

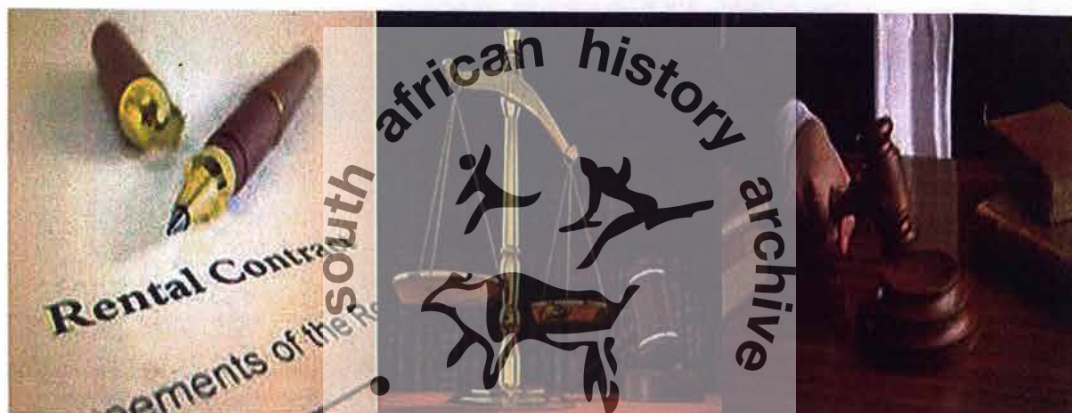


Western Cape
Government

BETTER TOGETHER.

DEPARTMENT OF THE
PREMIER

Standard Operational Procedure Redress Mechanism



Department: Human Settlements
Directorate: Communication and Stakeholder Relations
Division: Rental Housing Tribunal

File Reference Number: 31/1/2/1 (DHS)

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Date: September 2012

STANDARD OPERATIONAL PROCEDURE (SOP):

Human Settlements Directorate: Communication and Stakeholder Relations

SOP Group(s):		Rental Housing Tribunal		
Type:	Regulation		Policy	
	Guideline		Procedure	X
Relevant Legislation, policies, Documents/Manuals/ Handbooks Systems		<ul style="list-style-type: none"> - Housing Act 107 Of 1997; - Housing Code 2009; - Rental Housing Act 50 of 1999 - Rental Housing Amendment Act 43 of 2007, - Unfair Practice regulations P.N 22/2002, - Prevention of Illegal Eviction and Unlawful Occupation of Land Act 19 of 1998; - Sectional Title Act 95 of 1986; - Administration of Estates Act 66 of 1965; - Promotion of Access to Information Act 2 of 2000; - Batho Pele Principles; - Code of Conduct for Public Servants; - Constitution of the Republic of South Africa 108 of 1996. - Magistrate's Court Act - Municipal By-Laws 		
SOP Reference and Version No:		Final Draft.		
Certification of Due process:		Delegated Authority _____ Date _____ Commencement _____ Review _____ Date _____ Date _____		
Approval Date		Commencement Date	Review Date	
REVISION HISTORY:				
Revision Ref No.	Approved/ Rescinded	Date	Authority	Resolution Number or Minutes Reference
1.0 Intent	Improve performance, efficiency, client service, by providing a free and fair Rental Housing Tribunal service to clients, through clear, concise and continued improved processes. Create mechanisms to deal with disputes and promote stability in the Rental Housing Sector, in the Western Cape.			
2.0 Scope	All Rental Housing disputes to be expedited and amicably resolved, through managing and conducting Administration; Investigation/ Facilitation; Mediation and Hearings.			
3.0 Objective(s)	Provide clients with best quality Rental Housing Tribunal (RHT) Management processes, aimed at the following: <ul style="list-style-type: none"> • Harmonise relationships between landlords and tenants in the Rental Housing Sector; • Informing landlords and tenants about their rights and obligations, in terms of the Rental Housing Act; and • Make constructive recommendations to relevant stakeholders; • Amicably resolve disputes arising from unfair practices. 			
4.0 Definitions and Acronyms	4.1 Definitions: Complaint: An expression of discontent, regret, and faultfinding. Client: The party who is receiving the benefits and services from a service provider such as WCG. Local Government, etc. Client Service: Is the series of activities, designed to enhance the level of client satisfaction, in order to meet client expectation. Business Process: Is a set of linked, repetitive business activities that together, and only together, transform inputs into outputs that are of value to a client.			

4.0 Definitions and Acronyms
continues

Landlord: One that owns and rents land, buildings or dwelling units.

Tenant: A person who occupies land or property rented from a landlord.

Dispute: A disagreement or argument about something important.

Facilitation: The consultation and management of a process, by conciling a group and assist them in collaborating, in order to reach the best possible conclusion or decision.

Mediation: An informal dispute settlement process managed by a trained third party, called a mediator. It is intended to bring two parties together, in order to clear up misunderstandings and reach a resolution.

Hearing: Legal proceeding where an issue of law or fact is tried and evidence is presented to help determine findings.

Subpoena's: A formal document that orders a named individual to appear before a duly authorised body at a fixed time to give testimony.

Ruling: A court decision on a case or any legal question.

Affidavit: Written statement of facts voluntarily made by an affiant under oath, or affirmation administered by a person authorised to do so by law.

Warrant: Written order issued by a judicial officer or other authorised person commanding a law enforcement officer to perform some act incident to the administering of justice.

Interdict: To prohibit or place under an ecclesiastical or legal sanction. Forbid or debar, especially authoritatively.

Spoliation Order: The collection of rules imposed by authority; "civilization presupposes respect for the law"; "the great problem for jurisprudence to allow freedom while enforcing order".

Attachment Order: The arrest of a person for disobedience to a court order;

the lawful seizure of property and placing of it under control of a court or a writ authorizing such arrest or seizure.

Ejectment Order: An action brought by a wrongfully dispossessed owner seeking to recover possession of his/ her land; the act of ejecting or state of being ejected; dispossession.

Eviction Order: Action by a landlord that compels a tenant to leave the premises (as by rendering the premises unfit for occupancy); no physical expulsion or legal process is involved.

Offence: A violation or breach of a law, custom, rule, etc.

Penalty: A punishment established by law or authority for a crime or offense; something, especially a sum of money, required as a forfeit for an offense.

Agreement: An arrangement between parties regarding a course of action; a covenant; a properly executed and legally binding contract.

Unilateral Changes: Alterations or changes made by, affecting, or binding one party only and not involving the other party in reciprocal obligations.

Repossession: To reclaim possession of for failure to pay installments due.

Jurisdiction: The right or power to administer justice and to apply laws.

<p>4.0 Definitions and Acronyms continues</p>	<p>4.2 Acronyms:</p> <p>AO: Administrative Officer AC: Administration Clerk CD: Chief Director CO: Case Officer COC: Clerk of the Court CM: Complaints Manager DD: Deputy Director Dir: Director EC: Execution Creditor ED: Execution Debtor EMATS: Electronic Management and Tracking System HS: Human Settlements JC: Judgment Creditor JD: Judgment Debtor PTCO: Principal Technical Case Officer RHT: Rental Housing Tribunal TM: Tribunal Members TCM: Technical Complaints Manager TCO: Technical Case Officer WCG: Western Cape Government</p>
<p>5.0 Principles</p>	<p>5.1 Rules and Controls:</p> <ul style="list-style-type: none"> • Members of the public, experiencing Rental Housing (RH) challenges (landlord/ tenant issues) can lodge their disputes via the Department: Human Settlements: Helpdesk and Complaints Division or directly to the RHT Office, in the form of a RH Complaint Form. It can also be submitted through the following communication mediums: e-mail, post and facsimile. • RH disputes are received and attended to on a daily basis, from 07:30 till 15:00. • The HS: RHT performs its judicial function (Investigation/ Facilitation, Mediation and Hearings), on a daily basis, between 07h30 and 15h00 as well as after hours. • All cases are captured on EMATS and J-Track, for tracking and record purposes. • A high standard of professional ethics are promoted and maintained, guided by the Batho Pele Principles and Code of Conduct for Public Servants. • All judicial services provided to members of the public are conducted in the following manner: impartially, fairly, equitably and without bias. • Staff submit monthly statistics to the Supervisor, which is then populated into a monthly report to the Director. • On a six monthly basis, the Component conducts a performance management program, whereby the systems are audited, in order to determine status and statistics of resolved and outstanding RH disputes.
<p>6.0 Responsibility</p>	<p>6.1 Head of Department</p> <ul style="list-style-type: none"> • Delegation of power cascaded down to the Director, in regard to assisting and resolving of client/s' RH disputes. <p>6.2 Director</p> <ul style="list-style-type: none"> • Oversee the effective and full functioning of RHT function within

6.0 Responsibility continues

the Human Settlement Department.

- Delegation of power cascaded further down to the DD and RHT Officials, in regard to assisting and resolving of client/s' RH disputes.
- Ensure adherence to Batho Pele Principles and Code of Conduct for Public Servants.

6.3 Deputy Director

- Ensure that Department's EMATS and J Track Systems are optimally utilised when receiving disputes and performing RHT functions.
- To manage the provisions of administrative and Technical support to the Rental Housing Tribunal.
- Promote Rental Housing Tribunal and all its benefits to clients.
- Performance manages RHT staff, in terms of resolving disputes within the prescribed time, in order to prevent backlogs.
- Partake in strategic planning processes of the Tribunal.
- Oversee effective utilisation of financial resources of the Component.

6.4 Assistant Director (Complaints Managers)

- Manage complaints received and ensure 90 days compliance with the Act.
- Assign cases timeously.
- Analyze statistics of cases reported and closed.
- Monitor and evaluate cases reported / closed in terms of time and quality.
- Engage with stakeholders within the RH sector.
- Conduct information sessions regarding RHT and its functions.
- Report on Ministerial enquiries.
- Facilitate high-level mediations between landlords and tenants.
- Oversee and manage training and development of RHT Call Centre.
- Provide strategic management inputs within the Component.
- Human Resource Management.
- Oversee the performance management of RHT staff.
- Manage training and development of RHT staff.
- Responsible for the financial management of the Component.
- Oversee effective utilization of financial resources of the section.

6.5 Assistant Director (Clerk of the Court)

- Ensure that subpoenas are delivered timeously within the prescribed 14 day period and that the subpoenas have been received by both parties.
- Ensure hearing files are prepared; documents for the hearings are photocopied, indexed, paginated and distributed to the Tribunal members, a day before the hearing.
- Prepare hearing schedules.
- Prepare hearing venue and ensure recording equipment is functional for RHT hearings.
- Attend hearing as presiding officer.
- Download recordings after every hearing.
- Type rulings.
- Ensure that a copy of the ruling is placed in the original file and sent to both parties.
- Compile statistics on monthly basis regarding the number of hearings held, and outcome of cases.

6.0 Responsibility continues

- Draft statistical reports on hearings, identifying and highlighting the following: number of hearings held, postponed cases, outcome of hearings, non-compliance cases and prosecutions to be forwarded to the Head of the Component, within the first 3 days of the ensuing month.
- Assist clients with non-compliance issues.
- Ensure that the necessary documentation is drafted for civil and criminal prosecutions.
- Provide accurate advice to the clients with regards to prosecutions.
- Maintain records of all matters relating to non-compliance and referrals for prosecutions.
- File correspondence on the relevant files, in accordance with the WCG Registry Policies.
- Assist the Complaints Manager in providing a support function to the RHT and parties to a case.
- Supervise the Administration unit.

6.6 Principal Technical Case officer

- Plan, organize and manage the technical section of the RHT Component.
- Manage complaints received and ensure 90 days compliance with the Act.
- Assign cases timeously.
- Monitor and evaluate cases reported / closed in terms of time and quality.
- Engage with stakeholders within the RH sector.
- Conduct information sessions regarding RHT and its functions.
- Facilitate high-level mediations between landlords and tenants.
- Provide strategic technical management inputs within the Component.
- Provide training to Local Authorities, CDW's and other stakeholders
- Human Resource Management
- Oversee the performance management of Technical Case Officers.
- Manage training and development of Technical Case Officers.
- Ensure that technical case offices are equipped, informed and guided in performing their functions.
- Promote the vision of the RHT Component.

6.7 Technical Case Officers

- Attend to telephonic, written and personal enquiries from clients.
- Assist clients with lodging of complaints, where necessary.
- Liaise with landlords, tenants, agents and relevant parties involved in a case.
- Conduct inspections, investigate technical and none technical cases and negotiate with relevant parties concerned, as well as writing reports.
- Update Case Management System.
- Make decisions in consultation with the Principal Technical Case Officer on whether to close cases or to refer for Facilitation / Mediation.
- Present reports on cases at hearings; testify on investigations, when required and in cases referred to prosecution.
- Serve subpoenas.
- Arrange hearing venues
- Compile settlement agreements in regard to confirmation of rulings by the RHT.

<p>6.0 Responsibility continues</p>	<ul style="list-style-type: none"> • Refer unresolved cases to the RHT for hearings. • Ensure complaints received are resolved within 90 days. <p>6.8 Case Officers</p> <ul style="list-style-type: none"> • Attend to telephonic, written and personal enquiries from clients. • Assist clients with lodging of complaints, where necessary. • Liaise with landlords, tenants, agents and relevant parties involved in a case. • Investigate cases and negotiate with relevant parties concerned, as well as writing reports. • Update Case Management System. • Make decisions in consultation with the Complaints Manager on whether to close cases or to refer for Facilitation / Mediation. • Present reports on cases at hearings; testify on investigations, when required and in cases referred to prosecution. • Serve subpoenas. • Perform inspections pertaining to cases. • Compile settlement agreements in regard to confirmation of rulings by the RHT. • Refer unresolved cases to the RHT for hearings. <p>6.9 Administrative Officer</p> <ul style="list-style-type: none"> • Ensure that all complaints received via fax, e-mail, post, Walk-in Centre and Helpdesk is correctly recorded on EMATS. • Attend to all telephonic enquiries. <p>Ensure that all financial prescripts are in line with the relevant legislation.</p> <p>Manage the procurement of goods & services.</p> <p>Coordinate and control the utilisation of the Component's office equipment.</p> <p>Assist in the recruitment and selection of new staff.</p> <ul style="list-style-type: none"> • Supervise administrative staff and assessment of their performance reviews. <p>6.10 Administrative Clerk</p> <ul style="list-style-type: none"> • Attend to general enquiries (written, telephonic and personal). • Deal with general correspondence. • Assist the Administrative Officer in the provision of administrative support to the Component. • Record all new cases received via e-mail, fax, post, Walk-in Centre and Helpdesk on the EMATS and J-Track. • Assist the Administrative Officer with all logistical support to the RHT.
<p>7.0 Accountability and Authority</p>	<p>7.1 Implementation:</p> <ul style="list-style-type: none"> • With effect from 01 October 2012. This SOP and related annexures constitutes a living approach that requires to be reviewed and updated (if necessary) on an annual basis, in order to remain current and ensure continuous improvement. <p>7.2 Compliance:</p> <ul style="list-style-type: none"> • Daily checks by DD, ASD's and PTCO to be conducted on the EMATS and J Track, in order to ensure that RHT enquiries and outstanding cases are followed-up and resolved timeously, in accordance with the relevant legislation and policies.

<p>7.0 Accountability and Authority continues</p>	<ul style="list-style-type: none"> No outstanding RHT enquiries and cases without follow-up. <p>7.3 Monitoring and Evaluation:</p> <ul style="list-style-type: none"> Daily check of EMATS and J Track by the DD, ASD's and PTCO. <p>7.4 Development/Review:</p> <ul style="list-style-type: none"> Implement the SOP and related Business Process Tables and Business Process Maps and review on an annual basis. <p>7.5 Approval Authority:</p> <ul style="list-style-type: none"> As per delegations. <p>7.6 Interpretation and Advice:</p> <ul style="list-style-type: none"> Directorate: Process Design and Improvement.
<p>8.0 Who was consulted regarding this SOP</p>	<p>Department Human Settlements- Directorate: Communications and Stakeholder Relations: RHT</p>
<p>9.0 Who should know this SOP</p>	<p>Department Human Settlements- Directorate: Communications and Stakeholder Relations: RHT</p>
<p>10 SOP Implementation Plan</p>	<p>The SOP Implementation Plan must be included in the Department Human Settlement- Directorate: Communication and Stakeholder Relations: RHT's Annual Performance and Operational Plan.</p>
<p>11 Resources required</p>	<p>Available budget; and Adequate number of human resources to assist clients in timeously resolving all RHT matters.</p>
<p>12 Answers to FAQ</p>	<p>QUESTION: Who can lodge a complaint at the RHT? ANSWER: Any tenant or landlord or group of tenants or landlords or interest group. QUESTION: What will happen to a complaint after it has been lodge? ANSWER: An official of the RHT will be assigned to investigate the matter. QUESTION: What is the process I should follow, if I am dissatisfied with your services? ANSWER: All clients are advised regarding protocol, when dissatisfied with services delivered. The matter can be escalated to the Supervisor, if the Administrative Officer dealt with the enquiry or complaint. Should the Supervisor provide the unsatisfactory service, then it can be escalated to the Director.</p>
<p>13 Performance Indicator(s):</p>	<p>Enquiries and complaints are resolved within the following timeframes:</p> <ul style="list-style-type: none"> Administration: 3 days to 2 weeks; Facilitation: 1 to 2 weeks; Mediation: 30 minutes to 2 days; Hearing: 30 minutes to 2 days. <p>All enquiries are dependent on complexity and each category is treated on its own merit.</p>
<p>14 Annexures</p>	<ul style="list-style-type: none"> Business Process Tables and Business Process Maps of the following Rental Housing Tribunal processes: <ul style="list-style-type: none"> A- Administration; B- Investigation/ Facilitation; C- Mediation; D- Hearing E- Guide to Business Process Modelling Notations; F- Key Descriptions of SOP Elements G- Sign- off and Acceptance Certificate.