



Public Housing Community Gardens

BREACH PROCESS



Business for good

Serious Breaches Have Zero Tolerance




Behaviour in the Community Gardens

We need to have processes in place to act when behaviour within a community garden is unacceptable or dangerous.

WHO	TOLERANCE LEVEL	OUTCOME
Between community garden members	Zero	Suspension from garden for minimum three years or permanently

CODE OF CONDUCT - We have ZERO TOLERANCE if you do not comply with the following conduct at all times in the Community Garden 	
Treat everybody in the garden equally, fairly and with respect.	Behave in a manner that maintains the security, safety, peace, and social connection of the garden.
Be inclusive and accepting of all people's cultures, religions, and sexuality	Encourage and support each other
Breaches of this conduct will result in a minimum 12 months or permanent suspension	

Unacceptable Behaviors in the Community Garden 	
Removing plants, soil or equipment from another person's space or communal space without permission .	Willfully damaging or vandalizing any area of the Community Gardens
Bullying in any form. Bullying includes but not limited to: false accusations, psychological harassment, gossiping and humiliation, bad language or physical gesturing	Sexual harassment in any form. Sexual harassment includes, but is not limited to: unwelcome sexual advances, request for sexual favors, verbal or physical behavior of a sexual nature.
Selling garden produce	Unacceptable noise
Consuming alcohol or any form of illegal substances within the garden	Lighting a fire
Knowingly growing toxic or illegal plants	Giving or swapping your garden space to someone else to use
Entering the garden while under the influence of alcohol or any form of illegal substance	Using unregulated netting
All Unacceptable Behaviours are considered Serious Breaches. All Serious Breaches have ZERO TOLERANCE and will result in minimum 12 months or permanent suspension from the garden.	



Unacceptable behaviour towards Cultivating Community team

What is deemed unacceptable behaviour differs depending upon the individual(s) involved and their circumstances. Examples of unacceptable behaviour are grouped under two broad headings:

WHO	TOLERANCE LEVEL	OUTCOME
Towards Cultivating Community team	Zero	Suspension from garden for minimum three years or permanently

1. Aggressive, abusive, or offensive language or behaviour.

Ensuring our team members are safe is our number one priority. Aggressive, abusive, or offensive language or behaviour.

Cultivating Community has Zero tolerance for violence, aggression, racism, sexism or sexual harassment of its team in any form and will result in your direct suspension and potential legal action.

- ✘ Inappropriate, insulting, or degrading language, including banter, innuendo, jokes, stories and emotional blackmail.
- ✘ Malicious or unsubstantiated allegations.
- ✘ Offensive gestures.
- ✘ Any form of physical violence or threats of physical violence against our property or towards our team members.
- ✘ Racist, sexist, ageist or homophobic remarks, memes, or images.
- ✘ Displaying obscene or pornographic material or making obscene remarks.
- ✘ Comments relating to disability, perceived gender, religion, belief, or other personal characteristics.
- ✘ Inappropriate comments on social media.
- ✘ Rudeness, swearing or general derogatory remarks.
- ✘ Abusive, inflammatory statements or material intended to intimidate.
- ✘ Entering or attempting to enter restricted or non-public areas of our building or spaces.
- ✘ Failing to follow instructions of our team members or security staff when instructed to leave the premises

2. General unreasonable demands or vexatious complaints.

Members of the garden or other third parties may make unreasonable demands through the amount of information they seek, the nature and scale of service they expect or the number of approaches they make. This includes:

- ✘ Refusing to follow the complaints procedure.
- ✘ Refusing to end a telephone call or insisting on speaking to someone unavailable or not the appropriate person.
- ✘ Contacting us repeatedly, frequently or across multi communication channels without giving us enough time to respond to previous correspondence.
- ✘ Demanding responses within an unreasonable time scale.
- ✘ Repeatedly contacting or insisting on speaking to a particular team member who is not directly dealing with the matter or when another team member has been offered as an alternative.
- ✘ Excessive telephone calls, emails, or letters (this includes unsolicited marketing calls, letters and emails considered 'spam' or 'phishing').
- ✘ Sending the same or similar requests to several team members.
- ✘ Visiting our offices/gardens/other work areas without an appointment.
- ✘ Recording, photographing, or filming meetings or conversations (whether face-to-face or on the telephone) without the prior knowledge or consent of the other people involved.
- ✘ Persistent refusal to accept a decision.
- ✘ Persistent refusal to accept explanations.
- ✘ Continuing to contact us without presenting new and relevant information.
- ✘ The referral to previous historical matters that have no relation to current matters.

Vexatious behaviours may be considered as a serious breach

What happens if a serious breach occurs?

Renters who have garden spaces are encouraged to call the police where they witness or are involved in violent behaviour or sexual assault immediately as a priority before reporting to Cultivating Community

During all allegations of serious breaches all individuals involved will be unable to attend the garden until any investigation is concluded. This investigation includes Cultivating Community, Office of Housing or Police Investigations.

Any serious breaches in a renter's use of Community Garden will link directly with DFFH Tenancy Breach Operational Guidelines or equivalent at the time and the local office of housing.

A gardener must formally report an incident or make complaint about a breach by contacting Cultivating Community by email info@cultivatingcommunity.org.au. They must complete a complaint form [here](#). They can also telephone the gardener dedicated number on 0432 172 474

When does an investigation begin?

When Cultivating Community formally receives a complaint and/or information about a serious breach we begin an investigation where we gather all evidence and information from all parties involved and any witnesses to the breach. Cultivating Community will inform the local Office of Housing of an investigation.

We will work towards completing this within ten working days. Cultivating Community will not carry out any investigations if Police are involved until the case has been closed.



Garden Hearing Meeting

After we have carried out investigations we will update and discuss with Homes Victoria our decision and intentions. If our investigation has concluded that the serious breach did occur, you will be given a breach notice, or you may be suspended from the garden.

If necessary, a **Garden Hearing Meeting** will be called with all garden members involved, Cultivating Community and Office of Housing. Interpreters will be provided if needed. This meeting will provide opportunity for your right to reply, conclusions and any next steps. Gardeners must attend this meeting with their garden key.

Everyone involved will be informed of the outcome of meeting within five working days. This will be in writing and translated if necessary. This is an **Outcome Letter**.

Once a garden member is suspended

- You will no longer be a member of the Community Garden. You must not enter the garden.
- Your community garden keys must be returned immediately. Any key deposit paid will be reimbursed to you.
- Suspension because of a zero tolerance or serious breach will be considered a permanent suspension.
- You will not be able to reapply for a plot following a zero tolerance or serious breach for three years from the date your suspension began. You will need to reapply again and there is no guarantee you will get your space again at the same location.
- All suspensions remain in place if a renter moves to a different location.
- Cultivating Community will arrange a time within 15 business days to remove any vegetables or plants from your plot. Your visit must be supervised by Cultivating Community. If you do not attend your items will be removed by Cultivating Community.

Garden Hearing Meeting *cont...*

Appealing the suspension

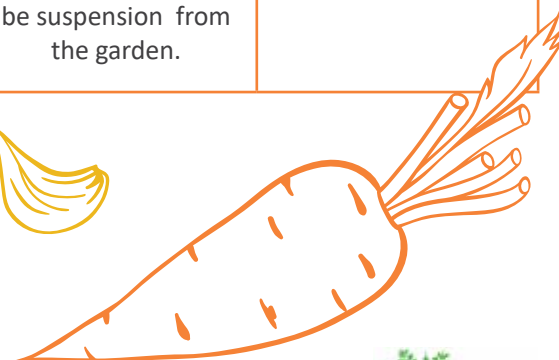
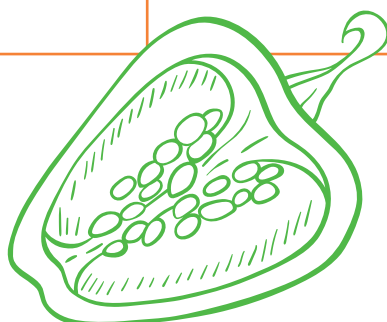
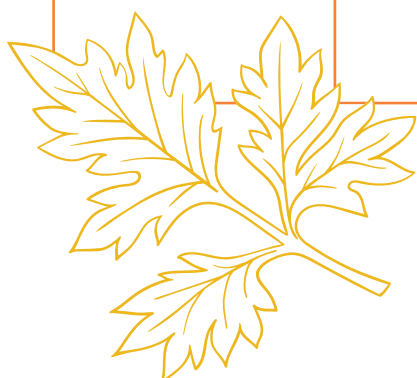
- If you wish to appeal the decision you have 10 business days to notify us from the dated Outcome Letter that you will be doing so and to file your appeal. You must let us know in this timeframe as this will prevent us from offering your space to others who may be waiting. Notification of your decision to appeal after 10 business days will not guarantee a retention of your existing space. To appeal contact feedback@dffh.vic.gov.au or call 1300 884 706. The appeal process is defined by the sponsor department at the time – currently Homes Victoria (2023).
- If you win your appeal, we will do our best to return you to your existing space as soon as possible or offer an alternative space. We will hold no malice and welcome you back without the need for additional induction. Your appeal win may come with recommendations for all parties involved to consider and implement. We will consider the implementation of these within 15 business days including any relationship or mediation needs with other gardeners or ourselves. We will fully cooperate with any appeals process sharing relevant data and information in line with our privacy statement that can be read here .

When can a breach notice be given?

1. A breach notice can be given by the Community Garden Team Leader at Cultivating Community at any time following investigation of activities with Zero Tolerance or Serious Breach Behaviours.
2. A breach notice can be given by the Community Garden Team Leader at Cultivating Community if after ten working days of a verbal notice provided to a Gardener the breach has not be rectified by the gardener. A second and final breach notice will be provided if the issue has not been rectified. This will become a third strike after the next ten working day period.

Any member of the Cultivating Community Team can provide a verbal warning. This will be followed by an email or SMS regarding the verbal notice to the contact details you provide.

FORMAL COMPLAINT RECEIVED BY CULTIVATING COMMUNITY	INVESTIGATION	INVESTIGATION COMPLETED	IF NECESSARY, GARDEN HEARING MEETING	APPEAL
All garden members involved are suspended and may not enter the garden while Cultivating Community investigates.	Cultivating Community contacts all people involved and witnesses. We gather information about the incident. We also inform Office of Housing of Incident.	Cultivating Community discusses outcome with Homes Victoria to ensure outcome is proportionate.	All garden members involved are asked to attend. The outcome decided from Cultivating Community is shared at this meeting. Outcome Letter sent to all after this meeting. The outcome may be suspension from the garden.	If gardeners disagree with our decision, they have a right to appeal. They do not have the right to not comply with the outcome until an appeal overturns the decision. No reapplication for 3 years.



Three Strikes Rule

We have rules and responsibilities within our guidelines that are important to follow for the cleanliness, safety and fairness of the garden and its community.

If a gardener breaches other rules and responsibilities not listed as Zero Tolerance, the “three strikes” rule will be applied in line with Residential Tenancies Act 1997 (or current at the time). Any three strikes within a twelve-month period will result in a garden suspension.

General Rules and Guidelines Breach

STRIKE 1 X	STRIKE 2 XX	STRIKE 3 XXX
Verbal and written warning about breach and 10 days given to rectify. SMS or email sent	Verbal and written warning about breach and 10 days given to rectify SMS or email sent	Suspension from garden 3-12 months

THREE STRIKES RULE applies if you: XXX	
Bring pets into garden	Do not actively use your garden space for 8 weeks
Do not lock the gate	Plant trees, permanent shrubs, environmental weeds, or toxic plants
Allow people into the garden who are not permitted	Plant or remove plants from communal spaces without permission
Smoke &/or vape in the garden	Bring banned or unsuitable materials into the community garden
Put your waste or rubbish into the incorrect area	Use non permitted herbicides, pesticides, and chemicals in the garden
Leave water running and unattended on your garden	Do not remove personal items from pathways, sheds, communal areas or anywhere else when requested
Don't roll up hose	Cultivate or harvest in a garden space where you do not have permission
We will give you a verbal and written warning about the rule breach and give you 2 weeks to rectify. The third time we must warn you we have the right to suspend you from the garden for 3-12 months	

Discretion under the three strikes rule

Under certain circumstances, for example gardeners where mental health or disability issues may have been identified, Cultivating Community alongside local area management equivalent to a Tenancy and Property Manager or above and our agreement managers at Homes Victoria may take these contributing factors into account prior to determining the length of suspension. This may include exercising discretion in deciding not to implement a 12-month suspension or consider alternative plans:

1. the failure to comply was trivial or remedied as far as possible
2. it is reasonable to believe the gardener was coerced (or through no fault of their own) to participate in the breach or have no capacity to stop the behaviour in question from occurring. An example of this would be where the Notice to Vacate is to be issued to a tenant for damage to the property, however the tenant is the victim of family violence and could not prevent the perpetrator of the violence from damaging the property, or
3. the tenant or household member, through illness or disability, were unable to reasonably prevent the behaviour in question from occurring or supports which will reasonably prevent the behaviour reoccurring are not in place.

Three Strikes Rule *cont...*

Three Strike Notices in 12-month period from 1st strike will result in a suspension. The length of suspension time for three strikes breaches is at the discretion of Cultivating Community but can range from 3 month to 12 months. You will need to reapply for any return to the Community Garden and start your process again. There is no guarantee your application will be successful and you will be placed at the bottom of the waiting list.

Three Strikes notices remain in place even if the renter moves to a different garden. If you wish to appeal against any singular strike, you can do so – feedback@dffh.vic.gov.au or Phone 1300 884 706

The appeal process is defined by the sponsor department at the time – currently Homes Victoria (2023). If you win your appeal, we will delete the strike from all records. We will hold no malice. Your appeal win may come with recommendations for all parties involved to consider and implement. We will consider the implementation of these within 15 business days including any relationship or mediation needs with other gardeners or ourselves. We will fully cooperate with any appeals process sharing relevant data and information in line with our privacy statement that can be read [here](#) .

If you wish to appeal a suspension because of three strikes you have 10 business days to notify us from the dated outcome letter that you will be doing so and to file your appeal. You must let us know in this timeframe as this will prevent us from offering your space to others who may be waiting. Notification of your decision to appeal after 10 business days will not guarantee a retention of your existing space. feedback@dffh.vic.gov.au or Phone 1300 884 706 . The appeal process is defined by the sponsor department at the time – currently Homes Victoria (2023). If you win your appeal, we will do our best to return you to your existing space as soon as possible or offer an alternative space. We will hold no malice and welcome you back without the need for additional induction. Your appeal win may come with recommendations for all parties involved to consider and implement. We will consider the implementation of these within 15 business days including any relationship or mediation needs with other gardeners or ourselves. We will fully cooperate with any appeals process sharing relevant data and information in line with our privacy statement that can be read [here](#).

