



Communities  
& Justice

# NSW Community Housing Rent Policy



# Document approval

The NSW Community Housing Rent Policy has been endorsed and approved by:



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# 1 Introduction

The NSW Department of Communities and Justice (DCJ) and the NSW Land and Housing Corporation (LAHC) provide assistance to community housing providers (CHPs) to supply subsidised rental accommodation to people on very low to moderate incomes. Specifically, assistance is provided for the following types of accommodation: social housing; affordable housing; co-operative housing; transitional housing; and crisis accommodation.

Community housing providers that receive assistance are required to manage that assistance in accordance with policy guidance set by DCJ and LAHC. The contractual arrangement with community housing providers (a Community Housing Assistance Agreement) requires community housing providers to use their best endeavours to comply with policies listed in the Community Housing Assistance Agreement.

To continue to receive assistance, community housing providers are required to maintain registration under the National Regulatory System for Community Housing, as prescribed in the *Community Housing Providers (Adoption of National Law) Act 2012* (NSW). Failure by a community housing provider to comply with a Community Housing Assistance Agreement may be cause for a review of their registration status.

## 2 Purpose of this policy

The NSW Community Housing Rent Policy sets out the NSW Government's requirements for rent policies operated by community housing providers in NSW.

## 3 Coverage of this policy

The policy applies to properties governed by a Community Housing Assistance Agreement between DCJ and/or LAHC and a community housing provider for the provision of subsidised rental accommodation.

This includes Aboriginal Housing Office (AHO) owned properties managed by CHPs under a contractual arrangement with the AHO.

## 4 General requirements

### 4.1 Fee and rent setting

Community housing providers must have a service fee or rent setting policy in place that ensures affordable outcomes for residents and tenants.

## 4.2 Rental bonds

The requirement for a resident or tenant to pay a rental bond is determined at the discretion of each community housing provider. If the payment of a bond is required, this should not place an unreasonable affordability burden on residents or tenants.

## 4.3 Water usage charges

In addition to rent, community housing providers may require tenants to pay for water usage for social housing, affordable housing, co-operative housing and transitional housing premises in accordance with Section 139 of the *Residential Tenancies Act 2010* (NSW).<sup>1</sup>

Water usage charges cannot be levied to residents in crisis accommodation premises.

Any water usage charges levied by a community housing provider must align with the [Community Housing Water Charging Guidelines](#). These are Ministerial Guidelines and interpret Section 139 of the *Residential Tenancies Act 2010* (NSW) for community housing providers.

For AHO properties managed under a contractual arrangement with the AHO, [Water Usage Charging – Ministerial Guidelines for Aboriginal Community Housing Providers](#) apply.

## 4.4 Right of appeal

Community housing providers must have an appropriate process in place to manage appeals from residents and tenants in relation to fee or rent determination. This must include a process for advising applicants and tenants about their right to appeal, what can be appealed, the timeframe for lodging an appeal and how an appeal can be lodged.

A community housing provider is subject to independent review of their fee and rent determination by the Housing Appeals Committee if their residents or tenants fall within, or would potentially fall within, the definition of 'tenant' in the *Residential Tenancies Act 2010* (NSW).

Community housing providers that are subject to independent review of their fee and rent determination by the Housing Appeals Committee must advise tenants of their right to request an independent review.

## 4.5 Confidentiality

Community housing providers must ensure that all confidential and sensitive business information and records are kept secure and protected from any unauthorised access or use.

Community housing providers must not release any confidential or sensitive information to a third party without the prior written consent or approval of the affected person or agency that owns the information, except when required to do so by law.

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<sup>1</sup> For the purposes of the *Residential Tenancies Act 2010* (NSW), any tenancy managed by a registered community housing provider is a 'social housing tenancy', including tenancies in affordable housing, co-operative housing and transitional housing premises where a residential tenancy agreement is in place. In general, residents of crisis accommodation premises do not enter into a residential tenancy agreement.

## 4.6 Privacy

Community housing providers must protect the personal information and privacy of residents, tenants and household members.

Community housing providers must ensure that any personal and/or health information is only collected, used, stored or disclosed for a purpose authorised or required by law, and in line with contractual obligations.

Personal and/or health information must not be released to or exchanged with a third party, unless with the informed consent of the person affected, or this is lawfully authorised or required.

# 5 Requirements for social housing, transitional housing and co-operative housing

## 5.1 Entitlement to rent subsidies

Tenants who cannot afford market rent may be eligible for a rent subsidy. The rent subsidy is the difference between the rent paid by the tenant and the market rent.

## 5.2 Determining market rent

To establish the market rent, community housing providers must use rent data relevant to the type and location of the property, published quarterly in the [Rent and Sales Report](#) by DCJ.

Where it is known that the actual market rent in a location differs markedly from, and is lower than, the market rent established on the basis of the Rent and Sales Report data, and where tenants paying market rent would be adversely affected, community housing providers can vary the market rent to take local conditions into account. In varying market rents community housing providers must have appropriate documented evidence to support their decision.

## 5.3 Determining subsidised rent

Community housing providers must determine the subsidised rent of all tenancies based on:

- a percentage of assessable household income, plus
- 100 percent of the household's maximum entitlement to Commonwealth Rent Assistance (CRA).

If a tenant is eligible for a rent subsidy, the proportion of income paid by the tenant as rent is determined by:

- the types of income which are assessed for rent setting purposes
- the percentage of each household member's assessable income that is paid in rent.

In exceptional circumstances, if a community housing provider is not able to charge the tenant rent in accordance with section 5 of this policy due to the client's absence of income, they must ensure that any fee or rent is charged in accordance with a fair and transparent policy.

### 5.3.1 Setting and charging rent

Households on low or very low incomes will pay between 25 to 30 per cent of their gross assessable income in rent.<sup>2</sup>

Rent payable including CRA **must not** exceed market rent.

CHPs will calculate the amount of rent to be charged to the tenant based on the gross assessable income of the household.<sup>3</sup> This includes the tenant and all members of the household who are receiving an income. What is included as assessable income is in Appendix 1.

Eligibility for a rent subsidy and the rent assessment rate to apply when calculating rent are determined by comparing the household's assessable income to pre-determined household income limits. More detail about this is in Appendix 2.

Rents are calculated as follows:

Where a tenant is eligible for subsidised rent, the weekly rent payable is equal to:

#### Assessment rate

25-30% <sup>4</sup>	of total weekly gross assessable income for: the tenant, their spouse or live-in partner, regardless of age; and those household members 21 years and over
+ 15%	of gross assessable weekly income for all household members aged between 18-20 years (who are not the tenant, their spouse or live-in partner)
+ 15%	of weekly Family Tax Benefit A & B payments which are not taken through the taxation system (where applicable and excluding FTB Energy Supplement)
+ 100%	of household's weekly CRA entitlement <sup>5</sup>

Where a tenant is not eligible for a subsidy, market rent applies.

<sup>2</sup> Gross assessable income excludes CRA.

<sup>3</sup> Note that for joint tenancies where there is more than one head tenant on the lease, CHPs may use discretion about whether to assess income jointly or separately depending on the circumstances of the household.

<sup>4</sup> Refer Appendix 2 for more information about the rate to apply.

<sup>5</sup> Where a tenant is blind and receives the Disability Support Pension or Age Pension, Centrelink may determine that they will be financially worse off if they receive CRA (due to the asset test applied). In these circumstances, CHPs may classify the tenant/household member as being ineligible for CRA. Evidence will be required to support this, such as a letter from Centrelink.

Note: For shared living arrangements where individual tenants have their own tenancy agreement, the total amount of rent collected for the property cannot exceed the market rent for the property.

## 5.4 Proof of income

To determine the eligibility of a tenant for a rent subsidy, community housing providers must require proof of income for the tenant, their spouse/live in partner (even if they are under 18 years of age) and other household members aged 18 years or over. Acceptable proof of income is in Appendix 3.

## 5.5 Implementing policies or programs which impact rent setting

Community housing providers may from time to time implement a policy or program for the specific purpose of: defining minimum rent; managing over- or under-occupancy; encouraging tenant participation in employment; or improving tenant housing outcomes and/or promoting access to social housing.

Implementing these policies or programs may require a variation in the rent setting environment outlined in section 5. In general, these variations should not result in an increase in the rent a tenant pays.<sup>6</sup> Prior to implementing a new policy or program that will impact on rent setting, consultation with appropriate stakeholders should be undertaken.

Any variation to the rent setting, and the reasons for the variation, must be clearly documented in the organisation's rent policy and must be publicly available.

## 5.6 Rent reviews

Community housing providers must regularly review the level of rent paid by a tenant to:

- Determine whether the tenant remains eligible for a subsidy (at least every 6 months)
- recalculate the level of rent paid in accordance with the requirements set out in Appendices 1, 2 and 3 (at least every 6 months for subsidised rent and annually for market rent).

It is the tenant's responsibility to advise their community housing provider of any change in their income and/or family circumstances within 21 days of the effect of that change.

Community housing providers must immediately reassess the rent level for a tenant following notification that the household income has changed.

## 5.7 Aboriginal Community Housing

For AHO owned properties managed under a contractual arrangement with the AHO, the Community Housing Rent Policy applies.

Where discrepancies arise in the implementation of this policy, the AHO's Aboriginal Community Housing Rent Policy will prevail.

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<sup>6</sup> It is recognised that managing over- or under-occupancy may result in a charge to tenants. Where a charge is applied, it should be set so as not to place tenants in hardship. Note: for AHO managed properties, the AHO has an extra bedroom policy where a tenant is not subject to a vacant bedroom charge.



## 6 Specific requirements for affordable housing

### 6.1 Compliance with the *NSW Affordable Housing Ministerial Guidelines*

The level of rent set for affordable housing must be in keeping with the requirements of the *NSW Affordable Housing Ministerial Guidelines*.

### 6.2 Approach to rent setting

In general, households on low or very low incomes should not pay more than 25 to 30 percent of their incomes in rent.

Rent for National Rental Affordability Scheme (NRAS) properties must be at least 20 percent below the prevailing market rent for those properties.

## 7 Specific requirements for crisis accommodation

Crisis accommodation is subject to a different form of fee and rent setting than is detailed in section 5, as this form of accommodation generally does not involve a residential tenancy agreement. Where a provider charges an accommodation or service fee to a resident in crisis accommodation, there should be a fair and transparent policy for setting any fee.

## 8 Other related policies

Other related policies include:

- [NSW Community Housing Access Policy](#)
- [NSW Community Housing Eligibility Policy](#)
- [Community Housing Water Charging Guidelines](#)
- [Aboriginal Community Housing Rent Policy](#)
- [Water Usage Charging – Ministerial Guidelines for Aboriginal Community Housing Providers](#)
- [NSW Affordable Housing Ministerial Guidelines](#)

## 9 Glossary

### **Aboriginal community housing provider**

Aboriginal housing is housing owned by the Aboriginal Housing Office (AHO) and/or an Aboriginal organisation. The AHO provides funding support to the Aboriginal housing sector for the purpose of carrying out operational and management services to Aboriginal community housing providers and the acquisition and/or construction of properties.

### **Affordable housing**

Subsidised rental accommodation for people on very low, low or moderate incomes managed in accordance with the *NSW Affordable Housing Ministerial Guidelines*. Click [here for more information about the Affordable Housing Guidelines](#).

### **Community Housing Assistance Agreement**

The contractual arrangement between DCJ and/or LAHC and a registered community housing provider setting out the terms and conditions related to each form of assistance provided to a community housing provider for the provision of subsidised rental accommodation. This includes assistance provided under the National Rental Affordability Scheme A (NRAS A).

### **Community housing provider**

An organisation that provides housing for people on very low, low and moderate incomes.

### **Co-operative housing**

A specific model of community housing management based on mixed income eligibility, tenant management and co-operative principles.

### **Crisis accommodation**

Short term accommodation (generally three months or less) for people who are experiencing homelessness or people who are at risk of homelessness.

### **Income bands**

Very low, low and moderate incomes are defined as:

- **Very low:** Less than 50 percent of the median household income for Sydney, or the rest of NSW, as applicable.
- **Low:** Between 50 and 80 percent of the median household income for Sydney, or the rest of NSW, as applicable.
- **Moderate:** Between 80 and 120 percent of the median household income for Sydney, or the rest of NSW, as applicable.

### **Community Housing Water Charging Guidelines**

These are Ministerial Guidelines and any water charge levied by a community housing provider must align with them. [Click here for more information about the Water Charging Guidelines](#).

### **National Regulatory System for Community Housing**

The National Regulatory System for Community Housing sets out a consistent regulatory framework for community housing providers in participating jurisdictions across Australia. All organisations that receive housing assistance from the NSW Government need to be registered under the National Regulatory System. [Click here for more information about NRSCH](#).

## **NSW Affordable Housing Ministerial Guidelines**

The *NSW Affordable Housing Ministerial Guidelines* set out the policy framework for the delivery of affordable housing by registered community housing providers in NSW. Click [here for more information about the Affordable Housing Guidelines](#).

## **Social housing**

Subsidised rental accommodation for people on very low or low incomes who meet the required eligibility criteria.

## **Specialist homelessness services**

Specialist homelessness services provide support to assist people who are experiencing homelessness or are at risk of homelessness.

## **Transitional housing**

Interim accommodation (generally from three to eighteen months) for people who are experiencing homelessness or people who are at risk of homelessness.

## **Transitional Housing Plus**

Transitional housing plus provides time limited accommodation (six month fixed term leases that can be renewed for a period of up to 5 years) for people who are experiencing homelessness, or people who are at risk of homelessness, and who are able to exit to private market housing at the end of their tenancy.

[Click here for further information about Transitional Housing Plus.](#)

# Appendix 1

## Determining a household's assessable income

Assessable and non-assessable sources of income for determining tenant rent payments are the same for both community housing and NSW Government owned and managed housing (public housing).

[Click here for assessable and non-assessable income and assets tables.](#)

The deductible and non-deductible business expenses for self-employed tenants can also be found via this link. This is located in Table 2: Income from wages/salary/superannuation and other payments – Self Employed – [Legitimate business expenses](#).

**Note:** When a tenant or adult household member's assessable income is calculated to be below the standard rate of the relevant Centrelink benefit, then this tenant or household member's income will be deemed to be at the relevant Centrelink benefit rate.

## Appendix 2

### Confirming eligibility for rent subsidy and determining the rent assessment rate

Eligibility for a rent subsidy and the rent assessment rate to apply when calculating rent are determined by comparing the household's assessable income to pre-determined household income limits.

Where a household is eligible for a subsidy, the assessment rate may be between 25-30% of assessable income.

The household income limits vary depending on the size and makeup of the household. The household income limits for different household types can be found on the DCJ website in the [Tenancy Charges and Account Management Policy Supplement in Table 1: Household member types and weekly income allowance](#)<sup>7</sup>. These income limits are set by DCJ and are updated annually.

To confirm eligibility for a rent subsidy and determine the appropriate rent assessment rate, CHPs should compare the household's assessable income to the household income limits for the appropriate household type from Table 1 mentioned above, and apply the appropriate rent assessment rules as per Table 2 on below<sup>8</sup>:

**Table 2: Rent assessment rules<sup>9</sup>**

Gross assessable household income <sup>10</sup> is less than the moderate <sup>11</sup> income limit	Household contribution is 25% of income <sup>12</sup>
Gross assessable household income is: <ul style="list-style-type: none"><li>• Equal to or more than the moderate income limit, and</li><li>• Less than the 30% limit</li></ul>	Household contribution is between 25% and 30% of income <sup>13</sup>
Gross assessable household income is <ul style="list-style-type: none"><li>• Equal to or more than the 30% limit, and</li><li>• Less than the subsidy eligibility limit</li></ul>	Household contribution is 30% of income <sup>14</sup>

<sup>7</sup> Note: this table defines an adult as someone who is aged 18 or over, or the tenant and/or their partner if under 18. A child is defined as someone who is under 18 years of age who is not the tenant or the tenant's partner.

<sup>8</sup> These rent assessment rules are from the [DCJ Tenancy Charges and Account Management Policy Supplement, 2. Rent assessment rules Table 1: Rent assessment rules](#).

<sup>9</sup> The Social Housing Subsidy Program and the Home Purchase Assistance Scheme have different assessment rates. The Home Purchase Assistance Scheme assesses 25% of household income up to, but not exceeding market rent, and CRA in this context is also assessed at 25%. The Social Housing Subsidy Program assessment rate is 25% for very low incomes, 27% for low incomes and 30% for moderate incomes.

<sup>10</sup> The gross assessable household income in this table does not include CRA.

<sup>11</sup> Note: the moderate income referred to in this table is as per Table 1 in the DCJ Tenancy Charges and Account Management Policy Supplement. It is a social housing moderate income measure and is **not the same** as the moderate income rates in the Affordable Housing Guidelines.

<sup>12</sup> CHPs should apply this assessment rule for relevant tenancies established after the date of this policy unless the CHP considers the operational costs of implementation are likely to exceed the additional income it will collect. CHPs may use discretion applying it to existing tenants if it will cause the tenant financial hardship.

<sup>13</sup> As per footnote 12.

<sup>14</sup> As per footnote 12.

Gross assessable household income is equal to or more than the subsidy eligibility limit	Rent payable is the market rent for the property. These households will not be entitled to a rent subsidy. <sup>15</sup>
Household contribution plus CRA is calculated as being more than the market rent	Rent payable is market rent

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<sup>15</sup> As per footnote 12.  
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# Appendix 3

## Ensuring proof of income

Each tenant is responsible for collecting the income details of household members and providing these details to the housing provider so that their rent can be assessed. When applying for a rent subsidy a tenant must declare all assessable income and provide proof of the amount received by their spouse/partner and each other member of their household aged 18 years and over.

Acceptable proof of income for various income/asset types is available in the [DCJ \*Tenancy Charges and Account Management Policy Supplement\*](#)

Tenants who fail to supply income details by the due date for return of the required information will not be eligible for a rent subsidy and they will be required to pay market rent.

# Appendix 4

## Ownership of property

Under the DCJ Eligibility for Social Housing Policy and the NSW Community Housing Eligibility Policy, a person who owns a property which could reasonably be expected to resolve their housing need will not be eligible to receive community housing.

For current community housing tenant households, the following applies in the rent subsidy assessment:

	50% or more share in a property	Less than 50% share in property	Interest in a block of land
<b>Tenant</b>	Not eligible for rent subsidy <sup>16</sup> – market rent applies	Eligible for rent subsidy	Eligible for rent subsidy
<b>Tenant's spouse/partner</b>			
<b>Other household member</b>	Eligible for rent subsidy <sup>17</sup>		

<sup>16</sup> Exemption to this could occur if the property is:

- in an isolated location
- an extremely run-down dwelling
- overseas
- tied up in a legal dispute; or

if the tenant is unable to live in the property because of reasons beyond their control such as risk of violence or being unable to access necessary support services.

<sup>17</sup> The value of the property is included in assessment of the household's assets and this will be proportional to the share in the property. This is in cases where no income is derived from such an asset (i.e. the property is not rented out). However, if income is derived from the property, the rent subsidy assessment should be based on the income rather than the value of the property.



## 10 Program/product specific schedules

Program/product specific schedules contain detail of any variations to this policy which are conditions of the program or product. In all other ways, these programs or products adhere to this policy.

### 10.1 Social Housing Management Transfers 2018-19

The following requirements are specific to tenancies transferred to CHP management under Social Housing Management Transfer (SHMT) program.

#### **CHPs must temporarily adopt the current rent and water charges of the transferred tenant**

Following the transfer of a DCJ tenant to community housing management under SHMT, the CHP must temporarily adopt the former DCJ tenant's rent and water charges until the tenant's income changes<sup>18</sup> and a new subsidy is assessed. This includes where a tenant is paying rent at a non-standard assessment rate which has been pre-approved by DCJ.

After this time, the CHP may apply its own policy for assessing the tenant's new rent and water charges.

Tenants on Centrelink benefits may have an income change triggered by the six monthly Centrelink CPI adjustment.

Tenants earning wages will have their subsidy reviewed if their wages change after transfer. However, if the wages don't change, the CHP can review household income not less than 12 months after the last review by DCJ, and may then apply its own policy for assessing the tenant's new rent subsidy.

If a transferred tenant is paying between 25% and 30% of their income in rent, or paying market rent, the CHP can continue charging this rate until the end of tenant's current lease, as long as the tenant's income remains consistent with income eligibility for a rent subsidy and rent assessment rules in the DCJ *Tenancy Charges and Account Management Policy Supplement*.

A tenant's subsidy cannot change due to a CHPs group subsidy review.

#### **CHPs must honour pre-approved commitments to transferred tenants**

DCJ pre-approved commitments to tenants must be honoured by the CHP for the length of the pre-approved period. This includes DCJ pre-approvals which allow the tenant to:

- be absent from their dwelling for a specified period of time, and/or
- pay an agreed minimum rent for a specified period of time, and/or
- participate in the Start Work Bonus, or similar, program.

At the end of the pre-approved period, the CHP may adopt its own policy for further assessing the client's needs.

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<sup>18</sup> If the tenant is on a separate water meter, the tenant's water charge must remain as it is until the next bill from the water authority is received. After this time, the CHP may apply its own policy for assessing the tenant's water charges.

Where a transferred tenant is being charged a vacant bedroom charge at the time of transfer, the CHP must continue to charge this until the end of that tenant's current lease or until the tenant moves to a smaller dwelling, whichever comes first. After this time, the CHP may apply its own policy to address under-occupancy.

## 10.2 Transitional Housing Plus

The rent to be paid by tenants of Transitional Housing Plus accommodation is scaled to increase over the tenure period, on an annual basis.

The scaled rent levels will be set at the beginning of the first tenancy period, as consecutive annual rent levels that must be paid if the fixed term tenancy continues to be renewed.

Rent is initially set by property type for a one, two or three bedroom dwelling. The rent is then scaled up over a (maximum) five-year period so that it reaches a benchmark market rent for the property at the end of the tenure period.

[Click here for further information about setting rents for Transitional Housing Plus properties.](#)