

information sheet

Changes to Homeswest Debt Policies

In June 2001, the Rental Sector Standing Committee (RSSC) of the Housing Advisory Committee to the Minister for Housing established a working group including Shelter WA, Tenants Advice Service, two financial councillors and the Department of Housing and Works to review Homeswest's debt policies. The review culminated in a report written by Shelter WA in March 2002.

The Debt Report considered the impact of all Homeswest policies related to debt management. The report's 72 recommendations were aimed at removing inconsistencies and ensuring that Homeswest's debt policies meet the organisation's objectives without unnecessarily disadvantaging tenants or applicants.

After all parties reached consensus on the final document, the Report was submitted to the Department's Board and the Minister for final endorsement. This Information Sheet gives an overview of the policy changes resulting from the Report. The changes have been summarised by policy; a document listing all changes is available from www.shelterwa.org.au (papers & reports).

STATUTE BARRED DEBT POLICY

- 1: Under the Limitation Act 1985 the period for a tenancy debt is 6 years. Expiration of the period does not expunge the debt as if it never existed but once this period has elapsed, the debt becomes "Statute Barred" and legal recovery is not permitted.
- 2: Under the Bankruptcy Act 1996, where a client declares bankruptcy, the debt becomes "Statute Barred", subsequent discharge of the bankruptcy relieves the customer of the legal liability to repay the debt, but it does not expunge the debt as if it had never existed.
- 3: Repayment of statute barred debts can not be pursued however, Homeswest will accept any payments offered by the customer against the debt as long as this is entirely voluntary and the customer is notified that they do not legally have to repay.
- 4: Homeswest will not pursue debts older than six years but will require repayment of the debt to provide further rental assistance or alternately an agreement pursuant to the Debt Discount Scheme.

TRANSFER POLICY

2. If a tenant breaches conditions of the Tenancy Agreement or Residential Tenancies Act a letter will be sent to the tenant advising of the breach and its consequences and giving an opportunity to rectify the breach if appropriate. If the breach has not been rectified within a reasonable amount of time the transfer application may be withdrawn.

DEBT RECOVERY POLICY

- 2.2 Accounts will have details of the work done and the job order number.
- 2.3 A letter will accompany the account explaining the appeals process and where to get assistance and information.
3. Tenants with a debt to Homeswest, either current or relating to a previous tenancy or Housing Access Loan, will

have no maintenance undertaken above what is required under section 42 of the Residential Tenancies Act, unless alternative arrangements to repay the debt have been made and are being maintained.

5. An arrangement to repay a debt from a previous tenancy is a private arrangement between Homeswest and the tenant/ applicant debtor and cannot be reflected in the Tenancy Agreement. The client should provide evidence where part of the debt relates to bankruptcy and payments will not be sought.

Previous Tenancy at same address:

6. Once a Magistrate has authorised a court order terminating the tenancy, the Tenancy Agreement becomes obsolete and a new tenancy agreement must be signed. Any outstanding arrears will therefore relate to a previous tenancy and must be treated as a vacated debt.

6.1. In such instances, the tenant will be requested to sign a formal proposal document agreeing to pay any debt in regular installments at the same time they complete the new Tenancy Agreement. The Debt Discount Scheme will not apply if tenants are re-housed at the same location.

7.1 For all debts, Homeswest will seek an arrangement so that the combined total of the tenant's arrears and current debt does not exceed 30% of their total assessable household income. Tenants may at their own discretion pay extra monies above 30% of income on their volition".

Where the agreed payments are not maintained, contact should be made with the tenant to ascertain why payments have ceased. Discretion should be exercised where there has been a loss of income, for instance due to Centrelink payment cancellation, loss of employment, or a cancellation of maintenance payments. The termination process should recommence once a final warning has been sent to the tenant and continue in the absence of a satisfactory response from the tenant.

9. Tenants signatory to the Tenancy Agreement are jointly liable for any debt.

9.1. Tenants who jointly sign the Tenancy Agreement are jointly liable for any debt from the tenancy. This means that a debt is split evenly between all parties signatory to the agreement.

14. If the applicant ceases to make payments, or fails to make payments as agreed, the application may be withdrawn. Tenants will be advised in writing giving them 21 days notice of such a decision and information on the appeals process.

DOMESTIC VIOLENCE POLICY

14. Applicants or tenants who are approved for priority assistance or emergency housing, will be requested to enter into an agreement to repay the debt in affordable installments. For all debts, Homeswest will seek an arrangement so that the combined total of the tenant's arrears and current debt does not exceed 30% of their total assessable household income.

DEBT DISCOUNT SCHEME POLICY

11. A customer with a debt to Homeswest will be offered credit for monies repaid, in order to facilitate earlier re-entry into public rental housing or homeownership, if they participate in the scheme. To be eligible to participate in the scheme the debt must not relate to the current tenancy for either public rental property or private rental where Bond Assistance was provided. (Debt Discount Scheme applies to Bond Assistance Loans provided the Bond Assistance Loan is not for the current tenancy where Bond Assistance has been provided) Applicants/Tenants should be advised of their rights to participate in the Debt Discount Scheme for debts that do not relate to the current tenancy. Where possible correspondence should include reference to the Debt Discount Scheme and an application form. Applicants do not need to have a current application for public housing to participate in the scheme.

11.1 This is not available to tenants with a debt in their current tenancy.

15.2 Debt Discount Scheme is not available to tenants who have had their tenancy terminated by the court and then restored by Homeswest at the same address.

18. Homeswest recognises that a customer signing a debt discount scheme may still be eligible to follow the appeals or court process.

18.1. Signing the debt discount form does not necessary constitute agreement to the debt.

ELIGIBILITY POLICY

24. Applicants with a debt to Homeswest will be requested to make arrangement to repay their debt, if applicable they may make application to participate in the Debt Discount Scheme.

TENANCY MANAGEMENT POLICY

9. A tenant is not responsible for damage done by

- Minors - Refer Tenant Liability Policy 4.19 (If there is a history of damage being caused by a minor or in the case of willful damage if attributable to lack of supervision Homeswest will charge Tenant Liability. The tenant will be advised in writing that Homeswest may charge Tenant Liability for continued damage).
- Unknown persons, if the matter has been reported to the police and the tenant has provided Homeswest with a report number provided by the police; or
- Visitors to the property, if the matter has been reported to the police and the tenant has provided Homeswest with the report number and the tenant has taken reasonable precautions to prevent visitors from doing damage. (Refer to Tenant Liability policy 2.7 and Maintenance policy – Recoverable Insurance)

The Domestic Violence Policy should be referred to in situation where domestic violence is suspected to have contributed to damage done.

28. A tenant with a debt to Homeswest will be requested to enter into an agreement to repay the debt in affordable installments and the payments must be maintained until the debt is cleared. For all debts, Homeswest should seek an arrangement so that the combined total of the tenant's arrears and current rent does not exceed 30% of their total assessable household income.

IMPROVEMENTS / ADDITIONS POLICY

2. There will be no reimbursement unless Homeswest plans to carry out the improvement as part of upgrade and then only at the estimated value at the time of reimbursement, and subject to the correct approvals being obtained. Proof of installation and/or local government approvals to be provided.

2.2 Any reimbursement must be offset against any outstanding debts to Homeswest unless alternative arrangements to repay these debts have been made and are being maintained. Reimbursement will only be made if funds are available or prior agreement reached.

2.3 Any reimbursement will reflect the estimated value of the improvement at the finalisation of the tenancy. (Purchase price less 10% depreciation per annum to apply.)

2.4 Any reimbursement will be made at the finalisation of the tenancy subject to the availability of funds. Where funds are unavailable at the finalisation of the tenancy reimbursement shall be made as soon as practicable, but no more than one month after the finalisation of the tenancy.

HEATING POLICY

1.6 Tenants with a debt to Homeswest may be refused the provision of a heating appliance unless alternative arrangements to repay the debt have been made and are being maintained.

TENANT LIABILITY POLICY

1.1 Occupied tenant liability is incurred while a tenant is in occupation. When occupied tenant liability is identified on a job order, the reason is to be identified by the Accommodation Manager.

2. A Property condition Report (PCR) will be completed when a property is vacated. This will be undertaken on site with the tenant in attendance where Homeswest receives sufficient notice of intention to vacate. Tenant liability will be assessed with reference to all relevant documentation, including the incoming PCR, the outgoing PCR, maintenance records, annual inspection forms and any other evidence. Where possible photographs will be taken to validate tenant liability.

2.1 The PCR should be undertaken within one working day where possible. However where this is not possible, (eg. Country area), tenant liability should be identified, where applicable, at the time of inspection. However, see section 2.6 for damage caused by non-household members. For families, cost will be apportioned according to the number of tenant signatures on the tenancy agreement, although apportionment may vary in cases where domestic violence is involved: see Domestic violence policy. Examples: Two signatories - 50%; Three signatories - 33.3% In order to avoid later misunderstandings, tenants should always be provided with a receipt immediately upon returning the keys. A tenant, who has not given Homeswest the required 21 days notice of the intention to vacate, will be responsible for any damage to the property if they have abandoned the property or fail to return the keys on vacation

until the PCR is undertaken. The Department will take all steps to secure the property once they become aware of the property having been abandoned.

2.6 Damage to the Property

In the case of damage by non-household members or a household member who is not a signatory to the Tenancy Agreement, if this has been the subject of a Police Report, tenant liability may not be charged. Except in the case of damage by children, a Police or Action Report Number will be required for the purpose of making an insurance claim. If the damage has not been reported to the Police, it must be charged to the tenant on a percentage basis. NOTE: the Police do not need to see the damage. A report provided by the Police is all that is required.

2.7 Where the tenant is aware of the identity or address of any person/s responsible for the damage, these details must be supplied to Homeswest for the purposes of making an insurance claim. The cost of repairs will be charged to the tenant until this information is received and verified.

2.9 Where a tenant believes that one signatory to the Tenancy Agreement was responsible for damage and therefore should pay for it, an appeal can be lodged through the Homeswest Appeals Mechanism. Example: Drunkenness where it appears that one of the signatories caused a greater portion or all the damage to the property.

2.10 Time Frame

The report of damage must be made as soon as practicable, but within three working days after it has occurred if this is to be used as the basis of an appeal against Tenant Liability. This claim is almost impossible to substantiate in an appeal after some time has elapsed. However, discretion should be exercised in exceptional circumstances, such as domestic violence, hospitalisation.

4.4 Cleaning

Where one or more aspects of a vacated property require heavy cleaning or rubbish removal, the cost of a heavy clean on those aspects will be identified as tenant liability.

NOTE: Trades are responsible for cleaning up after their work is completed. If this is not done, contractors are to be debited for any costs incurred.

4.5 Glazing

Glazing repairs will be identified as either tenant liability or insurance (recoverable or non-recoverable). Exceptions:

- Bathroom mirrors (re poly or beading) which have deteriorated due to age – this will be charged to maintenance.
- Shower screens which have cracked for reasons other than negligence or wilful damage by the tenant.

4.7 Plumbing Blockages

Contractors are requested to report the cause of all blockages to ped pans, waste pipes and sewer lines. Where such blockage can be identified as deliberate or negligently caused by the tenant, tenant liability will be charged (eg cutlery, clothing sanitary napkins, cans, bottles).

Where there is proven excessive and unauthorised overcrowding resulting in regular pump-outs of septic/sullage wells, tenant liability will be charged.

4.8 Water or Gas Pipes

Any deliberate or negligent damage to garden taps or underground water or gas pipes caused by the tenant, for instance with a lawn mower, vehicle or by digging etc. will be charged as tenant liability.

4.9 Electrical

- Where electrical faults are proven to have been caused by tenant's faulty appliances, tenant liability will be charged.
- Where electrical work has been carried out with permission of the current tenant by an unauthorised person without the

appropriate ticket to do the work, tenant liability will be charged.

- Claims for fusion damage are made under the tenant's household contents policy. However, Homeswest will be responsible for fusion damage that occurs as a consequence of proven faulty wiring or other related electrical problems.
- Where electrical costs arise from disconnection by Western Power due to non-payment of account, tenant liability will be charged.

4.12 Grounds

• Any costs associated with mowing of lawns, slashing of long grass or removal of rubbish, including car bodies, will be charged as tenant liability. However, discretion may be applied, for instance in regional areas where grass grows very quickly in certain months.

• Where Homeswest has landscaped the property, any replacement or repair, to return to original due to neglect, misuse or wilful damage will be charged as tenant liability.

4.15 Lost/stolen keys are tenants' responsibility. Tenant liability will be charged to replace lock, barrel. The Domestic Violence policy should be referred to in situations where domestic violence is suspected to have contributed to damage done.

4.16 Window Cleaning

This item should only be charged as tenant liability in certain cases and should not be an automatic charge, eg.

- If clean windows are noted on the ingoing PCR and require cleaning again on vacation, then tenant liability should be charged.
- If the condition of windows is classified as only fair on occupation then tenant liability should not be charged.
- If the windows are above ground level then tenant liability will not be charged unless accessible by landing/balcony.

4.19 Alleged Vandal Damage

In many cases, former tenants claim that the damage is caused by vandals after vacation, but before Homeswest inspection. As such claims tend to be difficult to refute, the PCR has provision for the inspecting officer to indicate his/her response to the following question: "Are there any signs of vandal caused damage?"

This will also apply to vandal damage in attending occupied maintenance. The tenant will have made a police report and will be required to supply the Police or Action Report Number.

NOTES:

- Tenant Liability may not be charged on damage caused by a minor or unknown persons.
- Tenant Liability will not be charged on damage that occurs after the tenant has handed in the keys to the property
- If there is a history of damage being caused by a minor or in the case of wilful damage if attributable to lack of supervision Homeswest will charge Tenant Liability. The tenant will be advised in writing that Homeswest may charge Tenant Liability for continued damage.

4.20b) In cases where the tenant has given the required notice and there was a delay of more than one working day between vacation and the PCR being undertaken or where there is alleged damage.

5. Factors affecting Tenant Liability Assessment

The assessment made will be solely on the physical situation encountered. The decision not to charge tenant liability based on tenancy factors can be made by the inspecting officer who must clearly document the reasons for concessions granted and have the decision vetted by an independent officer. These factors are as set out in points

5.3 to 5.6 and do not apply to repair of wilful damage, neglect, misuse, heavy cleaning and rubbish removal.

5.1 When assessing Tenant Liability, accidental damage and also wear and tear must be considered. Tenant Liability will only be charged when there is clear evidence to support the contention that the damage was caused or permitted, deliberately or negligently.

5.5 Medical/Compassionate Grounds

Medical and compassionate consideration should be taken into account in the context of the overall resident and family situation. In general, any tenant liability waived on these grounds will be limited to those areas where a fully able tenant would and/or family members would be able to rectify the problem. It should not extend to the repair of wilful damage, neglect or misuse.

5.6 Deceased Estates/Removal of Property

Net Debts exceeding \$250 will be considered for recovery from a deceased estate. That is, accrued bond and/or rental credits will be offset against any debt, and where the final debt exceeds \$250 it will be considered for recovery. If it is decided to lodge a claim against a deceased estate, the trustee of the estate must be advised, together with proof of debt.

Co-tenancy: If the estate is part of a co-tenancy, Homeswest will only pursue the surviving tenant for 50% of the debt. However, in the case where the deceased co-tenant is responsible for more than half of the debt, the debt will be apportioned accordingly.

Next of Kin: Next of kin are required to remove the personal belongings of a deceased tenant within 14 days. This time may be extended in special circumstances, at the discretion of regional management.

6. Homeswest will use its Appeal Mechanism (HAM) wherever possible to resolve disputes regarding tenant liability. Tenants are encouraged to attempt to resolve their dispute through Homeswest's Appeals Mechanism before going through the Residential Tenancies procedure (for more information about HAM: see Appeals policy).

However, where it is not possible to resolve the dispute through HAM, Homeswest and tenant are able to initiate any action concerning the tenant liability charged under the Residential Tenancies Act, through the Small Disputes Division of the local court nearest the rental property.

6.5 Debts should only be referred to a collection agency after the tenant has an opportunity to appeal. If however the debt has gone to a debt collection agency, the agency will be notified once a customer appeals and debt recovery action to cease while the appeal is in progress. Once a client enters a repayment scheme the debt is to be transferred back to Homeswest and the debt discount scheme applied for by the client. See also Vacated Debts.

NEW LIVING – TENANT RELOCATION POLICY

9. Where a tenant has a debt or breaches to Homeswest, please refer to the Tenancy Management policy.

10.1 The following items are included and will be indexed. Rates below are as at February 2001.

Waiving of Rent

As an incentive to relocate, Homeswest may offer tenants up to a maximum of 4 weeks free rent on an alternate Homeswest property.

Extra Incentives to Relocate

Homeswest may offer any, or a combination of the following non-cash inducements up to a maximum value of \$3,000.

- Floor coverings
- Security installation
- Ceiling fans
- Water Allowance
- Window treatments
- Landscaping
- Brick paving
- Extra incentives, to be approved by Regional Manager

BOND ASSISTANCE LOAN POLICY

13.1 Further assistance where applicants have a previous Bond debt will be considered provided the applicant makes arrangement to repay the Bond debt/s. All agreements to repay debts must include an explanation and offer of the Debt Discount Scheme.

13.2 Where the private landlord is terminating a tenancy for which a customer has an existing Bond and they have maintained their repayment agreement they may make further application for another Bond. A new arrangement can be accepted or an existing arrangement may continue at the discretion of Homeswest.

13.3 Application for further assistance where a customer has not maintained their repayment arrangements will be at the discretion of Homeswest. Discretionary approval will be given for further assistance where there are genuine hardship factors, such as homelessness, domestic violence and family separation. However, the applicant will be required to enter into an affordable arrangement to clear the debt. The Manager Customer Service, Assistant Regional Manager, Area Manager, Administration Officer, Regional Manager or Manager Bonds have the delegated authority to approve further assistance.

WATER CONSUMPTION POLICY

1.2 Water consumption proportioning may be considered if a leak or leaks have been reported to Homeswest.

2.1 The tenant must reimburse Homeswest in full within six weeks or by affordable fortnightly installments as agreed to by Homeswest in line with the 30% of accessible income.

SUBSEQUENT CHANGES

Homeswest made a number of policy changes after the approval of the changes resulting from the Debt Report. Changes to relevant policies are listed below.

TENANT LIABILITY

1.1 Occupied tenant liability is incurred while a tenant is in occupation. When Occupied tenant liability is identified on a job order, a brief statement giving the reason for charging must be included on the job order by the Accommodation Manager or issuing officer.

2.8 To lodge a claim against Recoverable Insurance for property damage caused by a third party the appropriate claim form must be completed and forwarded to the Insurance Section. If the damage is going to be repaired by job order charged to Recoverable Insurance, a police report number and the third parties name and address details will be required.

4.5 Basic Clean s/be medium clean- The removal of any household rubbish from inside the dwelling up to a maximum of .05 of a cubic metre.

4.12 Any costs associated with mowing of lawns, slashing of long grass, cutting edges or removal of rubbish, including car bodies and vehicular tires will be charged as tenant liability.

DISCRETIONARY DECISION MAKING

3.1 The Officer making the discretionary decision will record the reason/s and what the basis is for the decision. Consider and record all facts relevant and the documentation to be placed on the applicants/tenants file.