
Criminal History and National Tenancy Database Checks

Purpose

This policy establishes guidelines for conducting criminal history and national tenancy database checks on all prospective residential tenancy applicants for the Herald Denham Centre Units. These checks aim to ensure the safety and reliability of tenants, while safeguarding Shire of Shark Bay assets.

Scope

This policy applies to all residential tenancy applicants for the Denham Herald Centre. The Shire of Shark Bay will conduct these checks using Third-party organisations and will bear all associated costs.

Consent and Transparency

1. *Written Consent:* All applicants must provide documented consent before a background check is conducted. Consent forms will clearly outline:
 - The type of information collected.
 - The purpose of the checks.
 - How the information will be used.
2. *Explanation of Necessity:* Applicants will be informed about why these checks are required, including their relevance to tenancy suitability.

Privacy and Confidentiality

1. *Data Protection:* All personal information collected during the screening process will be securely stored, handled, and disposed of in compliance with privacy laws.
2. *Limited Access:* Access to sensitive information will be restricted to authorized personnel only.

Screening Process

1. *Verification:* the third Party organisation will verify applicants' identity and criminal history, rental history, and other relevant details.
2. *Criminal Background Evaluation:*
 - Review criminal convictions, focusing on severity, recency, and frequency.
 - Assess any records related to violent crimes or offenses that may pose risks to safety

3. *Rental History Assessment:*

- Check for evictions or non-payment of rent.
- Contact previous landlords for references regarding tenant behaviour and payment reliability.

Fairness and Non-Discrimination

1. *Consistent Criteria:* Screening criteria will be applied uniformly across all applicants to avoid bias or discrimination.
2. *Contextual Consideration:* Offenses will be evaluated in context rather than automatically disqualifying an applicant.

Assessment of Results

1. Results from [Third-party organisation] will be reviewed by Council to determine tenant suitability.
2. If adverse findings impact tenancy approval, applicants will be notified and given an opportunity to respond or provide additional context

Legal Compliance

The Shire of Shark Bay ensures compliance with relevant laws, including anti-discrimination regulations, privacy legislation, and tenancy database rules.

Federal Legislation

1. *Privacy Act 1988 (Cth):*

- Governs the collection, use, and disclosure of personal information, including criminal history and tenancy data.
- Requires compliance with the Australian Privacy Principles (APPs), ensuring transparency, secure handling of data, and obtaining written consent before collecting sensitive information like criminal records.
- Mandates that personal data collected for background checks must only be used for its intended purpose and securely stored or destroyed when no longer needed.

2. *Spent Convictions Scheme:*

- Operates under the *Crimes Act 1914 (Cth)* and restricts the disclosure of old convictions (spent convictions) unless legally required.
- Ensures that minor or outdated criminal records are not unfairly used against individuals unless directly relevant to the tenancy decision.

3. *Australian Human Rights Commission Act 1986 (Cth):*

- Prohibits discrimination based on irrelevant criminal records unless they directly impact tenancy suitability.

- Ensures fair treatment of applicants with past convictions.

Western Australian Legislation

1. Residential Tenancies Act 1987 (WA):

- Regulates the use of tenancy databases in WA, often referred to as "blacklists."
- Tenants can only be listed on a database for specific reasons, such as owing rent exceeding the bond amount or having a court order terminating their tenancy due to a breach.
- Requires landlords to notify tenants if they are listed on a database and provide details about how to dispute or amend inaccurate listings.

*2. Privacy and Responsible Information Sharing Act 2024 (WA) **Draft:***

- Introduces modern privacy protections for personal data handled by WA public entities and their service providers.
- Establishes Information Privacy Principles (IPPs) for secure handling, storage, and sharing of personal information.
- Although primarily targeting public sector entities, it sets a precedent for responsible data handling in WA.

3. Equal Opportunity Act 1984 (WA):

- Prohibits discrimination in housing based on attributes such as race, gender, disability, or irrelevant criminal history.
- Ensures that landlords do not unfairly exclude applicants based on protected characteristics or unrelated past offenses.

Policy Review

This policy will be reviewed as required to ensure compliance with legal requirements and industry best practices.

This policy ensures a transparent, fair, and legally compliant process for conducting background checks on prospective tenants while protecting both the company's interests and applicants' rights.