



Communities
& Justice

NSW Community Housing Access Policy



Document approval

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1 Introduction

The NSW Department of Communities and Justice (DCJ) and 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 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 agreement may be cause for a review of their registration status.

2 Purpose of this policy

The NSW Community Housing Access Policy sets out the NSW Government's requirements for access to social housing, affordable housing, co-operative housing, transitional housing and crisis accommodation managed by community housing providers in NSW.

3 Coverage of this policy

This policy applies to all 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.

Exceptions to this include properties funded through the Social Housing Subsidy Program or properties managed by community housing providers through other agreements with DCJ and/or LAHC which fall outside a Community Housing Assistance Agreement.

4 General requirements

4.1 Determining an allocation

Community housing providers must have fair and transparent processes in place to determine an allocation of subsidised rental accommodation to an eligible applicant.¹ The assessment process must consider the housing needs of the applicant and their ability to resolve this need.

4.2 Information for residents and tenants

Community housing providers must provide clear and easy to understand information to residents and tenants at the beginning of their residency or tenancy advising them of the type, length and nature of the arrangement and their rights in relation to making a complaint or appealing a decision.

Community housing providers must have written operational policies which are publicly available and easily accessible.

4.3 Resident and tenancy agreements

Community housing providers must have an appropriate agreement in place with residents and tenants setting out the terms and conditions of the residency or tenancy.

For crisis accommodation, community housing providers must have an agreement in place with each resident setting out the nature of the residency and the rights of the resident. For transitional housing, community housing providers must have an agreement in place with each resident setting out the nature of the residency and the rights of the resident. This will generally take the form of a residential tenancy agreement.

For social housing, affordable housing and co-operative housing, community housing providers must enter into a residential tenancy agreement in accordance with the *Residential Tenancies Act 2010* (NSW).

4.4 Termination of resident and tenancy agreements

Community housing providers must have transparent processes in place to determine and manage the termination of any resident agreement or residential tenancy agreement in accordance with the *Residential Tenancies Act 2010* (NSW). This must include a process to advise residents and tenants about the circumstances in which a resident agreement or residential tenancy agreement may be terminated.

Following a decision to terminate a resident agreement or residential tenancy agreement, a community housing provider must issue, in writing, a notice to

¹ An applicant that meets the eligibility criteria set out in the NSW Community Housing Eligibility Policy.

the resident or tenant explaining the termination and setting out a reasonable timeframe for the resident or tenant to vacate the premises. The termination of a residential tenancy agreement must be in accordance with appropriate provisions under the *Residential Tenancies Act 2010* (NSW).

Community housing providers should not routinely terminate agreements under Section 85 of the *Residential Tenancies Act 2010* (NSW) as this section of the Act does not require a tenant to be given reasons for termination and does not afford the tenant recourse to the NSW Civil and Administrative Tribunal.

4.5 Right of appeal

Community housing providers must have an appropriate process in place to manage appeals from applicants and tenants in relation to providing housing assistance and allocations. 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 assessment and housing allocation 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 assessment and housing allocation by the Housing Appeals Committee must advise tenants of their right to request an independent, second-tier review.

4.6 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 the agency that owns the information, except where required to by law.

4.7 Privacy

Community housing providers must protect the personal information and privacy of applicants, 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.

Applicants who have submitted an application through Housing Pathways are notified that the information included in the application can be exchanged between social housing providers for the purposes of assessing ongoing eligibility and delivering an appropriate service.

5 Specific requirements for social housing

5.1 Application and assessment under Housing Pathways

Community housing providers participating in Housing Pathways must abide by the policies, procedures and guidelines applicable to Housing Pathways as listed on the DCJ website and the Community Housing and Pathways intranet portal.

Specifically, these community housing providers must:

- ensure applications are through the Application for Housing Assistance, which can be lodged online, by phone or through a local housing office
- ensure eligibility assessments are undertaken within the Housing Pathways common assessment framework
- make offers of social housing to applicants listed on the NSW Housing Register in accordance with the provider's allocation policy.

Community housing providers contracted to deliver private rental products and services must do so in accordance with relevant Housing Pathways policies, procedures and guidelines.

5.2 Allocations

Social housing provided by community housing providers participating in Housing Pathways must be allocated to eligible applicants listed on the NSW Housing Register using the Housing Pathways procedures and the community housing provider's allocation policy.

Providers must have an allocation policy that is publicly available on their website. The allocation policy must clearly document the community housing provider's approach to managing allocations.

Following the allocation of a tenancy, community housing providers must follow the required procedures to ensure that the NSW Housing Register is adjusted accordingly.

5.3 Tenure

Social housing managed by community housing providers is provided as continuous tenure, subject to a tenant complying with the requirements of their residential tenancy agreement.

Fixed term leases may be used where a specific program requires it.

If a tenancy must be terminated due to the premises being sold or redeveloped, or in the case of a head leased premises the termination of the head lease by the landlord, the community housing provider must re-house the tenant in appropriate, alternative accommodation.

To ensure that tenants are treated fairly in these circumstances, community housing providers must have in place transparent policies that clearly set out these processes, and which meet the requirements of the *Residential Tenancies Act 2010* (NSW) in relation to notice, reasons for termination and review.

6 Specific requirements for transitional housing

6.1 Allocations

Allocations to transitional housing must be based on the specific criteria associated with the use of the properties. Properties must be allocated to eligible households and targeted to the identified client group.

Households allocated transitional housing are able to remain on the NSW Housing Register while they are in transitional housing, where relevant.

6.2 Tenure

Tenants in transitional housing must be issued with fixed term residential tenancy agreements, or license agreements.

7 Specific requirements for affordable housing

7.1 Allocations

Affordable housing must be allocated in accordance with the [NSW Affordable Housing Ministerial Guidelines](#). When making an allocation a community housing provider should aim to balance the needs of households in housing stress with the requirement to generate sufficient income to meet finance and other operating costs.

7.2 Tenure

Affordable housing is provided for a fixed term or on a continuous basis, and tenancies may be renewed subject to the tenant household continuing to meet the eligibility criteria for affordable housing.

In accordance with the *NSW Affordable Housing Ministerial Guidelines*, the length of each fixed term residential tenancy agreement is determined by the community housing provider and must be relevant to tenant circumstances. However, each fixed term residential tenancy agreement should be no longer than a period of ten years.

8 Specific requirements for co-operative housing

8.1 Allocations

Co-operative housing must be allocated in accordance with the principle that 65 percent of tenants within each co-operative met the social housing income eligibility limits at the time of allocation. Income eligibility limits are detailed in the [Social Housing Eligibility and Allocations Policy Supplement](#) on the DCJ website.

The remaining allocations may be made to applicants with incomes that fall within the moderate income band of the affordable housing income eligibility limits as set out in the *NSW Affordable Housing Ministerial Guidelines*.

8.2 Tenure

Co-operative housing is offered as continuous tenure subject to the tenant complying with the requirements of their residential tenancy agreement.

If a tenancy must be terminated, due to premises being sold or redeveloped, or in the case of a head leased premises, the termination of the head lease by the landlord, the co-operative must re-house the tenant in appropriate, alternative accommodation.

To ensure that tenants are treated fairly in these circumstances, co-operatives must have in place transparent policies that clearly set out these processes for tenants and which meet the requirements of the *Residential Tenancies Act 2010* (NSW) in relation to notice, reasons for termination and review.

9 Other related policies

Other related policies include:

- [Housing eligibility and access policies](#)
- [Community Housing Water Charging Guidelines](#)
- [NSW Affordable Housing Ministerial Guidelines](#)
- [NSW Community Housing Eligibility Policy](#)
- [NSW Community Housing Rent Policy](#)

- [Procedures approved by the Minister for Reviews under Section 149 of the *Residential Tenancies Act 2010*](#)

10 Glossary

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.

Housing Pathways

The system for applying for housing assistance in NSW, including private rental assistance and social housing. Under the system, applicants lodge a single application form to apply for assistance from DCJ and participating community housing providers. This application can be lodged online, by phone or at a local housing office. [Click here for more information about getting help with housing and 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.](#)

NSW Housing Register

The state wide list of eligible applicants for social housing in NSW. Applicants apply through Housing Pathways for consideration to be listed on the Register. The Register is used by CHPs and DCJ to allocate vacant social housing properties. It is managed by DCJ.

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

Time limited accommodation managed through fixed term leases that can be renewed for a period of up to 5 years, for people who are homeless, or 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.](#)

11 Program/product specific schedules

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

11.1 Transitional Housing Plus

11.1.1 Tenure

Tenants in Transitional Housing Plus properties must be allocated fixed term tenancies of six months duration as long as the total period of tenure does not exceed 5 years. Further information about the requirements for Transitional Housing Plus can be found in the [Transitional Housing Plus Policy Guidance Note](#).

11.2 Social and Affordable Housing Fund

11.2.1 Allocations

Social housing provided by community housing providers under the Social and Affordable Housing Fund (SAHF) participating in Housing Pathways must be allocated to eligible applicants listed on the NSW Housing Register using the Housing Pathways allocation procedures and the community housing providers' allocation policy and in accordance with the SAHF Service Agreement and Service Specifications.

11.2.2 Tenure

Tenants in accommodation provided under the Social and Affordable Housing Fund (the SAHF) may be issued with limited or fixed term residential tenancy agreements.

Providers of accommodation under the SAHF must conduct a periodic review of tenant circumstances to assess their ongoing eligibility to reside in social housing accommodation provided under the SAHF where the term of the residential tenancy agreement is limited or fixed. These reviews should include an assessment of whether they may be more appropriately housed in affordable housing (within or outside the Provider's SAHF portfolio); or could be assisted to transition to the private rental market.

11.3 Social Housing Management Transfers 2018-19

11.3.1 Tenure

Tenants transferring from DCJ to community housing provider management under the Social Housing Management Transfer Program will remain on their fixed term lease with all current terms and conditions until the term of the lease expires. After this time, the CHP can apply its own tenure policy to any new lease arrangement.