



Debt Recovery Policy

Contents

1. Purpose
2. Scope
3. Definitions
4. Policy statement
 - 4.1 Advising current tenants of arrears on their tenancy accounts
 - 4.2 Managing current accounts in arrears
 - 4.3 Minor outstanding debt owed to Homes North
 - 4.4 Major outstanding debt owed to Homes North
 - 4.5 Order of termination and possession
 - 4.6 Managing vacated accounts
 - 4.7 Tenants who vacate and are no longer being housed by Homes North
 - 4.7.1 Credit balances
 - 4.7.2 Debit balances
 - 4.8 Tenants who vacate and are going to another social housing property
 - 4.8.1 Credit balances
 - 4.8.2 Debit balances
 - 4.9 Further information
5. Responsibilities
6. Where to get more information

1. Purpose

This document defines Homes North's policy on tenancy charges including rent and non-rent debts.

Homes North requires all tenants living in property owned or managed by Homes North to pay tenancy charges. Tenancy charges include rent and non-rent debts - including any former debt.

Homes North will establish a separate account for rent and non-rent accounts. As charges become due, Homes North will add the charge to the relevant account. The tenant is required to meet their obligations to pay those charges as they become due.

Should a tenant move out of their property, Homes North will calculate all charges and payments relating to the property, up to the date the tenant has returned the vacant property to Homes North. Any amounts outstanding will become a debt owing to Homes North and any amount in advance will be refunded to the tenant.

2. Scope

This policy applies to tenants and former tenants of property owned or managed by Homes North. Homes North will treat debt recovery with sensitivity and will take into consideration the capacity of the individuals to meet their commitments.

Homes North's financial viability as a social housing provider, is affected by tenant debts owing. Tenants are required to pay rent on time, in accordance with their Residential Tenancy Agreement; failure to pay as agreed will result in Homes North commencing arrears action. Homes North reserves the right to take legal or tribunal action to recover debts owing.

Homes North understands there are competing demands upon households to meet their commitments; however the payment of rent and non-rent is considered a priority.

As tenants have been provided access to subsidised housing linked to capacity to pay, it is Homes North's expectation that payments will be made on time. Excessive rent and non rent balances limits the capacity of Homes North to deliver an expanded range of services to tenants and applicants.

Tenants may, under certain circumstances, enter into an agreement with Homes North to repay their rent and or non-rent outstanding debt. In such cases Homes North will take a staged approach to debt recovery by allowing a tenant to enter into an agreement to repay their debt over a period of time. This will be a formal agreement and if the agreement is breached, Homes North may take formal action for the recovery of a debt through the [NSW Civil & Administrative Tribunal \(NCAT\)](#).

3. Definitions

- **Applicant** – the person who makes the formal application for housing assistance
- **Tenant** – the person who signs the Residential Tenancy Agreement with Homes North
- **Resident** – a person who lives in the property on a permanent basis
- **Spouse** – a husband or wife considered in relation to their partner
- **Household members** – all people living in the home regardless of age or relationship

4. Policy statement

Homes North is committed to maintaining its financial viability as a social housing provider.

Homes North is able to apply and recover tenancy related charges in accordance with the provisions of the Residential Tenancies Act 2010 and the Housing Act 2001.

Tenants have a legal obligation to pay their tenancy charges as they become due. If tenants do not make payments, their accounts will fall into arrears; and is a legal breach of their tenancy agreement.

Tenants must notify Homes North immediately if they are unable to make payments. Homes North will work with tenants to ensure they meet their obligations to pay their tenancy charges. However, Homes North will also take appropriate legal action when there are major or persistent arrears.

Former tenants must pay all money owing on vacated accounts. Homes North will take action through the NCAT and other legal avenues to recover monies owing if former tenants do not make repayments. Homes North will refund any amounts in advance owing to the tenant.

4.1 Advising current tenants of arrears on their tenancy accounts

Homes North will always contact tenants in writing if their accounts fall into arrears. Homes North may also contact tenants by phone, or visit them in their homes. Homes North will respond quickly to ensure the tenant pays their tenancy charges on time and to help prevent the debt from escalating.

4.2 Managing current accounts in arrears

Homes North reserves its right to issue a Notice of Termination in accordance with the Residential Tenancies Act 2010, if there have been breaches of the residential tenancy agreement. Before taking action at NCAT, Homes North will work with the tenant to try to resolve any problem relating to their non-payment of monies owing to Homes North.

Prior to taking action at NCAT, Homes North will consider the following:

- The tenant's payment patterns.
- The amount of time the tenant has been in arrears and the amount of arrears.
- The reason for the tenant being in arrears.
- The tenant's ability and willingness to repay the arrears.
- Potential involvement of support services.
- Previous arrears patterns, including the steps that have been taken to resolve the problem.

Homes North may then:

- Negotiate a repayment arrangement.
- Apply for a Specific Performance Order (SPO).
- Issue a Notice of Termination (NOT).
- Apply to NCAT for an Order of Possession (OOP).

Homes North may also refer a tenant to various financial and other support services to assist and support tenants to manage their arrears.

If a tenant falls into arrears, Homes North may negotiate a reasonable repayment arrangement with the tenant. Arrears can be repaid in full or by instalments. Homes North expects all outstanding debts to be repaid as soon as possible.

Where a tenant claims financial hardship or other difficulties that may affect their ability to meet the proposed repayment plan, they will need to supply evidence of their financial position. Upon receipt of such evidence, Homes North may consider a lesser repayment.

If Homes North is unable to negotiate a reasonable repayment arrangement, it will escalate the arrears recovery process. Depending upon the circumstances, Homes North may apply to NCAT for a Specific Performance Order (SPO), or for an order to terminate the tenancy.

Homes North will in the first instance; seek a lump-sum payment, usually half the amount outstanding, in order to clear the arrears quickly. Thereafter, a reasonable repayment arrangement is considered to be a sum equivalent to two days rent each week in addition to the weekly rent.

4.3 Minor outstanding debt owed to Homes North

A minor debt is a debt that can be repaid within a three month time-frame. In the case of rent arrears, tenants will be asked to agree to and sign a rent arrears repayment plan agreement. In the case of non rent debt a similar arrears repayment plan agreement will be entered into. Should the amount owing increase to a debt unable to be repaid with three months, action will escalate to that of major outstanding debt (4.4).

4.4 Major outstanding debt owed to Homes North

A major debt is a debt that cannot be repaid within a three month time-frame. All major debts that cannot be repaid within three months must be taken to the NCAT, in instances where repayment has been negotiated, Homes North will seek an SPO. The SPO will set out the method and amount of payment required to clear the debt within a reasonable period (usually a maximum of six months).

Should the tenant breach the terms of the SPO, Homes North will return to NCAT and seek an Order of Termination and Possession.

4.5 Order of Termination and Possession

An Order of Termination and Possession is an order granted by NCAT which legally ends the tenancy on a certain date. An Order of Possession sets a date by which the tenant must vacate. If a tenant fails to vacate the property by the date in the possession order, Homes North will apply for a Warrant of Possession requesting the NSW Sheriff's Office to evict the tenant.

4.6 Managing vacated accounts

When a tenant moves out of a Homes North property, all charges and payments relating to the property will be reconciled. This may result in an amount remaining as in advance or arrears. In order to manage any refund or debt recovery notices, it is important the tenant provides Homes North with a forwarding address.

4.7 Tenants who vacate and are no longer being housed by Homes North

Homes North will automatically transfer balances between the tenant's accounts if the tenant has left the property and will no longer be housed by Homes North. This is regardless of any Allocation of Payment Agreement.

If there is a credit balance on one account and a debit balance in another, Homes North will use the credit to pay off the debit.

Where possible Homes North will advise the former tenant in writing of their final accounts, including whether any amount has been transferred between accounts and the reasons for the transfer.

4.7.1 Refunds Owing

Homes North will refund amounts received in advance after the tenant has left the property.

Homes North will make a reasonable attempt to contact the former tenant and refund the money. Please note the onus is on the tenant to provide a valid forwarding address and current contact details. Should a claim not be made within the statutory period then Homes North is legally obliged to forward unclaimed monies to the Government.

Should a former tenant be deceased, Homes North will refund any credit to the Executor of the former tenant's estate.

If the tenancy is a joint tenancy, Homes North will divide any credit amount equally amongst all the former tenants. One of the former tenants may provide written authority to pay their share or a nominated amount of their share of the refund to another of the former tenants.

4.7.2 Debts owing

Where a tenant is declared bankrupt, any debts outstanding at the date of bankruptcy will become a creditor of the bankruptcy and will be dealt with in accordance with the legal conditions of the bankrupt. Any debt incurred after the date of bankruptcy will be pursued in accordance with our normal procedures.

If a former tenant does not repay the debt in full, Homes North will apply to NCAT for an Order of Payment of Monies Owing (which is not time limited) and also request a Certified copy of Money Order. Homes North may take further legal action to enforce orders and recover amounts outstanding. If a tenant leaves their property owing Homes North money, the fact that they have a debt will be recorded on Housing Pathways which may affect eligibility for social housing until the debt is repaid or an offer of repayment is entered into HOMES.

In cases where the tenant is deceased, any amounts owing will become a debt owing by the deceased's estate and Homes North will register their claim as a creditor.

If a joint tenancy account is in debit, all the former tenants are liable for the debt. If one of the former tenants reapplies for assistance, they will have to arrange to repay all money owing.

4.8 Tenants who vacate and are going to another social housing property

Where a tenant will be housed in another Homes North property, Homes North will not automatically transfer balances between former accounts or from a former account to a new account. Homes North will manage credit and debit balances as outlined below.

4.8.1 Refunds owing

Tenants may agree to transfer a refund owing to pay off debts owing on former or new accounts or transfer a refund balance to their new account.

4.8.2 Debt amounts owing

Homes North will, in most cases, not transfer a tenant if they have a debt amount owing at their current property. However, it is Homes North policy to manage debt recovery action as a part of the current tenancy (see [Homes North Transfer Policy](#)).

Under Section 140 of the [Residential Tenancies Act 2010](#) a tenant who has an outstanding debt from a former tenancy will make a reasonable arrangement to repay the debt and continue making repayments, or Homes North may take action against their new tenancy through the NCAT.

4.9 Dispute/Appeals process

When making decisions about managing accounts, Homes North will consider various information and evidence. If a tenant disagrees with a decision Homes North has made, they should first discuss their concerns with a Housing Officer.

If they still believe Homes North has made an incorrect decision, the next step is to lodge a formal appeal of the decision ([see our Appeals Form](#)).

For information on how an appeal works, see our [Appeals Factsheet](#) and [Appeals Policy](#).

A tenant can only ask for a formal review of tenancy charges if they believe Homes North did not calculate the rent subsidy correctly, or has not correctly credited payments for tenancy charges or Homes North cancels their rent subsidy.

The tenant cannot ask for a formal review if rental arrears results in eviction proceedings. In these cases, the NSW Civil & Administrative Tribunal (NCAT) will hear the matter. One of the primary roles of NCAT is to resolve disputes between tenants and Landlords.

Homes North can be contacted at:

17/93 Faulkner Street ARMIDALE NSW 2350

Postal Address: PO Box 1146 ARMIDALE NSW 2350

armidale@homesnorth.org.au

This policy is subject to change from time to time at the discretion of Homes North. Where an individual is observed to not be working within the scope of this policy, the breach will be addressed by a team leader.

5. Responsibilities

It is the responsibility of the:

Chief Executive Officer to ensure this policy and associated procedures are applied and committed to by the Executive Leadership Team.

Operational Manager to provide Housing Managers with timely policy-related support and guidance.

Housing Managers to ensure familiarity with this policy and related procedures, to commit to following them accordingly and where relevant, promote the policy to their team.

Employees to ensure they comply with this policy, be responsible for their own behaviour and if required, attend relevant training as provided by the company from time to time.

6. Where to get more information

Contact Homes North on 67725133 or armidale@homesnorth.org.au For further information see our [Appeals Policy](#) and [Appeals Factsheet](#).

Relevant legislation

Residential Tenancy Act (2010)

Related policies/documents

- Transfer Policy
- Appeals Policy
- Appeals Factsheet

National Community Housing Standards

Standard 1.2 - Establishing & Maintaining Tenancies

Policy Information

Policy number: 1.2.5\1

Adopted: 2.03.2017