

Debt management

Policy

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Contact details	Territory Families, Housing and Communities Operational Policy housing.policy@nt.gov.au	
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1. Purpose

This policy outlines the process the Chief Executive Officer (Housing) (CEO (Housing)) uses to prevent, review, and manage public housing debt.

2. Objectives

The objectives of this policy are to:

- Ensure fair, equitable and client centred processes are applied to prevent, review and manage debt;
- Ensure debt recovery does not place tenants in financial stress or at risk of homelessness;
- Minimise debt through early intervention strategies including referrals to support services;
- Ensure debt recovery complies with the *Residential Tenancies Act 1999*, *Limitation Act 1981*, and Northern Territory Government Model Litigant policy and
- Use all options available to recover debt to contribute to the ongoing provision of well-maintained, safe and habitable housing.

3. Scope

This policy applies to current and former public housing tenants with a debt owed to the CEO (Housing) for tenancy related charges. It also applies to Private Bond assistance recipients.

4. Definitions

Definitions	
Agreement to Pay	An agreement where a tenant commits to repay a debt by regular, scheduled payments to the CEO (Housing).
Previous tenancy debt	A debt that relates to a public housing tenancy that has ended. Both current and former tenants may have a debt from a previous public housing tenancy.
Tenancy related charges	Charges that a tenant is required to pay to the CEO (Housing) under the tenancy agreement. These charges include rent, security deposit (bond), excess water usage, maintenance debt, court ordered legal costs and/or compensation costs ordered by the Northern Territory Civil and Administrative Tribunal.

5. Policy detail

As public housing is provided to low-income households, the CEO (Housing) recognises that tenants sometimes struggle to pay tenancy related charges. The CEO (Housing) will consider individual tenant circumstances in managing debt. The provision of housing will not be withheld based on a debt owed to the CEO (Housing).

This means that:

- Debt from a previous tenancy or private bond assistance will not prevent an applicant being approved for public housing, placed on the wait list, or provided housing;
- Debt from a previous or current tenancy will not prevent a tenant from transferring to another public housing premises; and
- A client with a debt must be making repayments on the debt before housing assistance will be provided.

5.1. Debt prevention

The CEO (Housing) recognises the tenant's responsibility to make rent and other payments based on the signed Tenancy Agreement, and regularly reviews rebated rent and the remote rent safety net to ensure rent collected is affordable. Rent is reviewed if household income changes or household members change. Refer to the Rental Rebate and Safety Net policies for further information.

To minimise and prevent debt, the CEO (Housing) will notify tenants when:

- insufficient rent has been paid and the tenancy is in arrears; and/or
- other payments due to the CEO (Housing) have not been made.

Where a tenant is regularly missing payments, or not paying the full amount of rent, and finding it difficult to pay their tenancy related charges, the CEO (Housing) will assess how to support the tenant. Support may also be identified and proactively offered for applicants who have a history of debt with the CEO (Housing). This support may include repayment of debt through an Agreement to Pay or offers for referral to financial counsellors and/or tenancy support services.

5.2. Review of debt

The CEO (Housing) will review debt to confirm it is valid and is substantiated by evidence. The review will happen before the CEO (Housing) advises a current or former tenant of a debt. The review will consider application of CEO (Housing) policy and any relevant changes to policy since the debt was incurred.

With regard to the *Limitation Act 1981* and if a debt is valid, the CEO (Housing) will explain to tenants the reasons for the amount of debt. The CEO (Housing) will take steps to make the tenant aware of the existence of the debt as soon as practicable.

If tenants do not agree with the amount of debt owed, tenants have the right to appeal the decision. Refer to the Appeals policy for information on how an appeal is made. The CEO (Housing) will not seek repayment of a debt that is under appeal until the appeal is finalised.

5.3. Debt at the end of a tenancy

At the end of a tenancy, the CEO (Housing) will confirm the balance of tenancy related charges that are valid. The security deposit (bond) paid by the tenant may be retained by the CEO (Housing) to pay tenancy related charges owed, if written notice of intention to retain all or part of the security deposit is given to the tenant within 7 business days after the tenant gave up vacant possession of the premises in accordance with section 112 of the *Residential Tenancies Act 1999*.

If the retained security deposit does not cover all tenancy related charges, the CEO (Housing) will ask the tenant to pay the outstanding amount. Where tenants do not pay, or do not enter into an Agreement to Pay, the CEO (Housing) may pursue legal action.

Where current tenants have a debt from a previous tenancy, the previous tenancy debt is not grounds for a breach of the current tenancy agreement.

5.4. Agreement to Pay

Tenants may not be able to repay a debt in a single payment, in which case the CEO (Housing) will support tenants to pay the debt in reasonable instalments.

Where a tenant has accumulated a debt to the CEO (Housing), an Agreement to Pay may be offered to the tenant as a tool to assist in the calculation of debt and to allow repayment of the debt through instalments.

The CEO (Housing) may offer the following agreements based on the circumstances of the tenant:

1. Agreement to Pay
2. Agreement to Pay (Final)
3. Agreement to Pay (Tribunal)

Refer to Agreement to Pay procedures for further information.

5.4.1. Repayments and maximum amount

A repayment amount and schedule to repay the debt will be agreed with tenants. Where available, the CEO (Housing) will offer referral to financial counselling and other support services to assist tenants to determine an appropriate repayment plan for their circumstances.

The CEO (Housing) recognises that repaying a debt may cause financial stress to tenants and applicants. Tenants and applicants are not required to pay more than 30 per cent of their household income to the CEO (Housing) to repay a debt (inclusive of rent and debt repayments). The CEO (Housing) will work with tenants and applicants to ensure that the Agreement to Pay continues to be affordable and adjust the agreement if there are changes to their circumstances.

5.4.2. Security deposit (bond)

Tenants in urban public housing may be required to pay a security deposit (bond) at the start of the tenancy. Tenants who are not able to pay the amount in full can pay through instalments under an Agreement to Pay. Missed payments relating to bond are not a breach of the tenancy agreement. Refer to the Allocation and Commencement of a Tenancy policy for more information on security deposits (bond).

5.5. Legal action to recover debt

Where a tenant is recognised as having multiple previous instances of non-compliance, and supports were offered and / or provided, the CEO (Housing) will commence legal action with a Notice to Remedy prior to progressing to the Northern Territory Civil and Administrative Tribunal (NTCAT).

The CEO (Housing) may issue a Notice to Remedy and support the tenant with a negotiated repayment arrangement. Adjournments will be offered to ensure the repayment arrangement is being complied with.

The CEO (Housing) will ensure the debt is valid before issuing a Notice to Remedy. If the Notice to Remedy does not resolve matters, the CEO (Housing) will apply to the NTCAT for the matter to be considered where both the tenant and the CEO (Housing) attempt to reach agreement on a repayment schedule.

The intent of this action is to support the tenants with a negotiated arrangement to make suitable repayments on their debt, not to terminate the tenancy in the first instance.

If support is offered and the tenant does not comply with the negotiated arrangement, this will be returned before the NTCAT.

5.5.1. Compensation orders

A compensation order is an order made by the NTCAT to pay an amount in compensation under section 122 of the *Residential Tenancies Act 1999* for a loss or damage suffered by the applicant. The CEO (Housing) may apply for a compensation order to recover costs for a loss or damage under the tenancy agreement.

The CEO (Housing) may apply for a compensation order for rent arrears if a tenant is more than two weeks in rent arrears. This includes but is not limited to:

- the CEO (Housing) has exhausted all ways to make contact with the tenant to discuss the debt;
- the tenant has refused to repay the debt; or
- the tenant has repeatedly missed payments under an Agreement to Pay.

Where the NTCAT makes a compensation order, the CEO (Housing) will seek recovery of this debt from the tenant through the Local Court.

The CEO (Housing) will undertake suitable arrangements for the repayment of the debt via compensation order. Tenants who are not able to pay the full amount can enter into an Agreement to Pay.

5.5.2. Termination of tenancy

The CEO (Housing) will only seek termination of a tenancy as a last resort and will always work with the tenant to attempt to prevent or minimise debt.

The CEO (Housing) can apply to terminate a tenancy for non-payment of rent under section 100A of the *Residential Tenancies Act 1999*. This may be considered where there is ongoing non-payment of rent and debts (including compensation orders). Possession orders would be required to support the tenant to transition from the tenancy.

If the tenant engages with the CEO (Housing) after the orders for termination and possession and the tenant is able to demonstrate their capacity to make rent payments and repayments to their arrears, the CEO (Housing) may issue a fixed term probationary tenancy to the tenant, at the same address.

Refer to the Termination of a Tenancy policy and the Tenancy Agreement Breach policy.

6. Discretionary decision making

While discretion can be applied under the Discretionary Decision Making policy, decisions must be in line with the Department's Financial Delegations, *Financial Management Act 1995* and Northern Territory Government's Model Litigant policy.

7. Complaints and/or appeals

If a client is not satisfied with either a decision or action of the Department, they can access the Department's complaints and/or appeals processes. For further information, please refer to the Complaints and/or Appeals policies.

8. Review of the policy

If at any time the legislative, operating or funding environment is so altered that the policy is no longer appropriate in its current form, the policy shall be reviewed and amended accordingly.

9. References

9.1. Legislation

Financial Management Act 1995

Housing Act 1982

Limitation Act 1981

Residential Tenancies Act 1999

9.2. Policies

Allocation and Commencement of a Tenancy policy

Appeals policy

Complaints policy

Discretionary Decision Making policy

Rental Rebate policy

Remote Rent Safety Net policy

Security Deposit policy

Tenancy Agreement Breach policy

Termination of a Tenancy policy

Northern Territory Government Model Litigant policy