



Family &
Community
Services

NSW Community Housing Rent Policy



Document approval

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

A handwritten signature in black ink, appearing to read "Anne Campbell".

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1 Introduction

The NSW Department of Family and Community Services (FACS), through FACS Housing and FACS NSW Land and Housing Corporation, provides assistance to community housing providers 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 FACS. 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 also 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 FACS and a community housing provider for the provision of subsidised rental accommodation.

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. That is, the fee or rent is priced so that resident and tenant households are able to meet other essential basic living costs.

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).¹ Water usage charges cannot be levied to residents in crisis accommodation premises.

Any water usage charges levied by a community housing provider must be consistent with the *Ministerial Guidelines for Community Housing Water Charging*.

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 to advise tenants about their right to appeal, what can be appealed and how to lodge an appeal.

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. 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).

¹ 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.

4.5 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.

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 can apply 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 FACS.

Where it is known that the actual market rent in a location differs markedly 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

If a tenant is entitled to a rent subsidy, the proportion of income paid by the tenant as rent is determined by a set of rules which defines:

- the types of income which are assessed for rent setting purposes
- the percentage of each income type that is paid in rent.

Community housing providers must determine the subsidised rent of all tenancies based on a percentage of the assessable household income plus 100 percent of the household's entitlement to Commonwealth Rent Assistance (CRA). This is subject to the qualification that the subsidised rent, including CRA, must not exceed market rent. Assessment rates are set out in Appendix 1.

In exceptional circumstances in transitional housing properties only, 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.

Assessable household income is any income that is included in the calculation of a tenant's household rent payment under this policy. The treatment of assessable and non-assessable income is shown in Appendix 3.

Community housing providers must have a publicly available policy about how they will assess irregular income.

The tenant is defined as the person or persons that signed the residential tenancy agreement with the community housing provider.

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.

Household members are all people living in the accommodation, regardless of age or relationship.

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. A guide to acceptable proof of income is set out in Appendix 2.

5.5 Rent reviews

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

- determine, if a rent subsidy is applied, 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 2, 3 and 4 (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.

5.6 Requirements specific to tenancies transferring to CHP management under the Social Housing Management Transfer (SHMT) program

5.6.1 CHPs must temporarily adopt the transferring tenant's current rent and water charges

Following the transfer of a FACS tenant to community housing management under SHMT, the CHP must temporarily adopt the former FACS tenant's rent and water charges until the tenant's income changes² 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 FACS.

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 FACS, and may then apply its own policy for assessing the tenant's new rent subsidy.

If a transferring 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 FACS *Tenancy Charges and Account Management Policy Supplement*.

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

² 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.

5.6.2 CHPs must honour pre-approved commitments to transferring tenants

Commitments to tenants pre-approved by FACS, which are live at the time of transfer, must be honoured by the CHP for the length of the pre-approved period. This includes FACS 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.

Where a transferring 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.

5.7 Aboriginal Community Housing

To ensure consistency in relation to the rent policies for social housing managed by Aboriginal community housing providers, the *Build and Grow Rent Policy* will apply.

Aboriginal community housing providers are not required to change their rent policy where the rent currently collected meets or exceeds the proposed household rent under the *Build and Grow Rent Policy*.

6 Requirements for transitional housing plus

6.1 Approach to rent setting

The rent to be paid by tenants of transitional housing plus accommodation is scaled to increase over the tenure period, on an annual basis. A guide to calculating transitional housing plus rents is provided at Appendix 5.

Appendix 6 shows year 1 property rents for 2014 to 2018 for all bedroom categories.

The rent paid by the tenant must not at any time exceed the market rent for the property.

7 Requirements for affordable housing

7.1 Compliance with the *NSW Affordable Housing Guidelines*

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

7.2 Approach to rent setting

Households on low or very low incomes must 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.

8 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.

9 Other related policies

Other related policies include:

- Ministerial Guidelines for Community Housing Water Usage Charging
- NSW Aboriginal Housing Office Build and Grow Rent Policy
- NSW Affordable Housing Guidelines
- NSW Community Housing Access Policy
- NSW Community Housing Eligibility Policy.

10 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 Guidelines*. These Guidelines can be accessed at:

<https://www.facs.nsw.gov.au/download?file=332789>

Community Housing Assistance Agreement

The contractual arrangement between FACS 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 that 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.

Ministerial Guidelines for Community Housing Water Charging

Any water charge levied by a community housing provider must be consistent with the Ministerial Guidelines for Community Housing Water Charging. These guidelines can be accessed at:

<https://www.facs.nsw.gov.au/download?file=333281>

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 will need to be registered under the National Regulatory System. For more information please refer to:

<http://www.nrsch.gov.au>

NSW Affordable Housing Guidelines

The *NSW Affordable Housing Guidelines* are Ministerial Guidelines that set out the policy framework for the delivery of affordable housing by registered community housing providers in NSW. The Guidelines can be accessed at:

<https://www.facs.nsw.gov.au/download?file=332789>

Social Housing

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

Specialist Homelessness Services

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

Transitional Housing

Interim accommodation (generally from three to eighteen months) for people that 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 for a period of up to 5 years) for people that 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.

Further information about the requirements for Transitional Housing Plus can be found in the *Transitional Housing Plus Policy Guidance Note* at:

<https://www.facs.nsw.gov.au/download?file=333296>

Appendix 1

Determining subsidised rent in social housing

The following table shows the percentage of income payable by different members of a household:

Assessment Rate	Tenant/Other Household Member
25%	The tenant, their spouse or live-in partner, irrespective of their age.
	All other persons living in the household who are aged 21 years or over.
15%	People living in the household aged 18 to 20 years inclusive who are not the tenant, their spouse or live-in partner.
15%	Family Tax Benefit Part A & B.
Nil	Persons living in the household aged under 18 years who are not the tenant, their spouse or live in partner are not assessed for rent-setting purposes.

The Social Housing Subsidy Program and the Home Purchase Assistance Scheme have different assessment rates to those listed above.³

SHMT specific rent assessment

Community housing providers contracted to takeover management of tenancies from FACS under the Social Housing Management Transfer program must maintain the tenant's rent setting environment at the time of transfer until the tenant's income changes 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 FACS. After this time, the CHP can apply its own policy for assessing rent.

If a transferring 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 FACS *Tenancy Charges and Account Management Policy Supplement*.

³ The Home Purchase Assistance Scheme assesses 25% of household income up to, but not exceeding market rent. All CRA is 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.

Appendix 2

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 the their household aged 18 years and over.

Proof of income must be original and can be:

- provided through the Income Certification Scheme for Centrelink pensions and allowances
- income statement from Centrelink
- income statement from the Department of Veteran's Affairs
- payslip, letter or statement from the employer dealing gross wage, applicable tax, deductions, pay period, and payee details for salary or wages
- profit and loss statement completed by an accountant or taxation return for self employed clients
- letter or statement from an Overseas Government detailing the amount received
- letter or statement from investment organisation about savings/investments etc. providing details of the amount or dividend received
- letter from another organisation or income provider (not listed above) detailing the amount and type of income received.

The type of evidence must correspond to the type of income (e.g. Centrelink payment must be proven by a Centrelink Statement). Separate evidence must be presented for each type of income, (e.g. in households where one member received a Centrelink payment and another member received a wage). Documents must not be more than one month old on the date they are submitted, with the exception of Tax Returns which must not be more than 13 months old.

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 3

Assessable and non-assessable sources of income for determining tenant rent payments

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). The guides to assessable and non-assessable sources of income can be accessed through the Housing Pathways website, under the section titled “Eligibility for social housing – income” at: <https://www.facs.nsw.gov.au/housing/policies/social-housing-eligibility-allocations-policy-supplement>

Appendix 4

Assessing income of self employed persons

The assessable income of self-employed tenants and household members is determined by taking the gross income less the business deductions allowable for community housing rent setting purposes.

Allowable deduction expenses are classed as any expense essential for producing an income. Some items may be allowable as tax deductions, but are not considered to be legitimate business expenses. These are presented in the table below.

The tenant or household member will need to provide proof of income in the form of the most recent profit and loss statement from an accountant or a tax return (not a tax assessment notice as ATO allowable expenses could be different). If when the tenant household member's income is calculated it results in the income being below the standard rate of Newstart Allowance then the tenant or household member's income will be assessed at the Newstart Allowance rate.

Rent assessments should be conducted if a tenant's household income has changed drastically between assessment periods. Retrospective adjustments can be allowed if over/under estimation is substantiated.

Item	Deductible
Accountancy fees	No
Advertising	Yes
Bank fees	No
Bookkeeping fees	No
Capital expenditure	No
Course costs and staff training	No
Depreciation	Yes
Domestic expenses (such as telephone, electricity and gas)	No

Item	Deductible
Drawings	No
Dry cleaning and laundry	No
Electricity	Domestic – No Non-Domestic – Yes
Equipment and lease of equipment	Yes
Gas	Domestic – No Non-Domestic – Yes
Gifts or donations	No
Goods to be sold	Yes
Insurance fees	Yes
Interest component of a loan repayment	Yes
Laundry and dry cleaning	No
Legal fees	No
Licenses	If essential for the business – Yes If not essential for the business – No
Loan repayments	Interest component – Yes Principal component – No
Magazines and books	No
Materials	Yes
Medicare levies	No
Motor vehicle expenses	If essential for the business – Yes If not essential for the business – No

Item	Deductible
NRMA fees	No
Personal expenses	No
Postage	Yes
Principal component of loan repayments	No
Protective clothing and uniforms	No
Public risk insurance	Yes
Rent	Housing NSW dwelling – No Residential premises – No Commercial purposes – Yes
Repairs	Yes
Salary and wages	Employees – Yes For the owner of the business – No
Stationery	Yes
Subscriptions	No
Superannuation levy for employees	Yes
Taxation levies	No
Telephone	Domestic – No Non-domestic – Yes
Tools	Yes
Training for staff and course costs	No
Travel	Yes
Uniforms and protective clothing	No

Item	Deductible
Wages	Employees – Yes
	For the owner of the business – No

Appendix 5

Transitional housing plus rents

Single tenants living in a 1 bedroom dwelling will pay a scaled rent equivalent to the rent paid by a single tenant sharing a 2 bedroom dwelling.

The rent paid by tenants sharing accommodation is to be split evenly by the number of bedrooms.

The rent is at no time to exceed market rent.

Calculating transitional housing plus rents

1. Identify the year 1 rent on the basis of the property type – refer to Table 1 or 2 in Appendix 6.
2. Check that no special circumstances apply to the tenancy (e.g. a single tenant living in a 1 bedroom property).
3. Identify the year 5 rent on the basis of the median rent for that property type in the local government area the property is located in, as per the FACS Housing NSW Rent and Sales Report.
4. Calculate the rent range – the difference between the year 1 rent and year 5 rent.
5. Calculate the year 2 rent = year 1 rent + (rent range x 20%).
6. Calculate the year 3 rent = year 2 rent + (rent range x 20%).
7. Calculate the year 4 rent = year 3 rent + (rent range x 30%).
8. On an annual basis check that the identified rent is below the current market rent for the property.

Rent calculator

The Transitional Housing Plus Rent Calculator is available to assist housing providers to calculate the scaled rent levels at the beginning of the first tenancy period.

Example of rent calculation

An example of transitional housing plus rent calculation is set out below:

A tenancy in a two bedroom unit commencing in March 2014:

- In year 1 the starting rent paid would be \$200 per week
- The year 5 rent would be median rent for a strata dwelling in the Blacktown local government area in the latest FACS Housing NSW Rent and Sales Report (December 2013) - \$350 per week
- The rent range is therefore \$150
- The year 2 rent would then be \$230 per week (year 1 rent + (rent range of \$150x20%))

- The year 3 rent is \$260 per week
- The year 4 rent is \$305 per week.

Appendix 6

Transitional housing plus Year 1 rents – 2014-2018

The year 1 commencing rent for transitional housing plus is indexed on an annual basis by 1%.

Table 1: Year 1 rents per week - standard

Property	2014	2015	2016	2017	2018
1 bedroom dwelling	\$150	\$151.50	\$153	\$154.50	\$156
2 bedroom dwelling	\$200	\$202	\$204	\$206	\$208
3 bedroom dwelling	\$230	\$232	\$235	\$237	\$240

Table 2: Year 1 rents per week – lower market rent areas

Property	2014	2015	2016	2017	2018
1 bedroom dwelling	\$100	\$101	\$102	\$103	\$104
2 bedroom dwelling	\$150	\$151.50	\$153	\$154.50	\$156
3 bedroom dwelling	\$180	\$182	\$184	\$186	\$187

Appendix 7

Ownership of property

Under the NSW Community Housing Eligibility Policy, a person who owns a property which could be 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
Tenant	Not eligible for rent subsidy ⁴ – market rent applies	Eligible for rent subsidy	Eligible for rent subsidy
Tenant's spouse/partner			
Other household member	Eligible for rent subsidy ⁵		

⁴ 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.

⁵ 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.