

Addendum 3 to Community housing rent policy

Community housing rent procedure for affordable tenancies

1 Purpose

This procedure provides a framework within which Community Housing Providers (CHPs) may set their own rent policy for Affordable tenancies under the Master Community Housing Agreement.

This rent procedure seeks to support CHPs in their efforts to balance financial sustainability with social housing objectives including by:

- providing operational flexibility for CHPs
- ensuring that household rents remain affordable;
- supporting appropriate occupancy and utilisation relative to property size.

2 Scope

This procedure applies to:

1. Rents charged to community housing tenants assigned a Tenancy Type of Affordable, and who reside in properties subject to or bound by a Master Community Housing Agreement between a community housing provider and the South Australian Housing Trust ('SAHT').
2. New Tenants (Type 3 Tenancy Types) under the Renewing Our Streets and Suburbs (ROSAS) Housing Transfer Management Deed.
3. New Tenants (Type 3 Tenancy Types) under the Better Places Stronger Communities (BPSC) Housing Transfer Management Deed.
4. With the exception of Section 4 Tenancy Types, this procedure also applies to Transitional Housing Program tenancies under the leased Specialised Housing Program.
5. Crisis Housing Program tenancies under the Specialised Housing Program.
6. Specialised Lease Program tenancies leased under the Specialised Housing Program unless otherwise exempt in the lease.
7. Any other lease or agreement which specifically points back to this procedure.

This procedure is part of the Core Operating Rent Policy suite which comprises the following:

- Community Housing Rent Policy
- Addendum 1: Community Housing Rent Procedure for General Tenancies
- Addendum 2: Community Housing Rent Procedure for Supported Tenancies
- Addendum 3: Community Housing Rent Procedure for Affordable Tenancies
- Addendum 4: Community Housing Rent Procedure for NDIS-SDA tenancies

This procedure therefore does not apply to tenants assigned a General or Supported Tenancy Type, nor to tenants with Specialist Disability Accommodation funding under the National Disability Insurance Scheme (NDIS). Each of these are addressed in other Procedures.

Refer to Section 4 Tenancy Type below for more information on Tenancy Types.

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3 Framework details

3.1 Community housing rent policy accessibility and accountability

Community housing providers are required to develop their own rent policy for Affordable Tenancy Types that uphold the following principles listed from 3.2 – 3.6. This rent procedure and the CHP's rent policy must both be publicly available and made easily accessible to tenants. The CHP's rent policy must be transparent, fair, consistent with the [Residential Tenancies Act 1995](#) and provide an accurate basis for reporting.

3.2 Maximum Rent to be charged

No Affordable Tenancy Type Household will be charged more than 30% of gross (non-Commonwealth Rent Assistance (CRA)) income plus eligible CRA, up to a maximum of Market Rent (the market value rent for the relevant property if rented in the open market). Tenants will be charged the lower of income based rent and Market rent.

Where individuals live in a Group Household (or shared), the combined rent received by the CHP for that property will not exceed Market Rent. Group Households are where a number of non-related persons share accommodation e.g. in order to access common amenities and support services that are necessary due to disability.

Additional services levies are generally small charges for those items listed as exempted under Residential Tenancies Regulations (General) 1995 (Regulation 11, exemption list). Additional services levies cannot be charged in addition to the maximum rent. Additional Service Levies can be charged, however the total rent charged (base rent plus ASL) cannot exceed 30% of gross (non CRA) income plus eligible CRA (ie. 30% including ASL). Any [ASLs are](#) included in the total Rent Payable as a condition of the tenancy, with the purpose clearly stated on the tenancy agreement providing transparency both for the tenant and for the South Australian Civil and Administrative Tribunal (SACAT).

Practical application of the above:

- CHPs may choose to set a maximum rent lower than Market Rent, e.g. 80% or 75% of Market Rent to provide increased affordability for tenants, or to meet National Rental Affordability Scheme (NRAS) obligations, or to meet charity and tax requirements. If they do this CHPs still cannot charge more than 30% of gross (non CRA) income plus eligible CRA.
- CHPs have flexibility to determine what income is assessed in determining rent charged. For instance, CHPs may follow the Housing SA Rent Policy or the Community Housing Rent Procedure for General Tenancies which [partially assesses some income types](#) (e.g. Family Tax Benefit) and excludes many other income types (see [Assessable Income types for Housing SA and Community Housing](#)).
- CHPs may refer the [proof of income requirements](#) outlined on sa.gov.au for appropriate proof of income.

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3.3 Market Rent to be Determined

Market Rent will be determined in a transparent and independent manner, e.g. by Valuer General, or by an independent qualified valuer, and updated at least every 2 years to maintain accuracy.

CHPs will make publicly available their procedure for determining Market Rent, and will have in place a mechanism that ensures that Market Rents can be substantiated, appealed and reviewed by stakeholders including SAHT and tenants.

Practical application of the above:

- CHPs may choose to appoint an independent valuer for some or all properties, or they may choose to use Valuer General Market Rents made available by SAHT once per year in approximately late July.
- If Valuer General Market Rents are used, a tenant or the CHP may request a review by the Valuer General using the [Market rent query form](#).
- If an in-house or independent valuer is used (e.g. a qualified Valuer employed and paid for by the CHP), the CHP must ensure that a fully independent assessment can be made easily in the case of a challenge or appeal by a tenant.
- Note that ATO benchmarks are an approximate value set for ATO purposes not for genuine market rent purposes. ATO benchmarks are not particular to the property/street/condition of a property, and may be higher than actual market rent for a specific property. ATO benchmarks are therefore not an acceptable methodology for determining a market rent for the purpose of calculating rent to be charged under this procedure.

3.4 Rent reviews

The CHP must conduct rent reviews at least annually, but no more frequently than allowed under the Residential Tenancies Act 1995 or other applicable legislation (eg NRAS). The CHP must articulate in its policy how frequently and when it will review rents, and how changes to rent charges will be implemented. The CHP must describe in its policy and/or tenancy agreement, the tenant's obligation to provide evidence of income to support an income based rent under this framework.

The CHP may stipulate in its policy whether it will undertake responsive reviews for Affordable Tenancy Types, and under what conditions (e.g. when a tenant's income changes).

The CHP must ensure the manner in which it passes on any rent increases or decreases meets requirements under the Residential Tenancies Act 1995 (SA), and ensure tenants are paying no more than the maximum rent (30% of gross (non CRA) income up to a maximum of market rent).

Practical application of the above:

- The CHP may request at any time evidence from the tenant to support an income based rent provided it is a documented obligation in its policy and/or tenancy agreement.

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- CHPs may impose market rent where a tenant does not provide adequate [proof of income](#).

3.5 Repair Items exempted under the Residential Tenancies Act

The CHP must itemise in its rent policy (or other appropriate document such as tenancy agreement) the extent to which it will maintain the items listed as exempted under the Residential Tenancies Act 1995 and Residential Tenancies Regulations (General) 1995 (Regulation 11, exemption list).

3.6 Occupancy standards and Minimum Rent

CHPs may choose to set a nominated minimum rent for a property based on the number of bedrooms in a property and appropriate occupancy standards (eg [Canadian National Occupancy Standard](#)) to minimise under-occupancy.

The CHP will clearly articulate in its rent policy and be transparent in all lease agreements how it will deal with instances where a property becomes under-occupied over time, in a manner which is sensitive to the needs of tenants.

Practical application of the above:

- Prior to allocation, where 30% of a household's income does not meet the nominated minimum rent for a property, they will not be allocated that property, unless the CHP specifically waives the minimum rent. This can be explained to registrants that they will be passed over in the allocation process because they don't fit the Occupancy Standard (eg. They are a single person and the house will charge a minimum rent based on the house type, rooms etc).
- At the time when registrants get allocated a tenancy, it will be brought to their attention that there is a Special Condition in the Lease Agreement which sets a minimum rent for the property, which may be charged even if the household circumstances change eg. someone moves out.
- Once housed, where an Affordable Tenancy Type household size decreases to the point that a property is under-occupied, and income-based rent falls below the minimum rent set, the CHP may choose to (in accordance with its policy and tenancy agreement):
 - waive the nominated minimum rent and accept a lower income-based rent,
 - charge the minimum rent despite it being more than 30% of gross income for affordable tenancy types to possibly incentivise the tenant to move to more suitable accommodation,
 - relocate the Affordable Tenancy Type tenant to suitable alternative housing.

4 Tenancy Types

The Master Agreement sets out in Annexure A (and similarly at Schedule 7 in the ROSAS Housing Transfer Management Deed), the Portfolio Profile that must be maintained by each CHP. That is, it stipulates the number of tenancies that must be of General Tenancy Type, Affordable Tenancy Type and Supported Tenancy Type.

Each CHP assigns the Tenancy Type at the point of allocation, to each tenancy, taking account of the characteristics of the household, the household's eligibility for particular tenancy types, and the current profile of tenancy types in the CHP portfolio. Once assigned, the Tenancy Type dictates the rent procedure that is applicable and therefore the rent that can be charged.

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Eligibility is defined in detail in the [Eligibility Policy](#) and [Eligibility Procedure](#) and is summarised below in relation to Affordable Tenancy Types:

- A tenant must meet the [SAHT Eligibility Criteria](#) in the *Community Housing Eligibility Policy* and *Eligibility Procedures*.

5 Related information

5.1 Controlling documents

This policy is based on and complies with:

- *Community Housing Providers (National Law) (South Australia) Act 2013*
- *Residential Tenancies Act 1995 (SA)*
- [Master Community Housing Agreement](#)
- [Community Housing Rent Policy](#)

5.2 Related documents

- [Canadian National Occupancy Standard](#)
- [Community Housing Rent Procedure for General Tenancies](#)
- [Community Housing Rent Procedure for Affordable Tenancies](#)
- [Community Housing Rent Procedure for NDIS-SDA tenancies](#)
- Specialised Housing Program Policy
- Transitional Housing Program Guidelines

5.3 Date this procedure applies from

16 May 2019

5.4 Version number

1.1

The online version of the policy is the approved and current version. There is no guarantee that any printed copies are current.