

Policy

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Objective

The purpose of this policy is to outline how HFHA calculates rent for all social housing properties and manages the bi-annual Rent Review.

Scope

This policy applies to tenants who live in a social housing property that is owned or managed by HFHA. As a registered Community Housing provider, HFHA's Rent Policy must comply with the NSW Department of Community and Justice's *Community Housing Rent Policy*. This policy sets out the NSW Government's requirements for rent setting by community housing providers in NSW. HFHA's Affordable Housing policy sets out how rent is charged to tenants living in an affordable housing property.

Policy

HFHA's Rent Policy sets out a clear and consistent rent setting approach for all social housing tenants.

As a starting point, HFHA charges market rent for its properties. The market rent for capital properties is based on the NSW Rent and Sales Report. For leasehold properties, the market rent is based on the actual market rent charged to HFHA by the owner.

People in receipt of very low to moderate incomes can apply for a rental subsidy to meet the cost of market rent. This subsidy varies according to the type of program and the income level of the tenant and household members.

HFHA has the authority to grant a rent subsidy under the provisions of the *Community Housing Rent Policy 2020* and the *NSW Residential Tenancies Act (RTA) 2010*. In order for HFHA to determine if a tenant is eligible for a rental subsidy, the tenant and household members must provide details of their income and assets to HFHA. This happens every six months when HFHA conducts a rent review, in March and September, to coincide with changes in Centrelink payments.

HFHA calculates how much a tenant should pay in rent taking into account the market rent for the property and any subsidy that the tenant should receive to assist them to meet the costs of their rent including Commonwealth Rent Assistance.

Market Rent

The market rent is the rent shown in the Residential Tenancy Agreement. For capital properties, market rent is calculated as the median rent for a property of the same type and bedroom size in the Local Government Area. The Median rent is determined by the Department of Family and Community Services Rent and Sales Report. HFHA updates market rents on capital properties annually.

For leasehold properties, market rent is the actual rent payable to the landlord for properties leased from the private rental market. Market rents for leasehold properties are reviewed and updated when the actual rent for the property changes. If there is a change in the market rent for a property, tenants are given notice in writing as per the *Residential Tenancies Act 2010*.

Rent Subsidy

If a household has a low or moderate income, the tenant can apply for a rental subsidy using HFHA's [*Application for Rental Subsidy Form*](#). If a rent subsidy is granted, this will effectively subsidise the market rent payable. This means that the amount of rent paid by tenants is based on a percentage of their income and assets. And accordingly the net rent paid by the tenant will become an agreed percentage of the market rent.

When assessing eligibility for a rental subsidy, HFHA will ensure that:

- Each assessment of rent subsidy and the application of market rent is fair, consistent and transparent
- The complex needs and vulnerability of our tenants will be taken into account and we will be proactive and empathetic in our approach to communicating these circumstances
- Staff are properly trained and resourced to implement this policy.

Rent Charging

HFHA will calculate the amount of rent to be charged to the tenant on the assessable income of the household. This includes the tenant and all residents. The *Community Housing Rent Policy* specifies what is included in assessable income. In summary assessable income includes:

- Income from statutory payments
- Wages or casual earnings
- Self-employment
- Any assessable supplement payment
- Any household member not eligible for a payment or who is eligible for a statutory payment will be charged rent based on the statutory allowance amount.

In a simple form, rents are calculated as follows:

Rent Payable by a Tenant =
(Percentage of household income and assets) + 100% Commonwealth Rent Assistance.

Table 1 below shows the percentage of income payable by different members of a household in a **social housing property**. There are different rates based on the ages of the tenants and the payment they receive from Centrelink.

Tenants in **affordable housing programs** may pay up to 30% of their household income or up to 74.99% of the market rent.

Table 1: Percentage of income payable in social housing rent

Rate	Position
25% - 30%	The tenant, and their spouse or live-in partner, irrespective of their gender or 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
100%	Of household weekly CRA entitlement
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.

Income from wages and casual earnings

Tenants and household members, who receive a wage or casual earnings, must provide pay slips showing their current gross income per week.

If the tenant or household member work fixed hours per week, 4 weeks of pay slips must be provided. If the tenant or household member work casual hours (changes per week) and/or works overtime, 12 weeks of pay slips must be provided.

If pay slips are not available, HFHA Limited can accept either a signed letter from the employer on headed

paper, or a completed HFHA *Income from Employment Form*. This form must be completed by the employer and officially business stamped.

Self-Employed Tenants

Self-employed tenants will have to provide their income details to HFHA to verify their eligibility for subsidised rent. Their income details must be provided in accordance with the *Community Housing Rent Policy*. This states that we cannot accept a 'Notice of Tax Assessment' as details of a self-employed income.

One of the following types of information must be received by all self-employed tenants:

- Full version of a completed lodged Australian Tax Return from the Australian Tax Office website. This must include all pages of the tax return, which includes the individual's income, expenses and interested earned for the financial year, or
- a profit and loss statement from a chartered accountant, and
Last three months Bank statements showing transaction details from all investment organisation/banks for all accounts held for all business and personal accounts, including any savings and shares.

Self-employed income will always be calculated on the income earned from the previous financial year. During the rent review held in September, all self-employed tenants must provide their income details for the last financial year to be used to calculate future subsidised rent. For rent reviews held in March, we will use the calculated subsidised rent from the rent review held in September, unless the tenant advises HFHA of a sufficient change in income. If a self-employed tenant's income changes significantly from the previous financial year, HFHA can make the decision to apply a retrospective adjustment from the 1 July of that year, to amend the tenant's subsidised rent.

No statutory income or reduced statutory income

As indicated in the *Community Housing Rent Policy* the following applies:

The rent subsidy application will be assessed based on the statutory allowance the tenant or other adult household members would normally receive when:

- the tenant or adult household member has chosen not to apply for a statutory income to which they are entitled
- the tenant or adult household member is not eligible to receive a statutory income
- the tenant or adult household member is receiving a reduced statutory income and has no income from any other sources
- Where a tenant or household member is not eligible to receive statutory income based on the partner's income, HFHA will apply a rent charge amount that is deemed acceptable for the household.

Proof of income

Tenants must provide proof of Income. Proof of income must be original and can be:

- Provided through the Income Confirmation Scheme for all Centrelink income support type payments. Tenants and household members can give their Authority for HFHA to access their income details in line with the Centrelink eService Terms and Conditions and Policy by completing the Centrelink eServices Multiple Consent and Authority Form.
- Provide a current income statement by the Department of Veteran's Affairs. Tenants must contact the Department of Veteran's Affairs to request an updated income statement and send direct to HFHA.
- Payslips, letter or statement from the employer detailing gross wage, applicable tax, deductions, pay period and payee details for salary or wages.
- Profit and loss statement completed by an accountant or a lodged taxation return with at least three month business and personal bank statements for self-employed tenants and household members.
- Letter or statement from Overseas Government detailing the amount received for foreign pensions, if not recorded through Centrelink.
- Letter or statement from WorkCover or Insurance Company detailing the gross amount received.
- Bank statements showing transaction details from all investment organisation/banks for all accounts held for the period specified for each household member aged 18 and over.

Documents must not be more than one month old on the date they are submitted, and Centrelink income statements must be current showing the change in payments in line with the increase in CPI rates. An exception is given for Tax Returns which must not be more than 13 months old.

Rent Subsidy Reviews and Rent Changes

HFHA will undertake a general income and rent review for all tenants in March and September of each year, in line with changes in the Consumer Price Index.

For tenants in Fee for Service or Affordable Housing Programs a general income and rent review will be undertaken according to the management contract with the property owner.

During a rent review, HFHA requires the following details for each tenant and household members:

- Application for Rent Subsidy
- Income Details for the tenant and any household member aged 18 and over (including details of assets where relevant).

These forms will be included in the Rent Review Notification Letter, which is sent 60 days before the rent increase date, as well as an additional 4 days for expected post to be delivered. This also constitutes as 60 days' notice of a market rent increase.

Tenants agree to supply their income details to HFHA when commencing their tenancy, under *Section 187 of the NSW Residential Tenancies Act 2010*.

Tenants who fail to supply a completed *Application for Rental Subsidy Form* and verification of the household income by the due date will no longer be eligible for a rental subsidy and will be required to pay market rent from the specified due date and may be subject to New South Wales Civil and Administrative Tribunal (NCAT) action.

Failure to Respond

If a tenant fails to provide all details to allow assessment of household income to take place by the relevant due date, the following will take place:

- The rent will be increased to the market rent value on the increase date of change for the rent review process, which is in effect 60 days after the first notification letter was sent notifying the tenant of the increase of market rent.
- Within the 14 day period to the date of change, an appointment will be made for the tenant to come to HFHA office to meet with their Housing Manager or the Income Coordinator and provide the relevant documentation to support their application for rental subsidy. Therefore, HFHA are providing a further warning to tenants that Market Rent may be applied.
- At the time of the appointment, the tenant must provide the outstanding information required to allow assessment. Additionally, the tenant must provide reasons for not providing the documentation within the original 60 days' notice period given.
- Failure to attend the appointment (or to attend an appointment arranged at another time) within the 14 day period, will result in market rent being applied on the increase date of change for the rent review process.
- Market rent will continue to be charged until or unless all the required information is provided and results in the tenant being eligible for a rental subsidy.
- If the tenant is in fact eligible for a rental subsidy, the rent subsidy will be reviewed based on the circumstances surrounding the reasons why the information was not returned by the due date and may be backed from the date market rent was applied. This will be in accordance with HFHA's *Compliments, Complaints and Appeals Policy*.

A tenant can appeal the decision of the market rent charge period (see Appeal and Complaints process). Any such appeal should provide evidence supporting the reasons for not providing the required information within the prescribed timeframe. Appeals relating to application of Market Rent may be appealed at any time up until the next rent review.

Notification to Tenants

Tenants will be notified in writing of any changes in their assessed rent and such notification will include a copy of the rental assessment.

Where the assessed rent results in an increase of rent payable by the tenant, HFHA Limited will ensure that any action taken to increase the tenants' rent does not conflict with the relevant provisions of the *NSW Residential Tenancies Act 2010*.

Vulnerable Tenants

If a tenant is identified as vulnerable and receives no ongoing support, HFHA Limited will review their situation and consider this individually. If the tenant is identified as vulnerable and it is considered that the tenant may have difficulty or have a history of not providing the relevant documentation for the Rent Review process within the time period, then the HFHA Asset Manager, may decide to calculate their rent subsidy without all the necessary information received until other arrangements to obtain the information are made (including where HFHA obtains permission to gather this evidence on behalf of the tenant). This includes the application for rental subsidy and the household income details. To calculate the rental subsidy without the household income details, HFHA staff will have to consider if we can confirm the type of income received based on previous calculations.

Fluctuations in income

Where a tenant's income varies, and HFHA identifies a consistent change in the tenant's rent assessment, it is possible to average the tenant's income over a 3 or 6 month period for the purposes of rent assessment or if the tenant requires, we can complete quarterly rent reviews.

Newly arrived residents or those holding an Immigration Visa

Some new migrants have no income because they are not eligible for Commonwealth Government Assistance through Centrelink for the first two years of arriving in Australia. If the person also has work restrictions HFHA Limited can apply a rent charge that is deemed acceptable.

HFHA will require a copy of the individual's visa, including bank statements showing all transactions for the period specified for each account held. If the visa shows ineligibility for Centrelink payments, but has no work restrictions, HFHA will assess their rent based on the statutory income rate as per the *Community Housing Rent Policy*.

If the accounts show a value exceeding the assessable rate or an income, this will be calculated as income as per the *Community Housing Rent Policy*.

Rent Review – effective dates

During the rent review period it is important to keep to the effective dates to ensure the assessment is fair in accordance with the 60 days' notice period required for market rent increases.

Decrease in rent

The date for the application of a decrease in rent will be the same date as the date HFHA was notified of the change in the tenant's household income and all of the required information was provided by the tenant. For administrative purposes, HFHA will use the previous Monday as the effective date.

Increase in rent

The effective date for the application of an increase in rent will be the date as advised by the initial notification by HFHA in the Rent Review notification letter.

Rent Change – effective dates

Decrease in rent

In circumstances of a rent decrease, the date for the change in rent will be the date of the change in the assessable household income, providing the tenant notified HFHA of this change within 21 days and all of the required income information was provided by the tenant within the period. For administrative purposes, HFHA will use the previous Monday as the effective date.

If the tenant notifies HFHA outside of 21 days from the date of change in the assessable household income, the date for the change in rent will be the date HFHA was notified by the tenant, and all of the required income information was provided by the tenant. For administrative purposes, HFHA will use the previous Monday as the effective date.

If the tenant appeals the decision not to backdate the decrease in rent to the original date of change, and the appeal is approved the decrease can be actioned but must not exceed a maximum of 6 weeks from the date HFHA was originally notified.

Increase in rent

In circumstances of a rent increase due to the tenant or household member beginning work, HFHA will increase the rent 28 days from the date of change, providing the tenant notified HFHA within 21 days of the date of change and all of the required information to assess the rental subsidy, is provided by the tenant.

In all other circumstances of a rent increase the date of change in rent will be the following Monday from the date of change in income, providing the tenant notified HFHA within 21 days of the date of change

and all of the required information to assess the rental subsidy is provided by the tenant.

For administrative purposes, HFHA will use the following Monday as the effective date.

If a tenant notifies HFHA outside of 21 days from the date of change in the assessable household income, the date for the rent increase will be the date of change in the income.

For administrative purposes, HFHA will use the following Monday as the effective date. A retrospective adjustment will be applied to the tenants Rent Account, which may result in arrears, and will be subject to New South Wales Civil Administrative Tribunal (NCAT) action.

Where the tenant or household member has begun work and has given 'good cause' for having been unable to or having not provided the required information within 21 days of the increase in assessable household income, consideration can be given to increase the rent 28 days from the date of the change. Such approval can be given by the Income Coordinator.

Change in Household Income

Tenants must inform HFHA within 21 days if there is a change in the household income. Within these 21 days, tenants must have also provided all the relevant income details required to calculate the change in the subsidised rent, if any. Failure to advise HFHA of changes in the household income or complement may result in formal tenancy action.

Where a failure to advise HFHA of changes to the household income or household complement of the tenancy is considered repeated or deliberate, HFHA may take formal action to terminate the tenancy.

When a tenant informs HFHA of a change in their circumstances, the housing manager will send a written letter to acknowledge the request for a re-calculation based on their change and request any relevant documentation that may be required to complete the review.

HFHA will ensure that tenants are informed at sign up, and during each rent review period, that they must notify HFHA of any changes to their household income and complement (the number of people in their household), as a condition of their tenancy obligations.

Each tenant has the responsibility of providing the income details and bank statements for all accounts for all household members to HFHA. This responsibility applies to all rent changes, during or outside a rent review period.

When applying for a rent subsidy a tenant must declare all assessable income, (including details of financial assets) and provide proof of the amount received by their spouse/partner and each other member of their household aged 18 years and over.

All documentation concerning rental assessment and rent reviews will be retained on the tenant's file.

Start Work Incentive

Start Work Incentive assists HFHA tenants starting work for the first time or re-entering the workforce

after a break.

If a person in the household over the age of 18 commences employment and they are approved for Start Work Incentive, the extra money from starting a new job will not be included for up to 26 weeks when we calculate their rent. They will pay the same rent as they did just before they started work.

To be eligible, you must be a HFHA tenant or household member over the age of 18, been out of work for at least 12 months (if claiming SWI for the first time) or 3 years (if you have previously claimed SWI) and tell us about starting to work within 21 days.

Tenants can apply for SWI by submitting an application for rental subsidy form, income details for the full household, Income from employment form and an offer letter from employer.

At the end of SWI period after 26 weeks, HFHA will do a rent review and the rent will be recalculated at 25% of income as normal.

Rent during approved absences

In accordance with the *Absence from Property Policy*, a tenant must notify HFHA if they are away from the property for more than two weeks by completing an *Absence from a Property Form* available on the HFHA website. Absences from a property are reviewed on a case by case basis. HFHA will generally allow up to 3 months absence. Tenants will be expected to provide an agent while the tenant is away and meet all rental charges during this time.

A tenant may apply for a reduction in rent to \$5 per week for up to twelve weeks under certain circumstances. The following principles must be applied when determining a reduction in rent based on the above circumstances.

- Tenants or household members will only be eligible for a reduction in rent if they are required to pay fees for their absence, such as essential accommodation expenses (e.g. nursing home or respite care), or where they are not entitled to receive an income during their absence (e.g. incarceration).
- Evidence must be provided to confirm the commencement and end date of the absence period, as well as documentation confirming the expenses incurred for the alternative accommodation or that the person is not eligible for an income during that period.
- If there are household members in the property during the absence, their income will continue to be included in the rent calculation.
- Holidays, including visits within Australia or overseas for any purpose (other than those stated above) do not constitute eligibility for \$5 rent.

Five dollar rents must be approved by a Team Leader. Any extension of the original decision which would extend over 12 weeks must be provided to the Chief Operating Officer for out of guidelines consideration and will only be approved in exceptional circumstances.

Further information on the circumstances and process for applying for an absence from property are contained in the *Absence from Property Policy*.

Rental Subsidy Fraud

In NSW, all community housing tenants must verify their eligibility for a rental subsidy at the request of the housing provider. This may occur at any time during the tenancy and for different reasons.

Some requests for review of rental subsidy eligibility are planned and cyclical, whilst others are at the request of the housing provider, to ensure that the tenant remains eligible for a subsidy and in some cases to investigate an allegation of rental subsidy fraud or non-disclosure.

Rental subsidy fraud occurs when a tenant deliberately makes a false, incomplete or misleading statement about the income or assets of themselves or any member of their household. This includes intentionally failing to notify HFHA about changes to their household circumstances including permitting unapproved occupants to live at the property.

Rental subsidy non-disclosure occurs when a tenant has failed to notify HFHA of any change to their household circumstances but has not done so deliberately.

It is a tenant, visitors or additional occupants' responsibility to prove that they are eligible to receive a rental subsidy and to ensure that all changes in their household circumstances are reported to HFHA.

If HFHA receives information that a tenant is receiving a rental subsidy that they may not be entitled to, we are required to investigate to determine if:

- Rental subsidy fraud has occurred, or
- Rental subsidy non-disclosure has occurred, or
- The rental subsidy is correct, and no further action is required.

Once investigated and HFHA has proven rental subsidy fraud or rental subsidy non-disclosure, action may include any or all of the following:

- Cancellation or adjustment of the rental rebate – this may be backdated and the debt placed on the tenant's rental account
- In cases of serious and deliberate fraud, take formal action to terminate the tenancy
- If the fraud is of a criminal nature, refer the matter to NSW Police.

Tenants must ensure that all occupants of the property have been approved by HFHA and that they are paying rent in accordance with the *Rent Policy*. If an additional household member is approved, HFHA will then backdate any rental charges from the date of occupancy. In the case where a household member is not approved, you have the right to appeal this decision if you believe it is incorrect. If the appeal is upheld in your favour, it is important to remember that the rent will be backdated to the date of occupancy and in many cases, this results in a significant debt.

HFHA would encourage you to be prepared for this, should the appeal be determined in your favour.

If you do not appeal the additional occupant decision and the person(s) continue to reside in your tenancy, HFHA will proceed with seeking orders from NCAT. HFHA will apply to the NSW Civil and Administrative Tribunal (NCAT) to take action against the tenancy for unapproved occupants residing in the property.

HFHA will however, ensure that you are aware of the steps taken and that you have access to an appeals

process prior to any action taken at the NCAT, particularly if this action is likely to have a serious effect on your tenancy.

HFHA will investigate an allegation of rent subsidy non-disclosure or fraud and will apply procedural fairness. We will ensure that tenants are made aware of the nature of the allegations wherever possible and, any allegations and that they are advised of their right to provide evidence to refute any allegations made against them.

When investigating incidents of rental subsidy fraud or rent subsidy disclosure, tenants can expect to :

- Have an impartial hearing with HFHA
- Have a support person of their choice present at interviews
- Have an interpreter if required
- In most cases HFHA will advise the tenant of the information and any documentary evidence HFHA has obtained of the allegation
- Have an opportunity to respond to the allegations made against them
- Receive a written letter recording the findings of the interview. Tenants will have an opportunity to read and check that HFHA has recorded an accurate account of the interview, and details of their right to appeal.
- Receive a final determination in writing.

Social housing is a scarce resource and a rental subsidy is based on a tenant's eligibility and circumstances. As such, tenants will be expected to provide reasonable evidence to satisfy HFHA that the allegations of fraud are false. To verify information, HFHA may seek information or make inquiries in relation to:

- The tenant's employer or alleged employer
- Neighbours
- Supply authorities, like gas, electricity, water and telephone providers
- Real estate agents
- State Government agencies
- NSW Police
- Centrelink
- Banking authorities
- Any other likely sources of relevant information.

Complaints and Appeals

This is an appealable policy.

If a tenant is not satisfied with a service provided by HFHA or does not agree with a decision it has made in relation to the calculation, backdating or cancellation of a rental subsidy, they can ask for a formal review. HFHA's *Compliments, Complaints and Appeals Policy* outlines how we will undertake a review of

our decision. A copy of our policy and information leaflet, is available from HFHA's office or website:
www.habitat.org.au.

An appeal regarding rental subsidy will be considered by HFHA within the rent review period, and up until the following rent review. Appeals relating to application of market rent may be appealed at any time up until the next rent review.

If a tenant is unhappy with the outcome of an appeal to HFHA, they can lodge a second level appeal with the Housing Appeals Committee. The Housing Appeals Committee is an independent agency that reviews certain decisions made by staff of Community Housing organisations and Housing NSW. For information on the Housing Appeals Committee call 1800 629 794 or go to www.hac.nsw.gov.au.