Tenancy Breach Policy

1. PURPOSE

The purpose of this policy is to provide a clear, consistent and transparent framework for ensuring that the local government principles are reflected in the Tenancy Breach Policy. Council has an obligation to ensure tenants respect the properties and communities they live in by fulfilling obligations under their tenancy agreement.

2. SCOPE

This policy applies to all tenants, Council Officers, and applicants of Council's Social Housing Register.

This policy sets out the principles to be followed when a breach is to be issued to a tenant, household member or a housing client within reason. Our aim is to ensure:

(a) Council's policies and procedures provide the means for tenancies to be managed in a pro-active manner, which aims to work with and educate tenants on how to ensure compliance with the Acts and sustain their tenancy.

(b) If a tenant is in breach of their responsibilities, Council will take reasonable steps to assist tenants remedy the breach.

3. LINK TO CORPORATE PLAN 2025-2030

TSIRC Corporate Plan 2025-2030

Outcome 1: Strengthening Our Communities
1.1Provide Suitable Public Housing

- Work with the State and Federal Governments and community to ensure that all Torres Strait Island communities have access to safe, secure and culturally appropriate housing.

Outcome 2: A Proactive and Responsible Council
3.1Provide Good Governance and Leadership

- Ensure responsible financial management and sustainability.
- Ensure compliance with legislative requirements and regulations, uphold the Council's legal obligations, and make ethical decisions in the best interest of the community.

4. POLICY STATEMENT

This Policy is to be applied in conjunction with Tenancy Breach Procedure.

The General Tenancy Agreement (GTA), *Residential Tenancies and Rooming Accommodation Act 2008*, the *Residential Tenancies and Rooming Accommodation Regulations 2024* and the *Housing Act 2003* set out the rights and responsibilities of both tenants and Council.

Council's policies and procedures provide the means for tenancies to be managed in a pro—active manner, which aims to work with and educate tenants on how to ensure compliance with the Acts and sustain their tenancy.

When either party breaches the terms of these acts either party has the right to seek remedy of the breach.

Notices to remedy a breach may be issued when:

(a) All options locally have been exhausted, including seeking direction by the respective elected Divisional Councillor and/or, Prescribed Body Corporate of that Division where the rent payable under a tenancy agreement has remained unpaid for at least seven days after Council's last attempt to contact tenant; or
(b) the tenant has breached another term of the agreement, such as:

(i) used the premises or any property adjoining the premises for an illegal activity; or

(ii) intentionally or recklessly destroyed or seriously damaged a part of the premises; or

(iii) interfered significantly with the reasonable peace, comfort or privacy of other tenants or other tenants' use of their premises.

Council must exhaust all options locally, including seeking direction and support of the respective elected Divisional Councillor and/or, Prescribed Body Corporate of that Division prior to issuing the tenant a Notice to remedy breach within the allowed remedy period in accordance with the Acts.

In seeking remedy for a breach by a tenant, Council staff must ensure that they fulfil the requirements of the Acts and the GTA.

If the tenant fails to remedy the breach within the allowed remedy period Council may make an application for Dispute Resolution with the Residential Tenancies Authority.

If a breach is not resolved, Council may issue a Notice to Leave, requesting that the tenant vacates the premises.

If a tenant fails to vacate a property after the prescribed handover date on the Notice to Leave, Council may apply to the Queensland Civil Administrative Tribunal for a Termination Order to effectively end the tenancy.

Tenants can access Council's complaint process if they are dissatisfied with a decision made by Council.

5. REPORTING

Nil.

6. DEFINITIONS

Refer to legislation definitions.

7. RELATED DOCUMENTS AND REFERENCES

- *Local Government Act 2009*
- *Local Government Regulation 2012*
- *Housing Act 2003*
- *Housing Regulation 2003*
- *Residential Tenancies and Rooming Accommodation Act 2008*
- *RTA Regulations 2024*
- *Social Housing Policy Complaints Management Procedure*

8. REVIEW

Policy type:	☒ Council ☐ Administrative
Directorate:	Community Services
Responsible Officer:	Manager, Housing
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Next review date:	February 2028 (This policy will be reviewed every two years or as required by changes in legislation).
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