is visibly pregnant.



- **Household members over 18 years of age** – Single household members over 18 years of age are entitled to a separate bedroom. Couple aged over 18 years are only entitled to one bedroom.
- **Families with regular access to children** – Families who have access to children on a part-time but regular basis e.g. every second weekend or during school holidays, should have their bedrooms entitlements assessed as if the children are permanent residents in the household. Evidence is required:
  - Copy of the court order outlining the arrangement, or
  - Any other relevant legal documents, or
  - Statutory declaration from both the applicant and the main carer certifying regularity of visits and the details of the children (number, ages and sexes).
- **Live-in carers** – Applicants with a disability or illness are entitled to an extra bedroom to house a live-in carer who stays on a part-time but regular basis.
- **Clients with a disability** – Clients with specific needs are entitled to an extra bedroom/s in addition to their basic entitlements if they have special health, equipment or support needs. Examples include but are not limited to:
  - A special room for large equipment, e.g. electric wheelchair, dialysis machines, hoists for medical/disability reasons. This also includes an extra room to store this scooter.
  - A separate bedroom for an adult with a disability, a child with a disability, or for a continuing illness. An extra room can also be used for a spouse or other family member who cannot sleep in the same room due to disturbed night.
- **Special Circumstances** – Bedroom entitlements may be approved outside the usual policy to ensure the efficient and effective use of Council housing. For example: A single person may be allocating a two bedroom house because there is a limited supply of appropriately sized houses. Consideration should be given to the impact of such an approval on other applicants and their waiting times for housing. Care must be taken not to discriminate against other applicants.

### SECTION 3: ALLOCATION OF HOUSING

#### 3.1 ALLOCATION OF HOUSING:

Allocation of housing is usually made to applicants based on a priority system. Applicants with the highest needs (i.e. in the very high or high need categories) are usually offered assistance ahead of applicants with lower housing needs (i.e. moderate need or lower need categories); irrespective of how much longer lower need applicants have been waiting for assistance.

Applications within each category usually have equal priority and are listed in order of application date.

Vacant properties are usually offered to the first household in the highest category on the wait list for the specific type of housing whose needs would be met by the property.

Offers of housing can usually be made from the following four categories:

1. Very high need – applicants who are experiencing –
  - a. Homelessness

- b. Child safety issues
- c. Disability or medical needs
- 2. High need – applicants living within the community whose current housing situation is overcrowded.
- 3. Moderate need – applicants currently living outside of the community who are applying to relocate to the community.
- 4. Lower need – applicants who live in housing in the community that matches their needs i.e. Bedroom size and amenities.

Where a vacant property has disability modifications, it is to be offered to the first applicant on the wait list whose needs are the best met by the modifications.

When a property is identified as being available for short term leasing due to planned redevelopment of the property it is to be offered to applicant/s that are most likely to be able to move when the property is required. Applicants who have a need for disability modifications are excluded when identifying suitable applicants for short term redevelopment properties.

Where a vacant has no disability modifications and has not been identified as being available for short term leasing due to planned redevelopment, it is to be offered to applicants in the following order:

1. Council initiated Transfers
2. Very high needs applicants in order of date of application
3. High need applicants in order of date of application
4. Moderate need applicants in order of date of application
5. Lower need applicants in order of date of application

### 3.2 OFFER OF HOUSING:

Accepting an offer of housing is a significant decision for an applicant to make. The offer of housing process should best match applicant's needs to the available property.

Applicants are able to decline the offer of a property if they have a valid reason. Some examples of valid reasons to reject a property include:

- A health problem or disability
- No access to specific support or medical services (including rehabilitation services).
- Difficulty reaching place of employment due to location of the housing and/or lack of accessible public transport.
- Lack of access to education facilities offering programs for people with special needs or a disability.
- Not wishing to accept a house in which a relative has died.
- The housing type offered isn't one the applicant requested, or isn't in the place the applicant requested.
- Applicant refuses because of current private rental lease.
- Applicant cannot afford the rent.

If an applicant invalidly rejects an offer of housing, they lose their waiting time within that category and their application is placed at the bottom of the category.

If an applicant rejects two properties with no valid reasons, their application may be cancelled.

If an applicant who has a very high need (Category 1) or high need (Category 2) rejects an offer of housing for invalid reasons, consideration must be given as to whether additional verification of their housing need is required. (See Transfers (2.12); page 22-23 for more details of Very High Need and High Need applications).

### 3.3 **SIGN UP PROCESS:**

When an eligible person has accepted an offer of housing they:

- Sign a formal tenancy agreement the forms used are to be used recommended under the Residential Tenancies Authority Accommodation Act 2008. These forms are available through the Residential Tenancies Authority website. A general tenancy agreement form 18a also needs to be completed.
- Sign a completed Entry Condition Report (Form 1a).
- Receive an information booklet-Renting a house or unit in Queensland (Form 17a)
- Provided a completed and signed Household Details Forms and proof of income documentation for the household (to undertake Electronic Rent Calculation).

### 3.4 **TENANT INFORMATION KIT:**

The Council as Lessors must provide to all new tenants the following in a Tenant information Kit.

- RTA booklet, managing general tenancies in Queensland.
- General Tenancy Agreement.
- Household Details Form.
- RTA booklet renting in Queensland (Form 17a).
- 2 copies of the Entry Condition Report (RTA Form 1a)
- Rent Fact Sheet.
- Tenant Referral List
- Tenancy Fact Sheets.
- How rent is calculated

The agreement establishes the formal tenancy arrangements between the tenant and the Council as Housing Provider and marks the beginning of the tenant/lessor relationship.

A Residential Tenancy Agreement is legally binding it is important that tenants have an opportunity to read the agreement and be ware of their rights and responsibilities and the Council's rights and responsibilities before signing.

At the commencement of every tenancy, the condition of the dwelling is set out in the Entry Condition Report which should be completed with the Tenancy Agreement.

## SECTION 4: RENT

### 4.1 RENT POLICY:

Rent is the periodic payment of money paid by the tenant for the use of a housing property owned by Council.

For the purpose of these policies, the person or people who signed the tenancy agreement are responsible for paying rent.

### 4.2 RENT PAYMENTS:

#### **Payment Options**

Tenants may choose to pay by any of the following mechanisms:

- Bank Direct Debit
- Payment Cards
- Automatic (periodic) payments
- Cash
- Wage Deductions
- Centre pay

#### **Tenant must pay**

It is the responsibility of tenants to ensure that rent and any other charges such as maintenance are paid on time and that the correct amount is paid, regardless of how the tenant and household members decided to apportion the rent.

Under certain circumstances, tenants will be charged a reduced rent amount to assist the household in a temporary absence due to imprisonment or is temporarily absent for health reasons and extra accommodation costs are being incurred. The reduced rent amount will be determined on a case-by-case basis, and will be based on the temporary removal (for the purposes of rent assessment) of the absent tenant.

#### **Council's obligations regarding rent payments**

The Council undertakes to:

- Process payments in a timely manner
- Correct any errors without delays and
- Respect the privacy of recorded information required for the processing rent payments.

#### 4.3 RENT CALCULATIONS:

Council will set the rent of all Council houses by assessing all houses. Rent will be determined by the age, the condition of your house and the number of bedrooms.

Number of Bedrooms	Maximum rent per week
01	\$80
02	\$90
03	\$100
04	\$120 - \$130 - \$140
05	\$140
06	\$150
07	\$180
08	\$190
09	\$195

Council can set a lower rate of rent for a limited time, based on the special circumstances of the tenants. There may be a range of circumstances which mean the tenant temporarily need some rent relief, such as:-

- Assisting a household during a temporary absence.
- Assisting a household in severe economic difficulty.
- Or the dwelling is in poor repair.
- The age and condition of the dwelling.

Council can determine how long a lower rent rate will be charged, but this lower rate will usually be for a limited time. Rent will be increased when the tenant's difficulties have eased or the dwelling has been brought up to good repair.

#### 4.4 RENT REVIEW:

Council will review all rents on an annually basis and will adjust the amount charged to the tenant according to their circumstances.

#### 4.5 FINANCIAL MANAGERMENTS OF RENTAL ACCOUNTS:

Council will ensure that all payments received from tenants and ex-tenants are processed efficiently and that client's records are updated in a timely manner.

Council will always provide accurate information to clients on the status of their rent (whether their rent is up-to-date, or how much rent is owed) so that tenants know that their obligations under their tenancy agreement are being met.

#### 4.6 RENTAL AND OTHER DEBTS

The Council actively tries to collect outstanding rent arrears and any other debts that tenants might owe on their properties (such as maintenance bills for wilful property damage).

#### 4.7 RENT MANAGEMENT:

Step 1 – When a tenant/s sustain a rental arrears debt they will be contacted by Housing Officer Staff to arrange a meeting two discuss the rent arrears issue. They will be issued a Form 11 Breach Notice and required to rectify the rent arrears within (7) seven working days.

CACS Housing Officer will follow up by either home visits, phone or email contact with the tenant/s two discuss and implement appropriate support measures including a Rent Owing Agreement/Debt repayment plan.

Step 2 – If rental arrears are not rectified, then a second Form 11 Breach Notice will be sent to the tenant/s requiring them to rectify the rental account with seven (7) working days.

CACS Housing Officer will follow up by either homes visits, phone or email contact with the tenant/s to discuss and implement appropriate support measures including a Rent Owing Agreement/Debt repayment plan.

Step 3 – Failure to rectify rental arrears will result in a third Form 11 Breach Notice sent to the tenant/s to rectify the rental account within seven (7) working days.

CASC Housing Officers will again attempt to make contact with tenant/s either by home visit, phone or email contact allowing the tenant/s (14) working days from time of contact to rectify rental account.

Step 4 – Failure to rectify Rental Account within 14 working days after the 3<sup>rd</sup> Form 11 Breach Notice will result in a Form 12 Notice to Leave sent by the CEO. The Notice to leave is requiring the tenant/s and household members to vacate the property within &7) working Days.

Step -5 Where the tenant/s fail to vacate the property within (7) working days action will be taken through either Queensland Civil and Administrative Tribunal (QCAT) and or the Magistrates Court to recover the outstanding debt.

### SECTION 5 TENANT FEEDBACK

5.1 Council will seek, collect, analyse and evaluate feedback information from clients, existing clients and the public on the organisation to assist in improving services and process within housing delivery.

To obtain feedback from new clients, existing clients and the public Council will supply an information feedback form to be filled out:

- During an exit interview
- Via the website
- And placed in a feedback box (situated at the front desk of the Council Office).

## SECTION 6: MAINTENANCE

### 6.1 NOTICE OF DAMAGE:

All damages or repairs are to be reported to the Department of Housing Call Centre who are based in Brisbane. The Call centre will then raise a work order to be sent to QBUILD (BAS) who will then organise for either contractors or Council's works department to do the jobs..

Maintenance

Tenant  
(with work order calls)

Department of Housing Call Centre  
(Issues work order to QBUILD)

QBUILD  
(QBuild will issue some jobs to contractors or Council)

### 6.2 COUNCIL'S RIGHT OF ENTRY:

The nominated repairer may enter without consent in accordance with the Residential Tenancy and Rooming Accommodation Act 2008 in a genuine emergency, such as to carry out urgent repairs, or to protect the premises from damage. For general maintenance work permission must be obtained from the tenant before entry to the premises.

## SECTION 7: FIRE

### 7.1 FIRE SAFETY:

Each new tenant of Council will be supplied with a factsheet outlining the following:

- What to do in the event of a fire
- The use of fire safety equipment in the premises (smoke alarms, fire extinguishers/fire blankets).
- How to undertake regular checks on smoke alarms and to notify Council if they are faulty.

## SECTION 8 VACANT PROPERTY PROCEDURES

### 8.1 VACANT PROPERTY:

The following process will be followed when Council has a vacant property:-

- Council will secure the vacant dwelling and notify ATSIH Program Officer.
- Council will change locks and will complete an Exit Report and take extensive photos of works that needs to be completed with a quote. QBUILD will also undertake an exit report taking photo's to determine any unfair wear and tear damage.
- If structural inspections or high cost upgrade works impacts on bringing the property back to a reletting standard, QBUILD will leave the property secured and provide a report and estimate of costs to ATSIH. ATSIH will advise QBUILD on what action is then required.
- Upon completion of vacant works QBUILD will hand over the keys along with the newly filled out Entry Condition Report to Council and advises ATSIH accordingly
- Council will then prepare a new tenancy agreement and provides the new tenant with an entry condition report to complete and also supply the new tenant with tenant information kit.

## SECTION 9: TEMPORARY ABSENCES

### 9.1 TEMPORARY ABSENCES:

The absence of a tenant from their property does **not** constitute a breach of the Residential Tenancies and Rooming Accommodation Act 2008 but may be breach of section 45.5 of the Residential Tenancy Agreement if no alternative contact address is provided.

Council encourage tenants to notify them and in some cases seek written approval if they will be absent from their property for more than two weeks. This ensures that Council is aware of the tenant's whereabouts if any damage to the property is reported, and to reassure Council that the property hasn't been abandoned.

Tenant/s must ensure that the dwelling is maintained during any absences. The Council also encourages tenants to consider using a caretaker to protect their property from vandalism and squatters.

Notifications of temporary absences will be dealt with efficiently and sensitively.

If your house is vacant for a period of 3 month due to being in jail Council will discuss your need for ongoing housing.



If you are absent from your home for a period of 6 months in a 12 month period Council will also discuss your need for ongoing need for housing.

Tenant/s must continue to pay the rent during temporary absences, unless they are absent due to imprisonment or health (including rehabilitation, respite or hospitalisation) of the tenant or immediate family member. In these cases, the Council may automatically consider applying reduced rent minimum rent for this period.

If Council has reason to believe that a property has been abandoned, Council may commence abandonment processes in accordance with the Residential Tenancies and Rooming Accommodation Act 2008.

## **SECTION 10:** **BREACHES**

### **10.1 BREACHES:**

Both the tenant and the Council can breach the Residential Tenancies and Rooming Accommodation Act 2008.

Breaches of the Residential Tenancies and Rooming Accommodation Act 2008. By the **tenant** may include but are not limited to:

- Using your premises for illegal use.
- Rent arrears
- Causing damage to the premises
- Causing a nuisance by the use of the premises
- Interfering with the peace, comfort or privacy of neighbours
- Failing to keep the inclusions clean, e.g. dirty or untidy premises, broken glass or wall panelling, long grass or car wrecks
- Keeping animals or large birds in apartments or attached housing without approval
- Breach of the Local Government Local News, e.g. by keeping pets or large quantities of hazardous goods
- Conducting a business on or from the premises without prior approval
- Tenants exceeding the approved number of residents
- Abandonment of premises
- Neighbourhood disputes including tenants, occupants, or visitors causing a nuisance through abuse or harassment of neighbour, excessive noise, disruptive parties or unauthorised parking at attached housing complexes.

Breaches of the Residential Tenancy Act by the **Council** may include but are not limited to:

1. Entry to the property which was not conducted in accordance with the requirements of the Residential Tenancies and Rooming Accommodation Act 2008 (sections 109, 114 and 265)
2. Failure to take reasonable steps in ensuring that the tenant has quiet enjoyment of their property
3. If the tenant believes the Council has interfered with the reasonable peace, comfort or privacy of the tenant in using their property.

## SECTION 11: **TRANSFERS OF TENANCIES**

Sometimes household want to transfer to another house. Transfers of existing tenants between dwellings will be approved on the basis of demonstrated need. There are two types of transfers:

- Council initiated transfers
- Tenant initiated transfers

Council initiated and tenant initiated transfers will be offered in accordance with the housing entitlement policy.

### **11.1 COUNCIL INITATED TRANSFERS:**

Tenants considered for a Council initiated transfers do not need to meet the basic eligibility requirements for housing, however must have nil balance. The transfer assessment process should be applied flexibly to ensure a responsive approach in the delivery of social housing.

Council may initiate a transfer on the following grounds:

- To undertake significant renovations to the property;
- For the sale of the property;
- To resolve serious neighbourhood disputes or harassment;
- Due to tenants being allocated a property that is inappropriate for their specific needs e.g. The tenant was in a wheelchair and was allocated a house that is fully wheelchair accessible, however the tenant recovered and is no longer in a wheelchair and therefore does not need the wheelchair accessible property;
- Due to a property health or safety issue;
- Due to fire or natural disaster;
- Under occupancy.

### **11.2 TENANT INITATED TRANSFERS:**

Tenants considered for a tenant initiated transfer must continue to meet social housing eligibility, however must have nil balance.

Tenant initiated transfers are listed according to the level of housing need (category) determined by the Housing Allocation policy. Transfer applications are listed according to category of need, date the transfer application is lodged and dwelling type preferences nominated by applicants.

Tenant initiated transfers will be approved and categorised as follows:

#### **1. Very High Need**

**Medical factors** – the existing house is seriously detrimental to the health of someone in the household; or a member of the household needs to be close to essential health services.

**Disability** – the current housing is not physically accessible for a member of the household and cannot be modified readily or someone needs to be located near

essential support services (including educational facilities) or needs to receive essential support from family or community networks.

**Violence or at risk violence** – a household member is a victim of violence, including domestic violence or is at risk through physical, sexual or emotional abuse or neglect; a household member needs to relocate immediately because they are a witness in a serious court case and would not be safe in the current housing; a member of the household is experiencing harassment discrimination and their safety is threatened; or alternative housing required to take a child out of care or a lack of suitable housing threatens a parent's chances of maintaining custody of a child.

**Neighbourhood disputes** – transfers are generally not the solution to neighbourhood disputes. However, if there is a serious risk to a tenant's health and/or safety; repeated and serious disruptions to the neighbourhood or a long term personal conflict, Council will consider a transfer, after examining the reason for the dispute; all attempts made to resolve the dispute; the effect of the dispute on the household; the likely effect of a transfer on the neighbourhood dispute and the likelihood of a dispute occurring in another location.

**Fire or natural disaster** – when the tenant's current housing cannot be occupied as a result of fire, flood, violent storm, cyclone, earthquake or other natural disaster a transfer may occur, depending on the extent of the damage and the time it will take to repair.

## 2. High Need

**Previous inappropriate allocation** – where the original allocation did not correctly reflect the household's entitlement.

**Employment** – a tenant's has gained employment in a location which makes travelling from the current housing to work impractical and unreasonable or is required to transfer to another location to maintain current employment.

**Crime and Misconduct Commission operation** – a household member who is a protected witness needs to relocate immediately for their ongoing safety.

**Cultural grounds** – a household can show it needs to relocate to gain access to services that are essential because of its cultural background including cases where:

- A transfer is necessary for cultural reasons relating to a death in the family
- Torres Strait Islander people, who have relocated, apply to return to their original location.
- People who, for traditional reasons, need to be located away from other particular Aboriginal and Torres Strait Islander people of a different kin network.

**Exceptional Exchanges** – other circumstances, as defined by the Council with the help of the housing Officer, Council staff or Department of Housing and Public Works – Housing Services staff.

### **Mutual Exchanges**

Tenants applying to transfer under this ground are not required to meet social housing eligibility criteria.

Two or more tenants wishing to exchange properties may do so with the approval of the Council, providing:

- Each tenant must put their request in writing

- Each tenant is entitled to the number of bedrooms in the property they wish to transfer to
- Each tenant's current dwelling has been properly cared for and maintained in accordance with the terms of the Residential Tenancy Agreement
- Each tenant signs a statement that they accept the housing they wish to transfer to in its current condition (RTA for 1a and RTA form 14A (entry and exit condition reports) will need to be completed if the exchange is to proceed)
- Any rent arrears or sundry debts are paid before the transfer proceeds.

This type of transfer may be an option for tenants who wish to transfer but who are not otherwise eligible to do so.

### 11.3 SUCCESSION OF TENANCY:

A "succession of tenancy" occurs when the legal tenant changes. The legal tenant is the person who originally signed the Residential Tenancy Agreement.

A "succession of tenancy" involves terminating the existing tenancy agreement and creating a new agreement for the same property listing the new legal tenant/s to:

- Provide household members with security of tenure
- Prevent ineligible applicants having a direct interest in the tenancy
- Assist the Council with future debt recovery, as the legal tenant/s responsible for all debts are clearly identified.

A succession of tenancy will be approved where the new tenant/s are *still eligible for housing*, and the tenancy must be changed because of:

- The death of a tenant
- Another tenant joins the household
- People who are joint tenants separate
- Any other circumstances, at the discretion of the Council.

A succession of tenancy *may* be approved if the remaining tenants are not eligible for housing, or where the new tenant was not a member of the existing household when the change of tenancy occurred.

However, if there are exceptional circumstances – for example, if a guardian is appointed to care for children under the age of 16 – a "succession" can be granted for the guardian, even though they were not a member of the household when the change occurred.

A succession of tenancy is not required when a tenant changes their name after marriage, by Deed Poll, or reverts to their maiden name. Verification of the change must be kept on the tenant's file and other records updated accordingly.

### 11.4 TERMINATING TENANCIES:

Tenancies must be:

- Legally terminated in accordance with the Residential Tenancies and Rooming Accommodation Act 2008

- Terminated correctly to ensure efficient management and financial practices of all rental accounts
- 's'sWorks Housing Services Regulations

There are only five ways to legally terminate a tenancy under the Residential Tenancies and Rooming Accommodation Act 2008. Section 151 (1). A Residential Tenancy Agreement terminates:

- By written agreement of lessor and tenant
- If the lessor gives Notice to Leave the premises (RTA Form 12) to the tenant and the tenant hands over vacant possession of the premises on or after the expiry day of the notice
- If the tenant gives a Notice of Intention to Leave the premises (RTA Form 13) to the lessor and the tenant hands over vacant possession of the premises on or after the notice expiry date
- If the tribunal makes an order terminating the agreement. This can occur when a Notice to Leave has been given or when a spouse, occupant or co-tenant applies to the Small Claims Tribunal for a Termination Order
- If a tenant does not take action within seven days of the issue of an Abandonment Termination Notice (RTA Form 15)

The death of a sole tenant also ends the legal tenancy.

## **SECTION 12:** **CONFIDENTIALITY**

### **12.1 CONFIDENTIALITY:**

#### **Council and Staff Members will:**

- Keep all housing and related services confidential.
- Will keep information given to them by the client confidential. Information such as waistlist status, financial or other information which may affect the tenant's circumstances in their housing related matters.
- Council and staff will be held accountable for any breach of tenant's confidentiality.
- The tenant must give their permission for their information to be given to any other person.
- Files can be accessed by the tenant on request.
- The clients records/information must be stored in a secure place so that they cannot be read, copied or given to anyone except by authorised Councillors and staff.

## **SECTION 13:** **CONFLICT OF INTEREST**

### **13.1 CONFLICT OF INTEREST**

#### **Council and Staff should:**

- Declare any conflicts between their personal interests and the interests of the Council
- Not accept, or seek to obtain, any gifts or benefits including hospitality.
- Not provide any information that is of a confidential nature to any external party who does not have a genuine need to know that information.
- Ensure all Council policies and processes are followed.
- Report any attempts by a person to improperly influence a decision or process.

#### **Family and friends applicants or tenants**

#### **Wherever possible, Councillors or staff should not:**

- Deal with family or friends' applications for housing assistance or any on going tenancy management activities, or
- Attempt to directly or indirectly influence the processing or approval of any application for housing assistance of a family member or friend.

On some communities it may be difficult not to have dealings with family members, but if this sort of conflict of interest arises, staff must let their supervisors know. Staff and supervisors should keep relevant file notes about how family-to-family business is handled in case the matter is raised in the future.

Councillors and staff should make sure Council processes for managing conflict of interest situation are followed fairly for all applicants and tenants.

#### **Staff as applicants or tenants:**

#### **Staff must:**

- Immediately advise the Chief Executive officer if they have lodged an application for housing assistance. This includes situations where staff intend to reside in properties and are recorded on the application as dependent/household member only (ie the tenancy agreement will be in parent/s or other persons's name).
- Not process their own housing application;
- Not process any approvals, preference changes or offers of accommodation on their own behalf;
- Not process any other tenancy or property related matters on their on behalf; and
- Not use knowledge of upcoming property vacancies to change their preference to secure unfair advantage over other waitlist applicants.

The Chief Executive Officer should personally oversee and endorse critical processes such as approval of housing application, waitlist preference changes, offer or accommodation and any key tenancy or property management decisions.

Staff application and tenancy files are to be kept in a secure (locked) location within the Council Office.

### **Self-disclosure of possible conflicts**

#### **Council and Staff should:**

- Assess whether they might be likely to face a conflict of interest as part of their regular duties.
- Identify possible conflicts to the Council or Chief Executive officer and make a file note that they should not deal with matters related to self-identified conflict.
- Ensure that there is someone who is trained to undertake the duties involved in possible conflict-cases, before they arise.
- Make confident, transparent, fail conflict of interest procedures and discussions as part of the regular work routine.
- Make sure clients, tenant, councillors and staff are all aware of procedures being taken to prevent conflicts of interest.

## **SECTION 14:** **REFERRALS**

### **14.1 REFERRALS:**

**For referring clients for assistance Council's Housing Officer will;**

- Develop a network of contacts with other local agencies and services.
- Assess which agency or service the client may be referred to.
- Obtain permission from the client before assisting them to contact the referred agency or services.
- Supply the client with a factsheet or brochure on other organisations and agencies contact persons and phone numbers.

### **14.2 ACCEPTANCE OF REFERRALS:**

**For accepting referrals the Housing Officer will:**

- Assess the eligibility of the referred client and will determine whether assistance can be offered.
- If deemed to be eligible then normal application processes will apply.



## SECTION 15: COMPLAINTS & DISPUTES

### 15.1 COMPLAINTS:

#### **Making Complaints to Council about a decision**

For the purposes of these policies, a complaint is where an applicant or tenant expresses a criticism of a Council policy, action or lack of action about a particular issue.

Any tenant who disagrees with a Council policy, procedure or action can ask Council to investigate that complaint. There are no exceptions to what a client can lodge a complaint about.

Complaints about Council's policies should be addressed to the Chairman or to the CEO. They can investigate complaints in person, or ask another Council worker to investigate and report, as long as that person was not involved in the matters being investigated.

Under no circumstances should any Council officer advise clients not to use the available complaint processes. Council will investigate complaints and act to resolve them, either formally or through informal talk. They will tell the tenant what decision has been made, and what, if any changes will be made as a result of the complaint.

Tenants may complain in a number of ways:

- By telephone
- In writing e.g. letter received through the mail, by facsimile, email, via an agent or lodged in person
- In person

Anonymous complains (either written or verbal) are usually not acted on. However, if an anonymous complaint is received, judgement should be used to decide if it needs further investigation based on factors such as whether other complaint have been received concerning the same people or against others in the neighbourhood and any other tenancy management issues.

Generally, the more serious the complaint, the greater the need for inquiries.

As with all dealings between Council and tenants, complaints will be dealt with in confidence and the tenant's privacy respected.

### Noise Complaint:

The following procedure will when noise complaints are made to Council:-

Step 1 – 1<sup>st</sup> warning letter given and a notice to remedy breach giving the tenant (7) days to rectify the breach.

Step 2 – 2<sup>nd</sup> warning letter given and a notice to remedy breach given the tenant (7) days to rectify the breach.

Step 3 – 3<sup>rd</sup> and last warning letter given and a notice to remedy breach giving the tenant (7) days to rectify the breach.

Step 4 – If breach not rectify then a notice to leave giving the tenant (14) days to vacate.

Step 5 – If house is not vacated by tenant and household then an application is made to the Queensland Civil Administrative Tribunal then matter will be referred to Magistrates Court for Warrant of Possession of house.

### 15.2 APPEALS:

Tenants can appeal to the Council about any matter related to their housing if they are dissatisfied with an action or decision made by the Council. Tenants also have access to remedies under the Residential Tenancies and Rooming Accommodation Act 2008.

Local negotiation or resolution of appeals. Where possible, informal negotiation and resolution of tenant's issues should be tried, to resolve issues quickly and simply and with beneficial and timely outcomes for both parties.

Formal appeals against Council decisions or under the Residential Tenancies and Rooming Accommodation Act 2008 must be in writing.

#### **Recording Appeals**

If an applicant or tenant complains about a decision and is still not happy with the decision they may go on to make a formal appeal against the decision.

All information relating to client appeals must be kept on a file and recorded on a separate appeals register. This allows Councils, tenants and auditors to easily access information about the nature of the initial complaint, the date of the appeal, the action taken to resolve the appeal and the final result.

#### **Basic Appeals Process for Council Housing-related Decisions**

1. Written Appeals should be registered by Council and formal process begun with 48 hours receipt.
2. Council will send the tenant an acknowledgement letter and forward the appeal to the Council area where the original decision was made, for review.
3. Where possible, someone other than the original decision maker reviews the original decision based on information already contained on the file.

4. If the original decision is unchanged, the CEO must review all matters related to the case, make a determination, sign off the review and record the ultimate outcome and reasons for the decision on an Appeals Register.
5. The Council advises the tenant of the final decision and reasons with 28 days of the application being received.

### 15.3 THE RESIDENTIAL TENANCIES DISPUTE RESOLUTION SERVICE:

The Residential Tenancies Authority (RTA) administers the Residential Tenancies and Rooming Accommodation Act 2008.

If attempt at resolving a dispute have been unsuccessful, the RTA's Dispute Resolution Service provides help resolving disputes arising under the Acts, using a process called conciliation.

The Dispute Resolution Service uses an approach that has proven to provide effective outcomes for parties in dispute. The processes are used in a number of ways to finalise disputes outside the traditional court process.

If your dispute is not classified as an urgent application to the **Queensland Civil and Administrative Tribunal (QCAT)** under the Residential Tenancies and Rooming Accommodation Act 2008, you can make an application to the RTA's Dispute Resolution Service.

To apply for dispute resolution, fill out a Dispute Resolution Request (Form 16), try to attach all relevant documentation and a brief outline of your concerns, and fax, or post it to the Residential Tenancies Authority.

A representative from the RTA will contact you to arrange for the dispute to be discussed.

The RTA's Dispute Resolution Service is staffed by trained Conciliators. The role of the Conciliators is to assist parties in dispute to resolve issues that they are unable to resolve themselves.

The Conciliators will telephone each party, and then pass relevant information from one party to another, in the aim that the parties may come to an agreement. This is known as shuttle negotiation.

Alternatively, the Conciliator may decide that a 'face-to-face' meeting between the disputing parties may be the most appropriate way to resolve the dispute.

Conciliators can:

- Contact and interview disputing parties over the telephone;
- Provide information about the Residential Tenancies and Rooming Accommodation Act 2008.
- Assist the parties to exchange relevant information including relevant documents such as receipts.
- Facilitate the resolution of disputes by sharing offers and suggesting options.

26.

- Provide a Notice to enable an application to the Queensland Civil and Administrative Tribunal (QCAT) for a hearing where a dispute remains unresolved.

Conciliators do not:

- Make decisions for disputing parties;
- Make judgements about who is right, who is wrong or what the outcomes of the dispute should be;
- Tell people what to do;
- Making rulings;
- Force parties to participate in the conciliation process.

## SECTION 16

### GLOSSARY OF TERMS

**Applicant** – The person who signs the forms to apply for housing; the person whose circumstances are assessed to decide if housing assistance can be offered. If the applicant is eligible to be housed, they will become the **tenant**, when a house becomes available.

**Appeal** – An appeal is sort of a formal **complaint**. If an applicant or tenant is not satisfied with something they can write a letter, asking for a change. There are special rules about how appeals are handled (such as limit on the time in which the appeal must be dealt with; and the need for a formal, written result) which make appeals a good option for people who think they have not been treated fairly.

**Assessable** – Income received by household members which is assessed in determining the amount of rent payable. The following income is considered assessable:

#### Pensions

- Age pension
- Carer pension
- Disability Support Pension at the away from home (independent) rate, and at the full at-home (dependent) rate if paid to a tenant or spouse
- Overseas pension
- Parenting Payment Single
- Service Pension
- War Window
- Widowed Person
- Widow B
- Wife Pension

#### Allowances and Benefits

- Abstudy at the away from home (independent) rate, and at the full at-home (dependent) rate if paid to a tenant or spouse.
- Austudy.
- Domestic Allowance.
- 50% of Family Day Care Scheme.
- 15% of Family Tax Benefit Part a (FTBA) for the first four eldest children under 16 years of age. Amounts paid for children over 16 are not assessed.
- Incentive Allowance (paid with Disability Support Pension).
- Income Support Supplement (ISS).
- Mature Age Allowance.
- New Enterprise Incentive Scheme (NEIS).
- Newstart Allowance.
- Parenting Payment Partnered.

- Partner Allowance.
- Rent Assistance paid by Centrelink.
- Sickness Allowance.
- Special Benefit at the away from home (independent) rate.
- Special Benefit at the full at-home (dependent) rate if paid to a tenant or spouse.
- Veteran's Children Education Scheme (VCES) at the away from home (independent) rate.
- Veteran's Children Education Scheme (VCES) at the full at-home (dependent) rate if paid to tenant or spouse.
- Widow Allowance
- Youth Allowance at the away from home (independent) rate.
- Youth Allowance at the full at-home (dependent rate to tenant or spouse.

### Wages and work allowances

- Bonuses.
- Child Care Benefit.
- Commission.
- Community Development Employment Project (CDEP) Wages.
- Fringe Benefit Tax – see salary sacrifice.
- Gross wages or salaries (permanent, full time, part time, casual and 'on call').
- Higher duties allowances
- Holiday pay.
- Long service leave.
- Maternity/Parental leave pay.
- Overtime.
- Penalty allowances.
- Royalty payments.
- Salary sacrifice – if an employee has chose to receive a benefit in **lieu of wages** (e.g. payment for cars, telephone or school fees etc.) the value of the benefit is included as assessable income.
- Termination pay.
- Work allowances which are not reimbursements for expenses incurred on the job.

### Other types of income

- Income from shares/investments and/or savings.
- The taxable income paid through the Public Trustee of Queensland Investment Fund (e.g. Higher Growth Fund, Growth Trust, Australian Equities etc.).
- Regular compensation or Workcover payments.
- Defence Forces Retirement Benefit (DFRB) / Comsuper.
- Child Support Allowance.
- Rent from property.
- Regular superannuation payment.

- Spouse Maintenance (Spousal maintenance does not include payment for dependent children).
- Scholarships paid for living expenses. Scholarships for study expenses **only** are not assessable.
- Any regular payment received from a trustee administering a deceased estate.
- Payment to volunteers that could be construed as regular income as they recur on a weekly, fortnightly or monthly basis.

**Breach** – Failure to perform some promised Act or obligation under the Residential Tenancies and rooming Accommodation Act 2008, or under this tenancy policies. A **tenant**, the **department** or the **Council** can each be regarded as committing a breach of an Act or policy. Breaches under an Act of parliament may be subject to legal penalties. Breaches of these policies may result in complaints or appeals, which may, in turn, result in changed decisions, loss of funding or other entitlements, or even eviction of tenants.

**Child** – A person under 16 years of age.

**Complaint** – Tenants can disagree with a Council policy, action or lack of action about any issue. They can ask for a change in a decision if they believe they are not being treated fairly. There are no limits to what a client can complain about. Complaints do not need to be made in writing. If an applicant or tenant is not satisfied with the results they can make a written **appeal**.

**Conflict of Interest** – Any issue which could bring about a clash between the person's personal interests and their official duties. In other words, anything which might force a person to make a decision to further their own best interest, rather than the best and fairest interests of their employer or client. To protect staff and tenants from conflict-of-interest situations, Council has procedures for identifying potential conflicts and deal with them in fair, transparent ways.

**Council** – An Aboriginal Shire Council, the Torres Strait Island Regional Council or the Northern Peninsula Area Regional Council.

**Council-owned Housing Property** – For the purposes of these policies, a Council-owned Housing Property is any **residential property** (including a house, unit, duplex, bedsit or senior's unit) maintained through a funding agreement with the Council, with occupants whose tenancy is maintained through a formal rental agreement, sanctioned by the Residential Tenancies and Rooming Accommodation Act 2008.

**Debt** – A debt means an amount of money owned by a **tenant** to **Council** because of unpaid rent, or for damage caused to Council-owned housing property. No amount of money which are other than a housing-related debt, or money owed to any other person or organisation are covered by these policies.

**Department** – For the purpose of these policies, the department means the Queensland Department of Housing and Public Works – Housing Services.

**Foster carer** – A person who is not the parent, but who has been asked to give long-term care for a **child**.

**Foster child** – A **child** who is being cared for on a long-term basis by an adult who is not their parent.

**Household** – The immediate family of the applicant; all of the people who are entitled to live in a **Council-owned Housing Property**. A person who is not a member of an “immediate family” may still form part of a household if they live at the same property in the normal course of events, and are regarded as a household member by the other tenants and members of the household.

**Obligation** – A commitment or a duty to do something or pay someone. Legislation, such as the **Residential Tenancies and Rooming Accommodation Act 2008**, contains legal obligations – things that tenants, the Council or the department must do, or face legal penalties. These tenancy policies explain how Council must maintain their rental properties, manage tenancies and provide service to tenants. They show that the Council has written moral commitment to providing the services covered by these policies. They also outline the commitments expected from tenants, including regular rent payments and an agreement to look after Council-owned Housing properties.

**Policy** – Policies are written sets of guiding principles designed to influence decisions and actions. Typically, a policy outlines a required process or procedure an organisation commits to follow.

**Residential Tenancy Agreement** – A tenancy agreement is legally required for all lessors (people who own properties for rent) and lessees (people who wish to be tenants) of rental properties. The tenancy agreement contains information such as tenants names, address for service of notice, property address, rent details terms of agreement, indicates the maximum number of tenants, The rental terms include rent increase and decreases, **rights** and obligations of the tenant, pets, lessors’ obligations, emergency repairs, entry and exit condition reports, and co-tenant responsibilities.

**Residential Property** – For the purpose of these policies, a residential property is a **Council-owned Housing Property** which is used as a **rental dwelling** for tenants, subject to a rental agreement sanctioned by the Residential Tenancies Rooming Accommodation Act 2008.

**Rent** – A regular payment, at a rate determined by Council, which a tenant must pay to maintain their right to live in a **Council-owned Housing Property**.

**Residents** – People who live in a rental property but who have not signed a Tenancy Agreement, and who are not directly responsible for paying rent to the Council. They may also be called members of the **household**.

**Rights** – Rights are powers, privileges or entitlements claimed by you from someone else. A “right” assumes that others recognise that your claim is justified by agreement, custom or law. Rights specify acts that are permitted, forbidden, or required. Tenants and the Council have legal rights under the Residential Tenancies and Rooming Accommodation Act 2008. They also have moral rights under these tenancy policies.



**Staff member** – A person employed by the **Council**, such as the Council Housing Officer.

**Succession of Tenancy** – A succession of tenancy is needed when there is a change in **household** circumstances. If a person who is a legal **tenant** dies or leaves for other reasons, another eligible member of the **household** must take up the responsibilities of the Rental Agreement. This is done to give other household members security of tenure or to prevent ineligible applicants taking over the tenancy. The new legal tenant/s take up responsibility for the rent and all other matters related to the Tenancy Agreement.

**Tenant** – The person or people who sign a **Tenancy Agreement**, and who are responsible for paying the rent and otherwise maintaining the condition of their property. All other people living in the house called **resident**.

**Tenancy Agreement** – A legal document, required under the Residential Tenancies and Rooming Accommodation Act 2008, which sets out the **right** and **obligations** of both **tenants** and **Council** and the terms under which the Council agrees to provide accommodation to a person in a **Council-owned Housing property**.

**Tenancy Management** – Is the process of selecting applicants, leasing vacant units, and ensuring tenants fulfil their lease obligations.

**Temporary Absence** – When the tenant is not resident in their rental property for a period of less than 12 months, but intends to return and live there permanently, and gives Council a written notice to let them know where they are, and when they will return. The tenant is usually required to pay regular rent, even if they are not in residence.

**Transfer** – People who want to move from one property to another.

## **Further Contacts**

### **Residential Tenancies Authority**

Web: <http://www.rta.qld.gov.au/>

Forms for tenancies:

<http://www.rta.qld.gov.au/en/Resources/Forms-for-general-tenancies.aspx>

Telephone: 1300 366 11

A tenant or lessor can contact the RTA for advice and information about renting a house and tenancy agreements.