

Keeping a Tenancy

1 Purpose and Applicability

This policy explains what the tenancy conditions are for someone renting a home from the Women's Housing Company (WHC), and covers:

- regular reviews of tenant income and continued eligibility
- regular reviews of rent
- management of rent arrears
- non-rent charges, such as water usage
- tenant obligations and being a good neighbour
- keeping companion animals and pets
- prolonged absences and visitors
- regular property inspections
- management transfers

The policy sets out the requirements of tenants and the obligations of WHC. WHC will apply procedural fairness in relation to its implementation of this policy and will meet all relevant legislative requirements. For clients facing significant hardship as a result of any of WHC's policies, staff will seek to respond reasonably and with compassion.

This policy applies to all transitional, social and affordable housing programs managed by WHC, but not to crisis accommodation. The applicable programs are:

- BlueCHP Affordable Housing Program (NRAS and non-NRAS)
- BlueCHP Social Housing Program (NRAS and non-NRAS)
- Social Housing Subsidy Program
- General Social Housing
- General Affordable Housing
- Transitional Housing
- Connect 100 Program

This document satisfies the requirements of:

- The NSW Residential Tenancies Act 2010
- National Regulatory Code for Community Housing
- NSW Community Housing Rent Policy
- NSW Affordable Housing Guidelines

For information on policies around repair and maintenance of properties, refer to the WHC Repairs and Maintenance policy.

2 References

2.1 External or Statutory Requirements

This policy complies with the following legislative and program requirements:

- NSW Residential Tenancies Act 2010
- NSW Community Housing Access Policy (FACS)
- Housing Pathways (FACS)
- National Rental Affordability Scheme Guidelines (DSS)
- NSW Affordable Housing Guidelines

2.2 Internal Requirements, Procedures and Forms

This policy makes reference to the following internal documents which are on the WHC website:

- Eligibility, Applications and Offers
- Starting a Tenancy
- Ending a Tenancy
- Repairs and Maintenance
- Agreement for payment of water charges form

2.3 Definitions

- a) “must” or “shall” or “will” designates a mandatory requirement or action
- b) “may” is an acceptable action or requirement but not mandatory
- c) “Housing Pathways” is the system for applying for social housing in NSW. Applicants fill out a single application form for assistance from either FACS or participating community housing providers such as Women’s Housing Company. Housing Pathways also maintains a single register of eligible applicants for social housing in NSW.
- d) “social housing” is subsidised rental accommodation for people on very low or low incomes who meet the eligibility requirements. Eligibility requirements for all social housing tenants are as set out in Housing Pathways.
- e) “affordable housing” is subsidised rental accommodation for very low, low or moderate income tenants and in NSW is managed in accordance with the NSW Affordable Housing Guidelines.
- f) “*transitional housing*” is short-term accommodation linked to support for people who are homeless or at risk of homelessness.
- g) “tenancy agreement” or “lease” is the written agreement between WHC and the tenant with all terms and conditions of the tenancy.
- h) “periodic agreement” or “continuous lease” means a tenancy agreement where there is no fixed date of termination. “rebated rent” is the term in WHC rent statements that describes the rent that is payable by the tenant. In this document “rent” is used to mean “rebated rent”.
- i) “head leased property” refers to a property where WHC has rented it from the owner, usually from the private market, and then leases the property to the tenant. Bonds and rents are payable by the tenant to WHC.

- j) “The Tribunal” means the NSW Civil and Administrative Tribunal (NCAT), formerly known as the Consumer, Trader and Tenancy Tribunal (CTTT), and is the independent body which deals with disputes between landlords and tenants
- k) “Specific Performance Order” (SPO) is an order made by NCAT that enforces the tenant to pay rent on time.

3 Requirements

3.1 General

All tenants must comply with the Residential Tenancies Act and any applicable program requirements in order to remain as tenants with Women’s Housing Company.

3.2 Income Reviews

WHC generally only houses tenants on very low, low or moderate incomes. Income eligibility limits are reviewed annually and indexed according to CPI or pension indexation.

Determining a tenant’s income is very important as generally tenants are entitled to receive a subsidy. Tenants must advise WHC of any changes to their income within 28 days of that change.

If an estimated income is used, at the time of the following rent review WHC will then verify actual income and the tenant will be responsible for any underpayment. Over payments will be credited directly to the tenant’s account.

3.2.1 Social and transitional housing

For social housing tenants on a continuous lease, income reviews are conducted as part of rent reviews, in May and November each year. Tenants will receive notification of an upcoming rent review and be asked to provide documentation about their income, such as payslips, bank statements and Centrelink statements. Failure to provide proof of income by the specified date will result in automatic cancellation of the rent subsidy and full market rent will apply. Rents for these properties are calculated based on the NSW Community Housing Rent Policy.

3.2.2 Affordable housing

Income limits for affordable housing tenants vary depending upon the program.

For properties funded under the National Rental Affordability Scheme, the income limits are set by the Australian Government and are available on the website <https://www.dss.gov.au/our-responsibilities/housing-support/programs-services/national-rental-affordability-scheme/national-rental-affordability-scheme-nras-household-income-indexation>.

For affordable housing properties funded by the NSW Government, income limits are published on <http://www.housing.nsw.gov.au/Centre+For+Affordable+Housing/For+managers+of+affordable+housing/Household+median+incomes+2014-15.htm>.

Affordable housing tenancies on fixed term leases, will have income reviews undertaken at the end of each lease period.

If a tenant earns above the specified income limit, they may have to vacate the affordable housing property. However, there is a long period of up to 12 months before the tenant needs to vacate, and Housing Managers will discuss alternative housing options with any tenant in this situation. Refer to the 'Ending a Tenancy' policy for further details.

3.2.3 Variable Income

Some tenants may have variable income due to irregular work. Where this is the case, the tenant must inform WHC who will then advise the tenant of the frequency of income reviews that will be undertaken, or will set a rent based on estimated average income over a nominated period (for example 3 months, or the period since the last income review).

3.3 Rent

3.3.1 Rent payment

All rent must be paid to WHC at least 2 weeks in advance. There are a number of ways that rent can be paid:

- directly into WHC's bank account over the counter at the Commonwealth Bank of Australia via a personal deposit book
- via Centrepay which authorises an automatic direct debit by Centrelink into WHC's bank account
- via electronic direct debit from a tenant's bank account to WHC's account. This can be automated, or can be authorised for every payment.

WHC issues rent statements quarterly and it is the tenant's responsibility to review each statement to ensure that the correct amounts have been credited to their account.

3.3.2 Rent reviews

For tenants on continuous leases, rent reviews take place at the same time as income reviews. For tenants on fixed term leases, rents are reviewed at the end of the lease, along with the tenant's continued eligibility for the program.

Tenants will be advised in writing of any adjustment to their rent and the date that the adjustment will take effect. Tenants who do not receive any rent subsidy from WHC, will be given notice of any rent increase due to market rent rises at least 60 days before their rent is adjusted.

A tenant will also be given 60 days written notice of any rent increase occurring as part of the tenant signing a new fixed term tenancy agreement with WHC.

3.3.3 Account arrears

WHC monitors tenant rent accounts weekly. Whenever an account is in arrears, WHC will advise the tenant and seek payment which may be through a payment plan. An extended period of continued rent arrears will result in a termination notice being sent to a tenant. See the WHC Ending a Tenancy policy.

If a tenant is experiencing financial hardship, they are encouraged to contact WHC to discuss their circumstances so an appropriate payment plan can be arranged. Any repayment plan will take into account a tenant's circumstances and any additional weekly payment will generally be limited to 5-10% of the tenant's income.

Where rent arrears is more than two weeks rent, WHC will consider a tenant to be in breach of the lease terms and may take steps to recover the arrears, such as making an application to the NSW Consumer and Tenancy Tribunal (NCAT) for a Specific Performance Order (SPO) to ensure rent is paid on time and for repayment of the rent arrears, or by issuing a non-payment termination notice.

If an SPO is in place, and a tenant fails to comply, then WHC will apply to NCAT for a termination order.

3.4 Water Usage Charges

All social, affordable and transitional housing tenants will pay for their own water usage, as allowed for under the Residential Tenancies Act (2010).

3.4.1 Separately metered properties

For separately metered premises, WHC is invoiced directly by the water authority or landlord. The bill consists of a fixed charge and a water usage charge. The tenant is responsible for the water usage charge. WHC will advise the tenant of the charge when the bill is received and debit it to the tenant's WHC account. Payment is required within 21 days of the tenant being advised

3.4.2 Properties with shared water meters

For properties with shared water meters, WHC will charge the tenant a proportion of the water usage charge in the invoice from the water authority, which is calculated as follows:

For example a residential block with 6 units:

Water Usage charge invoiced by water authority	\$230.56
Minus Common Area usage	\$57.64
Total amount to be divided between properties	\$172.92
Divided by the number of properties - (6)	
Amount to be paid by the tenant of each property	\$28.82

A tenant can pay water usage charges either as a lump sum quarterly or as a fortnightly additional payment to their rent account. When the bill is received, WHC will calculate the tenant's portion, advise the tenant of the charge and post the debit on the tenant's account.

The tenant is required to pay the charge within 21 days of receiving advice of the charge, unless they have agreed to regular fortnightly part payments.

Refer to the form *Agreement for Payment of Water Charges* for further details.

If a tenant has payment difficulties or wants to dispute water charges calculated by WHC, they should contact WHC to discuss their concern. They can also make a complaint in relation to water charging in accordance with WHC's Complaints and Appeals policy.

3.5 Tenant Behaviour

Tenants have the right to quiet enjoyment of their home and are expected to be respectful of other tenants, their neighbours and representatives of WHC. They must not act in an offensive manner that prevents neighbours from equal quiet enjoyment of their home.

WHC will provide guidance to tenants on how to try to resolve disputes directly, and will refer parties in prolonged disputes to the Community Justice Centre for mediation. WHC encourages tenants to report criminal activity to the Police, including intimidation, harassment and violence.

Where tenants are involved in persistent anti-social behaviour that breaches the conditions of their tenancy, WHC will refer the matter to the NSW Consumer and Tenancy Tribunal (NCAT) to seek an acceptable behaviour agreement. If a tenant fails to comply with the terms of the acceptable behaviour agreement, WHC may have no option other than to terminate the lease through the NCAT.

3.6 Tenant Participation

WHC encourages all tenants to be active members of their community. WHC runs monthly tenant forum meetings and all tenants are welcome to attend. These forums are a place where WHC consults with tenants on changes to services and policies, and where tenants can tell WHC what the important issues are for them

From time to time, WHC will also sponsor or host social events to which all tenants are welcome to attend.

3.6.1 Tenant feedback

WHC welcomes and values continued feedback about how the organisation and its staff are performing. Tenants can provide feedback over the phone, via email or letter, and feedback can also be anonymous. If the tenant does give their contact details, WHC will acknowledge their comment and provide a response in relation to any action that is taken.

See also the Tenant Complaints and Appeals section below.

3.6.2 Tenant surveys

Every year, WHC sends out a Tenant Satisfaction Survey and asks for feedback. This survey is entirely anonymous and voluntary and the findings are reported to the WHC Board of Directors and actions taken in response to issues raised.

From time to time, the State or Commonwealth Government will send out a survey to a representative sample of community housing tenants. This survey is managed by a research firm that collates and analyses findings and suggestions for improvement for the whole of the community housing sector.

3.7 Companion Animals and Pets

WHC will assess all requests from tenants who wish to keep a pet and will consider the suitability of the property for the type and size of the pet. WHC must be advised that a tenant has a pet/s before a lease is signed, or if the tenant wants a pet after the tenancy has started, the tenant must seek permission. Permission to have a pet, and any conditions associated with that permission, will be provided by WHC to the tenant in writing.

Tenants with companion animals may need to provide WHC with supporting documentation from a health professional. All companion animals must be controlled in accordance with the Companion Animals Act (1998), and must be registered and collared.

If a property is leased from the private sector, the landlord may stipulate that where the tenant has a pet, the carpets need to be professionally cleaned on vacating. In these circumstances, the tenant will have to cover the charge for cleaning.

Tenants are responsible for the behaviour of their pet, and for managing any adverse impacts that their pet has on neighbours and other residents. Owners of pets must also adhere to any applicable strata laws and local council laws. Any complaints from neighbours about a pet will be investigated by WHC and may be referred to other authorities.

3.8 Absences from the Home

If a tenant is going to be away from their home for an extended period of longer than 4 weeks, regardless of the reason (e.g. travel, family necessity, or care arrangement), they must seek permission from WHC in writing. This will be considered on a case by case basis, and will include consideration where an absence is due to medical reasons. Generally permission will not be given for absences over 12 weeks, or for more than one extended absence per year.

Where a tenant is approved for an absence from their home, they are still responsible for all charges relating to their rent and water usage.

If a tenant does not advise WHC of an extended absence for longer than 4 weeks and their absence exceeds 12 weeks, then after 12 weeks their rent subsidy will be suspended until they return and they will be charged market rent for the period of the absence. Tenants are required to pay rent as normal for all approved absences, unless otherwise agreed to by WHC.

Tenants cannot make arrangements for another person to live in a property in their absence without permission from WHC.

3.9 Moving to a residential facility

3.9.1 Social and transitional housing tenants

If a social or transitional housing tenant needs to move into a long term care facility, they can request that WHC reduce their rent to a nominal rent (currently \$5 per week) for up to 3 months. If they are likely to return to independent living after an extended period in a care facility and this view is supported by medical reports, WHC may extend the nominal rent period beyond 3 months. This extension will be reviewed at the end of the 3 month period and a further 3 month period maybe considered.

If the stay is likely to be longer than the agreed time and extension, then any further extension maybe considered.

If a tenant is being held in a remand or correctional facility for less than a 3 month period they will be charged a nominal rent (currently \$5 per week) during that time. If the period goes beyond 3 months, then the lease will be terminated. WHC may consider specific circumstances on a case by case basis.

WHC will provide a tenant, or their representative at least 14 days notice in writing if they are being asked to vacate the premises. A tenant's representative seeking access to the dwelling will be granted access where it is legally allowable, for example, as a result of a written request from the tenant.

If a property is not vacated by the specified date, WHC will seek permission from the NSW Consumer and Tenancy Tribunal (NCAT) to take possession of the property. All furniture and household effects will be disposed of and any personal papers and memorabilia will be sent to the former tenant in line with WHC's policy about abandoned goods, set out in the 'Ending a Tenancy' policy.

3.9.2 Affordable housing tenants

For tenants housed in any of WHC's affordable housing programs (including affordable social housing) that may need to spend an extended period of time in a care or remand facility, the rent will continue to be payable at the amount set out in the tenancy agreement. If the tenants rent account falls into arrears while they are in a care or remand facility then WHC will follow its normal process to recover rent arrears with due regard for any financial hardship faced by the tenant.

If medical or support agency reports advise that the tenant's stay in a facility will be extensive, WHC may allow the tenant to give a shorter notice period for terminating the lease.

3.10 Extended Stay by Visitors

Tenants can have friends and family to stay at their home for short periods of time. However, they do need to seek approval from WHC if their visitor/s will be staying for longer than 4 weeks continuously. Approval will take into account the size of the property, neighbour consideration and the visitor relationship. Extended stays by visitors may breach the conditions of the lease.

If a tenant's visitor is caring for them, WHC will need to assess the suitability of the property for accommodating a live in carer. Generally, WHC will permit short term, part time care arrangements, but if regular care is ongoing then an alternative housing arrangement may be required.

3.11 Annual Property Inspections

WHC will visit the property at least once a year, and no more than 4 times a year, to monitor the condition of the property and to assess if maintenance is required. The tenant will receive at least 7 days notice of the intention to visit which will be at a mutually agreed time.

3.12 Use of Premises

WHC recognises that many women engage in home-based work, both paid and unpaid. Examples of unpaid work include where a tenant wants to use their home for work purposes, they must seek permission from WHC prior to commencing the work. WHC will not withhold permission, as long as:

- The tenant continues to reside in the property
- The work does not interfere with peace, comfort and privacy of neighbours or cause damage to the property
- The tenant has public liability insurance
- The tenant complies with Local Government and other relevant authority's requirements.

WHC may withdraw permission for a tenant to carry out work in the property at any time.

If WHC suspects that a property is being used for illegal activity, relevant authorities will be notified and WHC may seek a lease termination through the NSW Consumer and Tenancy Tribunal (NCAT) .

4 Tenants with No Income

Where a tenant is able to prove that they have no income, their rent will be assessed on the basis of an income that is equivalent to the Newstart allowance. As soon as they are receiving any form of income a rent review will be undertaken and normal rent policy re-instated.

If a tenant has declared bankruptcy, WHC may waive any outstanding arrears accumulated up to the date of declaration of bankruptcy and will recommence the rent account from that date. WHC will seek further evidence from the tenant's Trustee to determine rent payments from the date of the declaration of bankruptcy. Rent may be reduced to the nominal amount of \$5 per week for up to 12 weeks and the tenant signed up to a short fixed term lease (eg 3 months) so that more frequent income and rent reviews can be undertaken. Any further rent arrears will be handled as per the WHC rent arrears policy in Section 4.3.3.above.

5 Rent Subsidy Fraud

A tenant must inform WHC of any changes to their income within 28 days so that a review of rent can be carried out to prevent rent over or underpayment. Non-disclosure by the tenant can be either inadvertent, or a deliberate omission. WHC will take appropriate action if non-disclosure is found to be by deliberate omission.

Where a tenant has not provided proof of income after three follow-up requests, WHC will consider that deliberate non-disclosure has occurred and will investigate the tenant for rent subsidy fraud. This will mean the immediate stopping of the rent subsidy so that full market rent is payable .

WHC will commence the investigation by seeking full evidence of income from the tenant. If the tenant fails to provide the necessary documentation to substantiate their continued eligibility for a rent subsidy, then WHC will terminate the rental agreement and commence NSW Consumer and Tenancy Tribunal (NCAT), or other legal proceedings to collect rent that is owed.

In any investigation of tenant circumstances, WHC will take all due care to ensure procedural fairness and that the tenant has not been disadvantaged by any such investigation. The privacy of the tenant and confidentiality of the investigation will be respected.

5.1 Subletting of additional rooms within the premises

Under the Residential Tenancy Agreement with a tenant, and in accordance with WHC's eligibility criteria, in general only a single woman can reside at the premise.

If WHC becomes aware that additional rooms within any property are being sublet, this is an immediate breach of the Residential Tenancy Agreement and is considered by WHC to be rent subsidy fraud. This will result in the tenant's rent subsidy being immediately terminated and full market rent being charged from the date that WHC becomes aware of the subletting arrangement.

5.2 Unauthorised additional occupants

In accordance with the lease agreement that is signed by the tenant, WHC provides housing for single women only.

If WHC becomes aware of a breach of the Residential Tenancy Agreement as a result of an unauthorised additional occupant residing at the premises, an investigation will commence whereby the tenant will need to provide proof that the unauthorised additional occupant resides at another property. Forms of proof will include, but are not limited to, a Residential Tenancy Agreement, utility bill, copy of a driver's licence, or a Centrelink statement showing a current residential address.

WHC understands that women's circumstances can change, and requests that if there is any change with a tenant's household compliment that the tenant contact WHC within 28 days of that change. This includes, but is not limited to, tenants who may become pregnant or have to care for another person.

6 Management Transfers

WHC can move a tenant from one dwelling to another for management reasons that include:

- The tenant needing to move for medical or similar substantiated reasons, e.g. needing to move closer to health care or support services, moving to a home with no steps etc.
- The tenant being in a privately leased property that has to revert back to the owner
- To alleviate neighbourhood disputes
- The tenant being ineligible for the housing program of the first dwelling and therefore needing to move to satisfy program requirements.

Where WHC has determined that a management transfer is necessary, WHC will consult with the tenant to make sure that all of their housing requirements are clearly understood, and these requirements will be agreed and documented on a Request for Management Transfer form. WHC is not under any obligation to make more than one offer of housing to a tenant, but will endeavour to meet the tenant's needs. Where WHC is seeking the management transfer the organisation can assist with removal costs of up to \$300.

A tenant will be provided with at least 30 days' notice of any requirement to move for a management transfer, in accordance with the Residential Tenancies Act 2010, Part 7. A management transfer will require a new lease to be signed and a new bond to be lodged. If the tenant already has a bond for their original tenancy then WHC may agree to transfer the existing bond to the new property.

6.1.1 Mutual Exchange

WHC understands that tenants' circumstances can change over time. WHC will consider requests from WHC tenants to mutually exchange their property only with another WHC tenant.

To approve a request WHC must be satisfied that the exchange is appropriate in terms of the property type and that there are no outstanding tenancy or property issues associated with either of the tenancies involved, for example:

- the property has not been identified for sale or redevelopment
- there are no rent or non-rent arrears owing to WHC
- the tenants meet applicable program and eligibility criteria for the properties involved
- there are no actions underway in relation to either tenant's Residential Tenancy Agreement
- each tenant agrees to the specific requirements of any Residential Tenancy Agreement for the property
- damage to properties is repaired and remedied before moving.

A mutual exchange can only take place when WHC has approved the request and requests will be considered on a case by case basis. Exchanging without approval will be a breach of the tenants Residential Tenancy Agreements. For any mutual exchange tenants will be responsible for meeting all relocation costs.

Any WHC tenant seeking a mutual exchange should contact their Housing Manager.

7 Complaints and Appeals

7.1 Complaints

Applicants and tenants that have received a service from WHC can lodge a complaint about that service if they do not think that WHC has followed its own policies or met its published standards. WHC staff can assist applicants and tenants to make a complaint about the service and stakeholders and community organisations can also lodge complaints.

WHC will manage all complaints in a fair and transparent way to ensure that the organisation's service delivery is responsive to concerns raised by tenants.

All complainants will receive a written response from WHC about the outcome of the investigation of their complaint within 21 working days. For further information see WHC's Complaints and Appeals policy.

7.2 Appeals

If an applicant or tenant does not agree with a decision made by WHC, or thinks that the decision is unfair, then they can lodge an appeal against that decision. The basis of an appeal may include any of the following reasons:

- Inadequate consideration was given to their individual circumstances
- The decision involved an inadequate interpretation of WHC policy
- The decision was made contrary to the WHC policy
- The procedure used to reach the decision was not fair and correct

All appeals should be made to WHC in writing. WHC will then review the decision and will inform the applicant or tenant in writing about the outcome of the review within 21 days of receiving the appeal.

If the applicant or tenant does not agree with the outcome of WHC's review they can then lodge a second tier appeal to the Housing Appeals Committee (HAC). HAC can consider appeals about decisions made by WHC in relation to its own services or policies.

For more detailed information about how WHC manages appeals, see the Complaints and Appeals policy.

8 Privacy and Confidentiality Statement

The Women's Housing Company will ensure that all applicant and tenant information is kept confidential and will not release any personal information to a third party without the prior written consent or approval of the tenant or applicant, or unless where WHC is lawfully authorized or required to do so.

WHC will ensure that any personal and sensitive information is not collected, used, stored or disclosed other than for the proper purpose of its service. From time to time, de-identified demographic information may be released to third parties for statistical purposes only.