Communities and Justice

Our Ref: 25/ [GIPA25/
Your Ref: -
11 September 2025

By email

Notice of decision under the *Government Information (Public Access) Act 2009* (NSW)

Dear

I refer to your access application made to the NSW Department of Communities and Justice (**'DCJ'**) under the *Government Information (Public Access) Act 2009* (NSW) (**'GIPA Act'**).

Decision

I am authorised by the principal officer of DCJ, for the purposes of s 9(3) of the GIPA Act, to decide your access application.

I have decided:

- under s 58(1)(a) of the GIPA Act, to provide access to part of the requested information.
- under s 58(1)(b) of the GIPA Act, that part of the requested information is not held by DCJ.
- under ss 58(1)(c) and 59(1)(e) of the GIPA Act, that part of the requested information is already available to you as the information is publicly available on a website.

These are reviewable decisions pursuant to s 80 of the GIPA Act. Further information about your review rights is provided below.

Scope of application

Your application requests access to the following information:

1. Current policy and procedure documents of Homes NSW which guide or describe the process for issuing notices of termination to tenants of the Land and Housing Corporation (**'Item [1]'**).
2. Current policy and procedure documents of Homes NSW which guide or describe how unpaid rent is calculated for a tenancy with the Land and Housing Corporation (**'Item [2]'**).

3. The total number of terminations by Homes NSW of tenancies with the Land and Housing Corporation on the basis of unpaid rent for the period of 1 January 2020 to 14 August 2025, broken down by year (**'Item [3]'**).

Searches for information

Section 53(2) of the GIPA Act requires an agency to undertake such reasonable searches as may be necessary to locate the government information requested in an access application.

Searches were conducted by the following business areas:

- Customer Experience and Innovation, Programs and Partnerships, Homes NSW Division.
- Open Government, Information and Privacy, DCJ Legal, Law Reform and Legal Services Division.
- Organisational Performance, Family and Community Services Insights, Analysis and Research (**'FACSIAR'**), Strategy, Policy and Commissioning Division.

Searches of Homes NSW policies and procedures identified the information described in the Schedule of Documents (**'Schedule'**) as relevant to Items [1] and [2].

Item [3] is addressed further below.

Decision: information not held

FACSIAR advises that statistical data identifying rent arrears as a reason for termination is not available for the requested timeframe. Data in relation to terminations for breach of a residential tenancy agreement is recorded based on the following reason codes:

- Breach – Eviction
- Breach – NCAT Terminated
- Breach – Abandoned

Available data is not further broken down into the nature of the breach that resulted in termination of a tenancy, so the data requested at Item [3] does not currently exist.[1] I have decided as such that the information is not held by DCJ.

While the requested data is not available, please note that available tenancy termination data for all financial years from 2014-15 to 2023-24 is published in DCJ's Annual Statistical Report 2023-24. To view data relating to terminations for breach of a tenancy agreement, follow the above hyperlink, select *All households exited from social housing*, and filter *Reason to exit* in the graph accordingly.

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[1] See GIPA Act s 75(2) which provides that: '[a]n agency's obligation to provide access to government information in response to an access application does not require the agency to … (a) make a new record of information, (b) update or verify information held by the agency, [or] (c) create new information, or produce a new record of information, by deduction, inference or calculation from information held by the agency or by any other use or application of information held by the agency.'

Department of Communities and Justice
Locked Bag 5000, Parramatta NSW 2124
ABN 36 433 875 185
02 9716 2662
www.dcj.nsw.gov.au

Decision: Information already available to applicant

An agency may decide that information is already available to an applicant if (among other reasons) the information is publicly available on a website.[2] Where such a decision is made, DCJ is not required to provide access to the information, but must outline in the notice of its decision why it is believed the information is already available and, if necessary, how the applicant can access it.[3]

Items [1]-[5] of the Schedule are publicly available online. I have decided as such that the information is already available to you.

The Schedule provides hyperlinks to access the relevant information.

A decision that information is already available to the applicant is a reviewable decision.[4]

Decision: provide access to information

A person who makes an access application has a legally enforceable right to access the requested information unless there is an overriding public interest against its disclosure.[5]

The public interest test, set out in s 13 of the Act, provides that there is an "overriding public interest against disclosure" if, and only if, there are public interest considerations against disclosure and, on balance, those considerations outweigh the public interest considerations in favour of disclosure.

Regarding the information at Items [6]-[10] of the Schedule, I have not identified any relevant public interest considerations against disclosure of the information. I have decided as such to provide access to the information.

A decision to provide access to information is a reviewable decision.[6]

Form of access

Access to Items [6]-[10] of the Schedule will be provided by giving you copies of the records (**enclosed**).

Disclosure log

I consider that the information at Items [6]-[10] of the Schedule may be of interest to other members of the public. I have decided for this reason to include details about your application in DCJ's disclosure log and make the information available to other members of the public. Your personal information will not be included in the disclosure log.

You did not object to information about your application being included in DCJ's disclosure log before your application was decided, so you are not entitled to seek a review of the decision to do so.[7] DCJ is entitled to make information available in its disclosure log immediately on deciding the application where no objection was received.[8]

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[2] GIPA Act s 59(1)(e).
[3] GIPA Act s 59(2).
[4] GIPA Act s 80(f).
[5] GIPA Act s 9(1).
[6] GIPA Act s 80(d).
[7] Cf GIPA Act s 80(m).
[8] GIPA Act s 26(2)(a).

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Processing charges

No processing charges apply to your application.

Review rights

If you are aggrieved by a reviewable decision set out in this notice, you are entitled to seek a review of the decision under Part 5 of the GIPA Act. Your review options are as follows:

- Internal review by another officer of DCJ who is no less senior than me.
- External review by the NSW Information Commissioner (‘**Commissioner**’).
- External administrative review by the NSW Civil and Administrative Tribunal (‘**NCAT**’).

You have 20 working days from the date of this notice (until 10 October 2025) to apply to DCJ in writing for an internal review. An internal review application must be accompanied by a fee of $40.00.

You have 40 working days from the date of this notice (until 7 November 2025) to apply to the Commissioner or the NCAT for an external review.

I have **enclosed** a fact sheet published by the NSW Information and Privacy Commission which further outlines your review rights.

Further information

Please contact me on 02 9716 2662 or at infoandprivacy@dcj.nsw.gov.au if you have any questions regarding this decision.

Sincerely

Jake Austin
Open Government, Information and Privacy Advisor
Open Government, Information and Privacy | Legal
Law Reform and Legal Services

Encl/s. (6).

Schedule of Documents

No.	Description	Third party consultation	Released/ withheld	Notes
1	Homes NSW – Policy – Account management – 18 December 2023	No	-	**GIPA Act ss 58(1)(c), 59(1)(e):** Publicly available on a website. Accessible at: Account management policy
2	Homes NSW – Policy – Charging rent – 18 December 2023	No	-	**GIPA Act ss 58(1)(c), 59(1)(e):** Publicly available on a website. Accessible at: Charging rent policy
3	Homes NSW – Policy – During a tenancy – 18 December 2023	No	-	**GIPA Act ss 58(1)(c), 59(1)(e):** Publicly available on a website. Accessible at: During a tenancy policy
4	Homes NSW – Policy – Ending a tenancy – 18 December 2023	No	-	**GIPA Act ss 58(1)(c), 59(1)(e):** Publicly available on a website. Accessible at: Ending a tenancy policy
5	Homes NSW – Policy – Tenancy charges – 18 December 2023	No	-	**GIPA Act ss 58(1)(c), 59(1)(e):** Publicly available on a website. Accessible at: Tenancy charges policy
6	Homes NSW – Guide – Managing arrears – 19 October 2022	No	Released in full	-
7	Homes NSW – Process – Going to the NSW Civil and Administrative Tribunal – 9 June 2025	No	Released in full	-

No.	Description	Third party consultation	Released/ withheld	Notes
8	Homes NSW – Process – Manage a rent subsidy – 16 July 2024	No	Released in full	-
9	Homes NSW – Process – Manage client debt – 20 October 2022	No	Released in full	-
10	Homes NSW – Process – Manage evictions – 20 October 2022	No	Released in full	-

Managing arrears

You should use this guide in conjunction with the Manage client debt process.

Arrears reports

For each client in arrears, the weekly arrears activity report shows:

- the amount of the arrears
- the date the last payment was made
- whether the tenant has made a repayment arrangement
- whether the tenant is meeting the conditions of their arrangement
- the date the last action was taken
- the letters that HOMES has sent
- the last note recorded in the Account Notepad.

Checking information on the arrears report and in HOMES

Check the following to help you to determine whether you need to initiate, escalate or monitor arrears recovery action for each account:

- the current balance on the account. The tenant may have made a payment changing the balance of the account after the report was generated
- whether the tenant has made a repayment arrangement and, if so, if they are maintaining that arrangement
- the date the last action was undertaken
- what letters HOMES has previously issued
- the tenant’s payment history. It is especially important to keep records of this so that you can ask for any termination application later to be heard under Section 89(5). See Seeking Orders for Termination and Possession from the NCAT below
- whether the tenant could use any credit on one account to offset a debt on another account. If so, you should consider contacting the tenant to obtain permission to transfer the credit
- whether there is an error on an RDS payment, or if the payment amount received is different to the amount requested. Key Details in RDS Authority Details page displays the latest error message associated with the rejected deduction. If there is an error or a missing/different payment, you should investigate the reasons and, where possible, rectify the error
- whether the RDS is suspended by Centrelink and so the payment was not made to the revenue account. If the RDS Deduction is suspended with a reason code CLKSUSP, then you should discuss with the tenant and arrange alternative payment arrangement
- whether *PYI Messages* region in RDS Authority Detail page displays action code PBS (suspended), PBC (cancelled), PBR (rejected) or PAZ (set to zero) due to not receiving Centrelink payment or insufficient fund. If client’s benefit is not active, no payment will be received until the benefit is reinstated
- whether the Department of Communities and Justice (DCJ) Housing has ended the current rent subsidy and is charging the tenant for the market rent
- whether the debt has occurred because of a subsidy adjustment
- whether the account is in dispute

- if the tenant has advised you that they will not be paying their rent on time for reasons such as admittance to hospital or a nursing home.

Contacting a tenant about arrears

Tenants should be contacted at all points in the arrears process, for example:

- when they go into arrears
- when they are in arrears and do not have an arrangement in place
- when they are maintaining an arrangement
- when the arrears process escalates.

For information and practical guides on how to support Aboriginal and Torres Strait Islander tenants, refer to the following resources:

- Foundations for Success Guide
- Foundations for Success Easy Reference Guide
- Working with Aboriginal and Torres Strait Islander clients

If you are working with Aboriginal clients with complex needs, an early referral may be necessary to:

- an Aboriginal SCSOS or a SCSOS
- your local Aboriginal Tenants Advice and Advocacy Service (ATAAS) provider
- Services Our Way

Before you contact a tenant, you should ensure that you have the following information:

- the amount the tenant is in arrears
- the length of time the tenant has been in arrears
- the tenant's arrears history
- whether the tenant is currently repaying arrears through a repayment arrangement
- whether the tenant has been keeping to the repayment arrangement
- any relevant information about the tenant stored in the HOMES notepads or their file
- whether the tenant has been referred to support services and, if so, which one(s) and when.

When you are conducting a client service visit with your iPad, check whether the client has any accounts in arrears. You will be able to record a new repayment arrangement with the client in IVY while at their property which will automatically update HOMES.

Contacting third parties about arrears

You may be required to contact a person or organisation other than the tenant to discuss their arrears. This may occur where a support agreement is in place, or where the tenant has given permission to contact someone else about their rent on their behalf. For example, you may need to contact:

- the NSW Trustee and Guardian
- the Public Guardian
- a tenant's legal guardian
- a person holding a power of attorney
- a friend or relative
- a tenant's advocate or support worker.

Before contacting some third party representatives, you must ensure that the tenant has provided a signed consent form that gives you permission to contact a third party, and that the third party has also given their written consent to be the nominated representative. You do not need a signed consent form to contact:

- the NSW Trustee and Guardian
- the Public Guardian
- a tenant's legal guardian
- a person holding a power of attorney.

Tenants with debts on multiple accounts

When a tenant has multiple debts, you must first prioritise the repayment of rent and water arrears. You should divide the total arrangement amount to ensure that the tenant is making repayments towards both debts.

After this, you must prioritise the repayment of debt on other current accounts, followed by debt on a combined former debt account. You must discuss with the tenant a repayment plan to ensure that they repay all debts. You must explain that a failure to repay debts from former tenancies is a breach of their current tenancy agreement and that DCJ Housing can pursue this through the NSW Civil and Administrative Tribunal (NCAT).

Reasonable repayment arrangements

A reasonable repayment arrangement is:

- 40% of the household's subsidised rent where the tenant receives a rent subsidy.
- 40% of the household's pre CRA rent where the tenant is living in an Aboriginal Housing Office (AHO) property and receiving Commonwealth Rent Assistance (CRA).
- 40% of the household's market rent where the tenant pays the market rent.

Generally, arrangements for less than the reasonable repayment amount should not be less than 35% of the tenant's subsidised or market rent. You should only consider accepting a lesser amount if the tenant demonstrates that the reasonable repayment amount is unaffordable. Acceptable reasons why a tenant might not be able to afford the reasonable amount, or where they have broken a reasonable repayment amount, include (but are not limited to):

- there has been a death in their immediate family
- the tenant or household member has been hospitalised
- the tenant or household member has been admitted to a respite facility
- the tenant or household member has been admitted to a drug and alcohol rehabilitation facility
- the tenant or household member has been imprisoned
- the tenant or household member has recently become unemployed
- the tenant or household member has been declared bankrupt.

The reason for a tenant falling into arrears will vary and it is important that you look into the circumstances of the case. Where other significant or compassionate reasons exit, they must only be accepted with approval from the Housing Manager or Team Leader.

Generally, arrangements for more than the reasonable repayment amount should not be for more than 45% of the tenant's rent payable. A Team Leader must approve an arrangement for more than the reasonable repayment amount (up to 45%).

Arrangements for more than 45% of the tenant's rent payable must be approved by an Operations Manager or Director Housing Services.

With the introduction of reasonable repayment arrangements, you must note the following:

1. Where a tenant is currently on an arrangement that is more than the reasonable arrangement, they may request that their arrangement be reduced to the lower amount.
2. Where a tenant is currently on an arrangement that is less than the reasonable arrangement, they will not be asked to increase their repayment amount.
3. Where a previously existing arrangement is broken, the tenant must agree to a new reasonable repayment amount.
4. Where a repayment arrangement for less than the reasonable repayment amount is entered into, you must include a date to review the arrangement with the tenant to check if their circumstances have changed and the repayment amount remains sustainable.

Determining appropriate escalation options

Repayment arrangements

Enter into a new or changed repayment arrangement where one or more of the following applies:

- the tenant has provided an acceptable reason for not maintaining the most recent arrangement
- the tenant requests a new repayment arrangement
- the tenant has never been in arrears before
- the tenant has previously been in arrears but has a history of maintaining repayment arrangements
- the tenant is in arrears because of an error on the part of DCJ Housing or another government agency
- the arrears are increased because there was a delay by DCJ Housing in contacting the tenant
- the tenant is in arrears because of an unforeseen event or circumstance.

Note: You can record a repayment arrangement while visiting the client in their home using IVY on your iPad.

Specific performance order

Make an application for a Specific Performance Order under Section 187 of the *Residential Tenancies Act 2010* where one or more of the following applies:

- the tenant has not provided an acceptable reason for not maintaining the most recent arrangement
- the tenant's arrears history indicates a pattern of not maintaining arrangements
- the tenant has not presented or been available to discuss their arrears
- the tenant refuses to enter into a reasonable repayment arrangement

Notice of termination

Recommend issuing a Notice of Termination where:

- the tenant's account is 14 days or more in arrears, and
- the tenant has not presented or been available to discuss their arrears, or
- the tenant has not provided an acceptable reason for not complying with a Specific Performance Order, or
- the tenant's history indicates a pattern of breaching Specific Performance Orders.

Prior to issuing a Notice of Termination you must be satisfied that there is sufficient evidence of your attempts to resolve the arrears that the Director Housing Services or District Director would approve the execution of a Warrant of Possession.

Seeking orders for termination and possession from the NCAT

Section 89(3) of the *Residential Tenancies Act 2010* provides that when a notice of termination is issued under Section 87 of the Act for non-payment of rent, the termination process including any termination order, order for possession or warrant for possession has no effect if:

- The tenant pays all the rent owing or enters into, and fully complies with, a repayment plan agreed with the landlord.

However, Section 89(5) allows DCJ Housing to apply for a termination order that is effective even if the tenant pays all the rent owing or agrees and complies with a repayment plan if the tenant has frequently failed to pay rent owing for the residential premises on or before the day set out in the residential tenancy agreement.

The dictionary definition of ‘frequent’ is “happening again and again; occurring time after time”.

As yet there is no legal definition for frequently failing to pay rent. You should consider the payment history of each tenant whose tenancy you are seeking to terminate for rent arrears to see if there is evidence of failure to pay rent “happening again and again”.

You will need to use your own judgement and experience from prosecuting similar NCAT cases. However, if you have followed DCJ Housing arrears management processes and this Guide it is likely that you will have evidence the tenant has frequently failed to pay rent.

About this page

- Date updated
  19 Oct 2022
- Content owner
  Housing Statewide Services
- Directorate
  DCJ Housing Services

[Housing Hub](#)

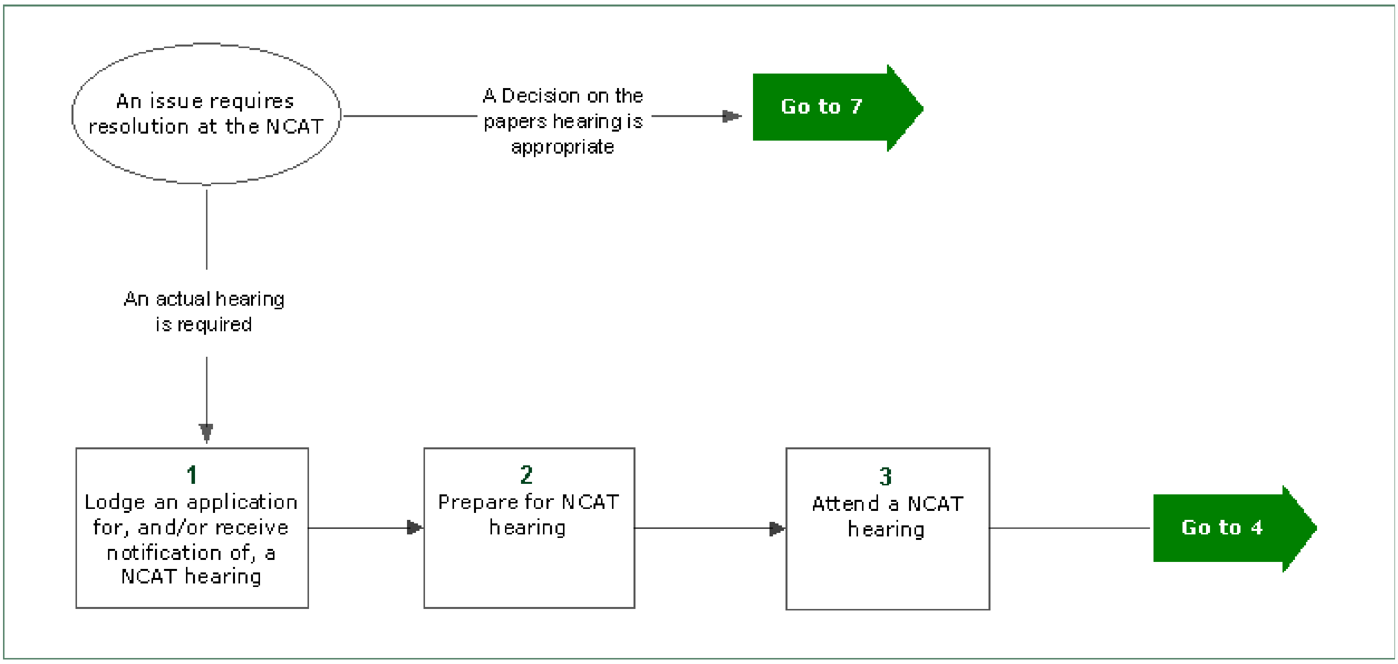
[Processes](#)>[Manage tenancies](#)>Going to the NSW Civil and Administrative Tribunal
Process

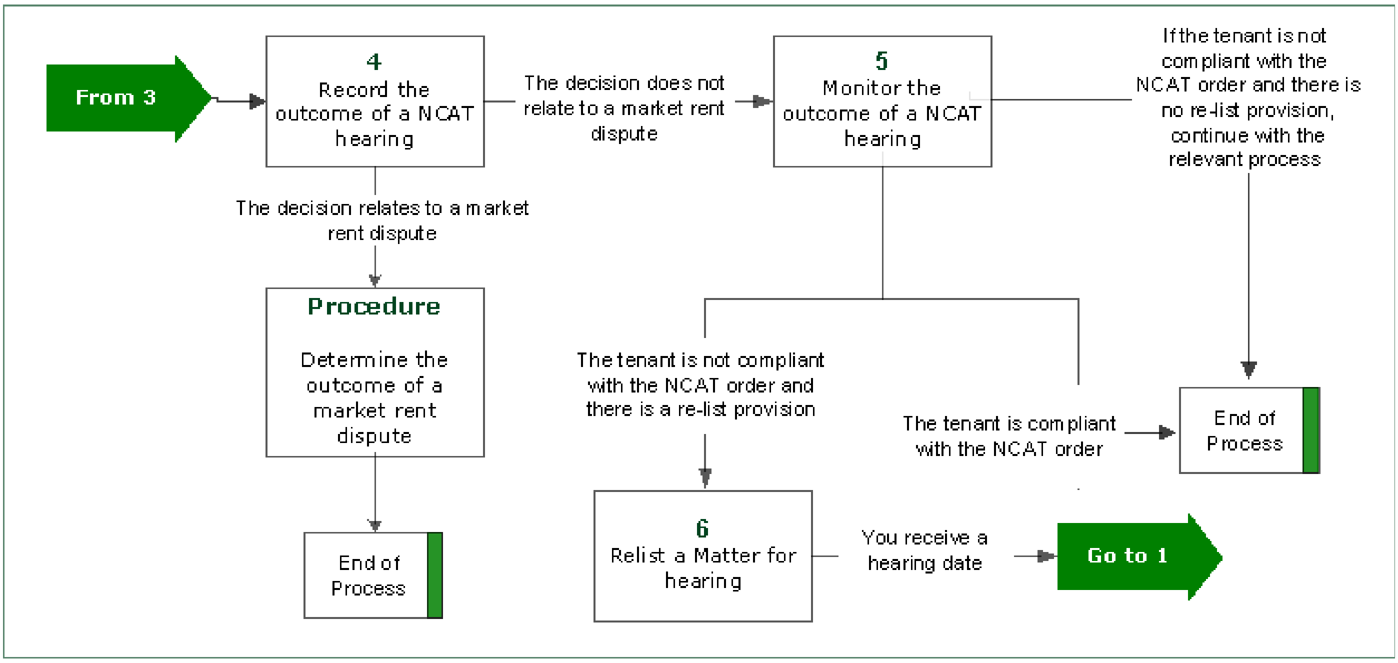
Going to the NSW Civil and Administrative Tribunal

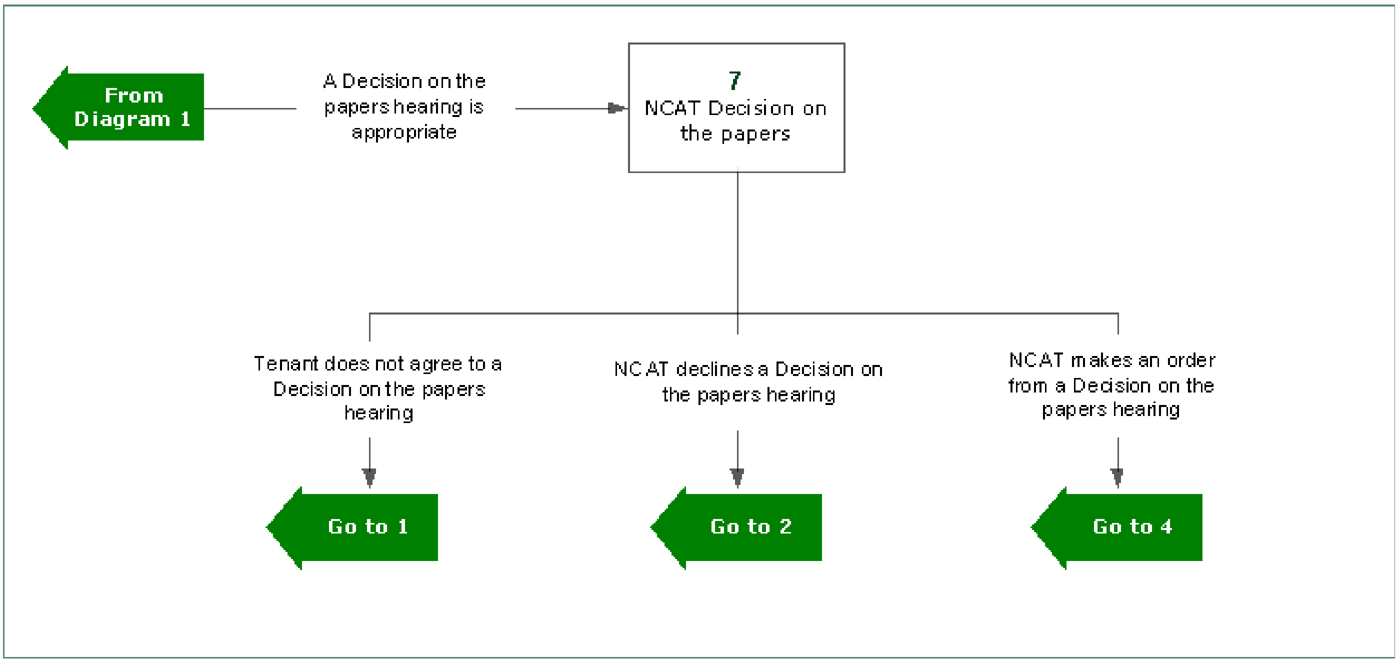
Business area:
Tenancy management

- Policies
  - During a Tenancy Policy - Homes NSW
  - Tenancy Policy Supplement - Homes NSW
- Procedures within this process
  - Attend a NCAT hearing
  - Internal appeals (NCAT) - Homes NSW initiated
  - Internal appeals (NCAT) - tenant initiated
  - Lodge an application for, and/or receive notification of, a NCAT hearing
  - Manage tenant damage charges
  - Monitor the outcome of a NCAT hearing
  - NCAT decisions on paper
  - Prepare for a NCAT hearing
  - Record the outcome of a NCAT hearing
  - Re-list a matter for hearing

Process diagram −







Overview

The NSW Civil and Administrative Tribunal (NCAT) is an independent body whose role is to resolve disputes between landlords and tenants in a timely and effective manner.

The NCAT has jurisdiction to consider and adjudicate matters under the *Residential Tenancies Act 2010*. It can hear disputes and make orders concerning breaches of a Residential Tenancy Agreement, and can enforce the rights of landlords and tenants under the *Residential Tenancies Act 2010*.

Breaches of the Residential Tenancy Agreement include matters such as repairs, rent, rental bond and/or water arrears, poor property care and antisocial behaviour. As a landlord or as managing agent of LAHC, the Minister administrating the Housing Act 2001 or the AHO properties, Homes NSW may also seek to enforce its rights under the *Residential Tenancies Act 2010*. For example, to terminate a fixed term tenancy agreement where the tenant is not eligible for a lease extension, or to terminate a tenancy agreement where the tenant has failed to accept alternative accommodation when being relocated for management purposes.

A Homes NSW tenant may also seek to enforce their rights under the Act. For example, they may seek an order that a market rent increase is excessive, or that Homes NSW carry out repairs. See the Tenant initiated NCAT matters process for more information.

The types of orders that Homes NSW request include:

- Orders under Section 187, for example, a money order or a Specific Performance Order to the tenant to comply with the terms of their tenancy agreement. You do not need to issue a Notice of Termination to seek orders under this section.
- Orders under Section 85, for example, a termination order where a tenant or their spouse/partner on a continuous lease owns a property that they could live in or sell.
- Specific Performance Orders.
- Orders to terminate the tenancy.
- Orders to take possession of the property.
- Orders to dispose, remove or store of an abandoned vehicle.
- Orders specifying the way in which high value (at least $20,000) uncollected goods are to be disposed of.

The maximum order the NCAT can make for the payment of money or performance of work is $15,000. Where a claim exceeds $15,000, you must pursue it in the local court.

The tenant, or Homes NSW, can request a NCAT hearing. The hearing is an opportunity for Homes NSW and a tenant to present and defend the application for orders before the NCAT.

The tenant, or Homes NSW can request a NCAT hearing in the case of a rental bond claim dispute. The NCAT will decide on how the bond is to be refunded and to whom.

If Homes NSW has initiated a claim for a rental bond and NSW Fair Trading has refunded the bond to Homes NSW the client can lodge an appeal with the NCAT to dispute the refund within 6 months of the claim being paid.

The NCAT carries out most hearings on an informal basis. However, either party to the proceedings (or all parties by consent) can request a formal hearing. A formal hearing may require the calling of witnesses giving evidence under oath. At an initial hearing, the NCAT will not permit the parties to call witnesses. This is usually a directions hearing to decide how long the hearing will take and what documents the parties must disclose to each other.

Homes NSW may seek leave from the NCAT to be represented by the DCJ Legal Services Branch. If a client retains legal counsel, the NCAT will normally grant leave for Homes NSW to be legally represented. Someone from the client service team should attend the hearing with the representative of Legal Services Branch to give instructions and approval to take certain action to settle the matter.

If the Client Service Team feel that a matter is complex, for example illegal use of the premises, they can refer to the DCJ Legal Services Branch to manage the case. A DCJ Legal Services Branch referral DCJ0148 form should be made for Homes NSW initiated NCAT matters if any of the following conditions are met:

- Section 85 Order for termination of the tenancy and possession of the premises (without reasons)
- Section 90 Order for immediate termination of the tenancy and possession of the premises
- Section 91 Order for immediate termination of the tenancy and possession of the premises
- Section 92 Order for immediate termination of the tenancy and possession of the premises
- the tenant/s have legal counsel or representation
- any appeals to the NCAT Appeal Panel
- issue of a Notice of Termination regarding property ownership by a tenant on a continuous lease
- tenant damage charge amounts greater than $15,000
- dispose, remove or store of an abandoned vehicle
- any other matter of sufficient legal complexity which may have broader implications for Homes NSW (Please note: DCJ Legal will assess the legal complexity of the matter and if not sufficiently complex the matter will be returned to the district to manage).

A tenant should attend the hearing in person. However, on some occasions, a tenant will send a representative to the hearing. The tenant must provide written authorisation for the representative to appear on their behalf at the hearing.

Where both parties are present, the NCAT is under a duty to use its best endeavours to ensure the parties have attempted to conciliate a settlement to their problem. If the parties do not settle the matter, the NCAT member will make a decision on the evidence presented.

The NCAT will notify the parties in writing of the outcome of the hearing.

Process rules

- The Deputy Secretary Housing, Disability, District Services and Disaster Welfare must approve any direct applications for termination, under Sections 90 and 91 of the Act, prior to the team proceeding to NCAT.
- The Executive District Director must approve any direct applications for termination, under Section 92 of the Act, prior to the team proceeding to NCAT.
- The Authority to Act on behalf of Land and Housing Corporation and/or the Minister administering the Housing act 2001 and/or the Aboriginal Housing Office can be one or three letters but must contain the title of the Organisation you are representing.
- The Housing Director (either Band 1 or Grade 11/12 as per the Homes NSW District structure) is responsible for signing the Authority to Act on behalf of Land and Housing Corporation and/or the Minister administering the Housing Act 2001 and/or the Aboriginal Housing Office letter allowing staff to appear before the NCAT. Usually a Senior Client Service Officer will attend on behalf of Homes NSW. One person may handle cases for a number of teams.
- As Homes NSW represents the NSW Land & Housing Corporation, the Minister administering the Housing Act 2001 and the Aboriginal Housing Office, you must ensure you have a copy of the Authority to Act letter that covers all relevant owning entities.
  This letter authorises you to represent one or more of these organisations, which own properties managed by Homes NSW.
- If the client was a Homes NSW tenant prior to the transferring of the property to the AHO in June 1999, you must obtain a Letter of Attornment from Housing Statewide Services.
- If the matter relates to property ownership by a tenant on a continuous lease, advice from the Housing Fraud Unit and the DCJ Legal Services Unit must be obtained before proceeding with the issue of a Notice of Termination.
- You must check HOMES and OneTRIM to determine if the property address has changed. Notification of the change must be presented at the NCAT with the Residential Tenancy Agreement, by either a copy of the letter issued to the tenant, or if no letter has been issued, a copy of the change from the screen in HOMES.
- All referrals to the DCJ Legal Services Branch must meet one or more of the above conditions.
- DCJ L egal Services Branch Tenancy Referral DCJ0148 form must be completed in full – with clear instructions and a complete set of relevant records.
- Homes NSW Manager of Housing Services, Grade 11/12 or an equivalent are responsible for reviewing and approving all DCJ Legal Services Branch referrals.
- For antisocial behaviour that needs to be referred to the DCJ Legal Services Branch, staff to use the Antisocial Behaviour Submission form generated through HOMES. See the Manage an antisocial behaviour incident process for more information.
- All DCJ Legal Services Branch referrals must be made within a timely manner. Failure to provide DCJ Legal Branch with the adequate time required to review, compile and prepare for a case, will result in the referral being declined and referred back to the Client Service Team to manage accordingly and/or find alternative legal counsel at a cost to the District.
- Homes NSW Housing Districts are responsible for the creation of the OneTRIM Subfolder and for ensuring it contains all relevant documents related to the matter when completing the legal referral.
- Homes NSW Housing Services teams must have provided written advice to the former tenant to collect the high value goods and notice of Homes NSW's intention to apply to the NCAT for an order specifying the manner in which the goods are to be disposed of.

Related Links

- NSW Civil and Administrative Tribunal Act 2013
- NSW Civil and Administrative Tribunal Regulation 2022
- NCAT - Evidence and witnesses
- NCAT - Videos (please open in google chrome)
- NCAT Standard Submissions - Death of a Tenant (DOC, 39.5 KB)
- NCAT Standard Submissions - Length of Time for Possession (DOC, 42.5 KB)
- NCAT Standard Submissions - Market Rent Hearing (PDF, 26.43 KB)
- NCAT Standard Submissions - Non-Economic Loss in Compensation Matters (DOC, 111.5 KB)
- NCAT Standard Submissions - Rent Abatement (DOC, 45.5 KB)

- NCAT Standard Submissions - Unlawful Use, Nuisance and Annoyance (PDF, 49.34 KB)
- *Residential Tenancies Act 2010*
- NCAT Standard Submission - Rental Bonds Claim (Rent Arrears)
- NCAT Standard Submission - Rental Bonds Claims(Damage caused by unauthorised alterations to the property)
- NCAT Standard Submission - Rental Bonds Claims (Damage - CF Fair Wear & Tear)
- DCJ Legal Services Branch Tenancy Referral DCJ0148 form
- Tenant initiated NCAT matters
- Manage an antisocial behaviour incident

About this page

- Date updated
  9 Jun 2025
- Content owner
  Service Delivery and Assurance Hub
- Directorate
  Homes NSW Housing Programs and Partnerships (HPP)

Manage a rent subsidy

Business area:
Tenancy management

- Policies
  - Charging Rent Policy
  - Rent Subsidy Non-Disclosure Policy
  - Tenancy Charges Policy
- Procedures within this process
  - Amend subsidy assessment code for AHO properties
  - Apply an individual subsidy grace period
  - Calculate Commonwealth Rent Assistance for tenants in AHO properties managed by DCJ
  - Conduct a scheduled group subsidy review
  - Conduct a rent subsidy review under the AHO Scheduled Group Subsidy Review process
  - Conduct an automatic group subsidy update
  - Conduct an individual subsidy review
  - End an active rent subsidy in HOMES
  - Manage a rent subsidy adjustment
  - Manage the COVID-19 $5 rent
  - Manage the monthly subsidy audit report
  - Request tenant to provide proof of income for a subsidy review
  - Manage the reduced rent report

Overview

Homes NSW charges market rent for all its properties. When a tenant receives a rent subsidy, it reduces the amount of rent they are required to pay. A rent subsidy is the difference between the market rent of the property and the rent the tenant pays based on their assessable household income. The rent subsidy is not paid directly to the tenant but is deducted straight from the market rent. The tenant pays the remaining balance which is called the rent payable.

A subsidy application and review are created in HOMES when a new tenancy has commenced. A new subsidy review is created when a group subsidy review is undertaken; the tenant has advised of a change of circumstances during the tenancy; or when a tenant paying market rent is now eligible for a subsidy due to a change in circumstances.

Homes NSW can assess a rent subsidy throughout any stage of the tenancy.

There are three types of rent subsidy review:

- an individual subsidy review
- an automatic group subsidy update
- a scheduled group subsidy review.

An individual subsidy review occurs when Homes NSW receives a Rent Subsidy Application form from a tenant. This commonly occurs at sign up or when a tenant's income or household circumstances have changed.

An automatic group subsidy update occurs twice a year when Homes NSW applies the Centrelink CPI increases to tenants' statutory incomes.

A scheduled group subsidy review occurs when Homes NSW writes to a group of tenants and requests updated income details to review their eligibility for a rent subsidy. The client must provide a Rent Subsidy Application form and the appropriate proof of income documents.

[Questions and Answers for Staff - Scheduled Group Subsidy Reviews]

Note: If a subsidy review was part of an AUTO Subsidy Update, then the description will display in the expand field Group Review Reference.

Specialist Subsidy Assessment Teams (SSATs)

Specialist Subsidy Assessment Teams located in Districts process all Aboriginal Housing Office (AHO) subsidies including subsidies for new tenants, change of income and household circumstances as well as an annual scheduled review.

Local Client Service Teams process Homes NSW subsidies for new tenants and change of circumstances except where the subsidy involves particular complexity such as self employed persons or where the source of income is unusual such as from a Trust Fund or superannuation annuity. In those cases the subsidy can be referred to the SSAT for processing.

AHO subsidy reviews

Each household is reviewed once in every 12 months.

AHO subsidy review dates will vary across each District - there will not be a common effective date for all tenancies.

If a household has had a change of circumstances or a subsidy has been reviewed within the past 12 months then that tenant's annual review will be 12 months from the effective date of the last subsidy review.

SSAT members have been given access to the Commonwealth Rent Assistance (CRA) Calculator.

Timeframe for processing Rent Subsidy Application forms

A Rent Subsidy Application form, with all required information completed is to be processed without delay and Activated in HOMES within 14 days.

Ministerial correspondence and appeals

All ministerial correspondence and appeals related to subsidies are managed by the local District/Client Service Team. If required, the SSATs will provide the District/Client Service Team with details relating to the subsidy review.

Applying subsidy grace periods

A grace period provides the household with a period of time during which the existing subsidised rent continues to be paid not withstanding an increase in the household income due to an occupant having commenced employment. Under the Start Work Bonus a tenancy is eligible for a grace period or combined grace periods of a maximum 26 weeks in a financial year.

Advising tenants of their rent payable and charges

When any subsidy review is complete, tenants will be notified in writing of their new rent and, if applicable, water usage charges, and the date they must start paying them.

When creating, ending or amending a Vacant Bedroom Charge a new rent subsidy review should be undertaken so the tenant can be advised in writing of the new rent payable and the vacant bedroom charge.

Cancelling an individual subsidy review

You can amend income details up until the subsidy review has been activated. Prior to this point, the subsidy review has a status of 'raised' or 'assessed'. You can cancel a raised or assessed subsidy review if it contains errors, was created by mistake, or is no longer needed. Once a rent subsidy has been activated, the subsidy review cannot be cancelled. If the subsidy review contains errors or was created by mistake a new subsidy review must be created with the correct income and household details.

Ending a subsidy

You can end a rent subsidy entitlement in one of the following circumstances:

- The tenant has not provided requested income information within the specified timeframes.
- A tenant advises in writing that they no longer want a rent subsidy.
- A tenant fails to respond to attempts to contact them about allegations that the details of their subsidy assessment may be incorrect.
- A tenant has failed to disclose a change to their household circumstances and non-disclosure has been determined, however, there is insufficient income or household details to complete a new review.
- A tenant has failed to disclose a change to their household circumstances and the District Director has given written approval to end the rent subsidy entitlement.

Rent subsidy adjustment (backdating/retrospective adjustment)

Rent subsidy adjustments may occur over a number of previous rent subsidy review periods because:

The tenant advises of changes to household circumstances dating back through existing subsidy periods; or

Approval has been given to reassess a rent subsidy due to non-disclosure or fraud, which dates back through existing subsidy periods.

Rent Subsidy cancellations or adjustments (Non-Disclosure or Fraud)

The tenant will have 21 days to lodge a first tier appeal against the decision to cancel or adjust their rent subsidy from the time of issuing the SUBNDISC1 (DOC, 47 KB) or the SUBNDISC2 (DOC, 48.5 KB).

Under the *Residential Tenancies Act*, a debt arising as a consequence of a retrospective subsidy cancellation/adjustment is to be considered as if the amount owed was rent and the failure to pay was a breach of the tenancy agreement.

When a rent subsidy is retrospectively cancelled or adjusted due to fraud or non-disclosure a debt will be created on the tenant's rent account. Account codes "SUBF" for subsidy fraud matters and "SUBN" for subsidy non-disclosure matters should be used. New debts arising from retrospective subsidy cancellation/adjustment are considered as rent debts and may be recovered as rent arrears at NCAT.

Audit and filing requirements

All rent subsidy documentation, including the Rent Subsidy Application form are to be scanned and placed in the tenant's OneTRIM folder.

Team Leaders are to audit 5% of all subsidies processed by their team each month.

Delegations and controls

Refer to Schedule A: Delegated Officers to find out what level your job role is categorised as, then refer to Schedule B: General Financial Limits to see the general financial limit your job role has been set.

For example, a SCSO is classified as a clerk 5/6. We can see in Schedule A this is a category level 6. In Schedule B, the general financial limit for a category level 6 is $50,000.

The following delegations and controls apply to the entire process:

Procedure name	Step #	Delegation type	Description
Manage a Rent Subsidy Adjustment	3	Admin Financial	A Client Service Officer can: • Approve $5 minimum rent for up to 3 months. • Approve a subsidy adjustment in HOMES as per Schedule A: Delegated Officers and Schedule B: General Financial Limits. • Recommend rent subsidy cancellation due to non-disclosure or fraud.
Manage a Rent Subsidy Adjustment	3	Admin Financial	A Senior Client Service Officer can: • Complete all of the above. • Approve a subsidy adjustment in HOMES as per Schedule A: Delegated Officers and Schedule B: General Financial Limits.
Manage a Rent Subsidy Adjustment	3	Admin Financial	A Team Leader can: • Complete all of the above. • Approve $5 minimum rent charge for more than 3 months. • Approve a subsidy adjustment in HOMES as per Schedule A: Delegated Officers and Schedule B: General Financial Limits.
Manage a Rent Subsidy Adjustment	3	Admin Financial	A Director, Housing Services can: • Complete all of the above. • Approve a subsidy adjustment in HOMES as per Schedule A: Delegated Officers and Schedule B: General Financial Limits.

Procedure name	Step #	Delegation type	Description
Manage a Rent Subsidy Adjustment	3	Admin Financial	A District Director can: • Complete all of the above. • Approve a subsidy adjustment in HOMES as per Schedule A: Delegated Officers and Schedule B: General Financial Limits.
End an Active Rent Subsidy in HOMES	2	Admin	A Senior Client Service Officer can end a rent subsidy when the tenant does not provide the necessary information during an individual subsidy review.
End an Active Rent Subsidy in HOMES	2	Admin	A Team Leader can approve the ending/cancellation of the current rent subsidy where: • the tenant does not respond to, or contact, Homes NSW, or • non-disclosure has been determined but there are insufficient details to reassess the subsidy
End an Active Rent Subsidy in HOMES	2	Admin	A Director, Housing Services or District Director can approve cancellation/ending of a rent subsidy due to Rent Subsidy Fraud.

Supporting documents

Name	Description	Size	Type
Schedule A: Delegated Officers	Lists 13 levels of Delegated Officers based on positions and salary grades	--	Link
Schedule B: General Financial Limits	Sets out the maximum financial limits for each category of Delegated Officer for general financial matters.	--	Link

Name	Description	Size	Type
Schedule AB: Housing Act	Relates to the management and provision of Housing	--	Link
Specialist Subsidy Assessment Teams (SSAT) OneTRIM contacts	A list of the OneTRIM contacts for each district.	--	Link
Q&A for Staff - Scheduled Group Subsidy Review	Information for Housing Services staff regarding the Scheduled Group Subsidy Reviews	--	Link

About this page

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  16 Jul 2024
- Content owner
  Housing Statewide Services
- Directorate
  Homes NSW Housing Services

Process

Manage client debt

Business area:
Tenancy management

- Policy
  - Account Management Policy
- Procedures within this process
  - Enforce a money order
  - Identify and determine the appropriate action for accounts in arrears
  - Make, record and monitor an arrears repayment arrangement
  - Manage an account dispute

Overview

A tenant has a legal obligation to pay their tenancy charges as they become due. If a tenant fails to make payments, their accounts will fall into arrears. If this occurs, you should act quickly in contacting the tenant to ensure that they commence a regular payment cycle as soon as possible. This is because Homes NSW is reliant on the income received from rent and water usage payments to fund things such as staff salaries and maintenance.

For information and practical guides on how to support Aboriginal and/or Torres Strait Islander tenants, refer to the following resources:

- Foundations for Success Guide
- Foundations for Success Easy Reference Guide
- Working with Aboriginal and Torres Strait Islander clients
- AHO and DCJ exchange guidelines

If you are working with Aboriginal clients with complex needs, an early referral may be necessary to:

- an Aboriginal SCSOS or a SCSOS
- your local Aboriginal Tenants Advice and Advocacy Service (ATAAS)
- Services Our Way.

Tenants must also repay debts from any former public housing tenancies. Under Section 140 of the *Residential Tenancies Act 2010*, Homes NSW is able to pursue these debts as part of the current tenancy. There are statutory limitations on recovering former tenant debts depending on the length of time that has passed. For more information see Assessing former social housing tenancy debts under the *NSW Limitation Act 1969*.

Current tenants who cause significant damage to public housing properties are also required to pay a rental bond under section 156D of the *Residential Tenancy Act 2010.*

In order to assist with the management and recovery of client debt, HOMES contains the following automatic arrears recovery actions:

Rent accounts

Where a rent account becomes more than $20 but less than one week in arrears, and the tenant has not made a repayment arrangement, HOMES will generate an automatic letter and place the account in the arrears cycle. The tenant will receive further automatically generated letters if their rent account becomes:

- more than one week but less than two weeks in arrears
- more than two weeks in arrears

Water usage accounts

Where a water account becomes more than $20 in arrears and the tenant has not made a repayment arrangement, HOMES will generate an automatic letter and place the account in the arrears cycle.

If the account is still in arrears and the tenant has not made a repayment arrangement, they will receive further automatically generated letters:

- one week after HOMES issued the first letter
- one week after HOMES issued the second letter.

Rental Bond Accounts

A tenant is deemed as being in arrears when the tenant does not have enough credit in the rental bond account to cover the scheduled fortnightly instalment payment.

Where a bond account falls into arrears letters will be sent to the tenant when the following occurs:

- less than $20 in arrears and no arrears repayment arrangement
- more than $20 debt but less than $50
- more than $50 in arrears

If a tenant pays the arrears amount completely, the arrears cycle is reset.

Non-rent accounts

One week after Homes NSW places a debt on a tenant’s non-rent account (for example, the repairs or miscellaneous account) the tenant will receive an automatically generated letter.

If the account is still in arrears and the tenant has not made a repayment arrangement, they will receive further automatically generated letters:

- one week after HOMES issued the first letter
- one week after HOMES issued the second letter.

Although HOMES commences arrears recovery action by generating letters as outlined above, client service staff must undertake manual arrears recovery action.

In managing the recovery of arrears you should consider:

- the tenant’s payment patterns, including whether they have frequently failed to pay rent on time. For more information see the During a Tenancy policy
- the amount and type of the debt
- the reason for the arrears
- the tenant’s capacity and willingness to repay the arrears
- whether the tenant requires support services or a referral to another organisation to assist them in managing either their finances, or other aspects of their life that impact on their ability to pay their tenancy charges
- previous arrears patterns, including the steps that have been taken to resolve the problem.

These factors will help you to determine which of the following actions is most appropriate to recover the debt:

- negotiating a reasonable repayment arrangement
- applying for a Specific Performance Order
- issuing a Notice of Termination
- appling for an order of Termination and Possession
- enforcing a money order.

In some instances, you may need to place an account in dispute, or otherwise suspend it from the escalation cycle. This may occur when, for example, a client disputes their account balance, or goes to hospital for a short period. Placing the account in dispute, or suspending it from the escalation cycle, will stop the generation of automatic arrears letters.

At all stages of the arrears recovery process, you should continue to work with the tenant and try to resolve the problem. It is important to maintain personal contact with the tenant via both telephone and home visits.

Process rules

- You must record all contact with the tenant in relation to arrears recovery in HOMES.
- You should make every effort to contact the tenant to resolve the arrears before they escalate.
- You should contact the tenant at all points in the arrears process. For example, you should contact the tenant when:
    - they go into arrears
    - they are in arrears and do not have an arrangement in place
    - they are maintaining an arrangement
    - they break an arrangement
    - the arrears process escalates, for example, a Notice of Termination is issued.
- When you are conducting a client service visit, IVY will prompt you to check whether the client has any accounts in arrears. CSO's can use the following functions on IVY to manage tenant arrears either in the office or in the field:
    - Arrears Action – Client Contact
    - Arrears Arrangement
    - Authority for Rent Deduction
    - Housing Statement
    - Consent to Exchange Information

  IVY will update HOMES and/or OneTRIM (where applicable) when submit is selected

- You should only start eviction action if you intend to evict the tenant if they do not pay their arrears.
- A tenant can either repay their arrears in full or make an arrangement to pay by instalments.
- A reasonable repayment arrangement is:
    - 40% of the household's subsidised rent where the tenant receives a rent subsidy, or
    - 40% of the household's pre-CRA rent where the tenant is living in an Aboriginal Housing Office (AHO) property and receiving Commonwealth Rent Assistance (CRA), or
    - 40% of the household's market rent where the tenant pays market rent.
- Generally, arrangements should not be for less than 35% of the household's rent payable. Where this occurs, the arrangement must be approved by a Team Leader.
- Tenants are able to repay more than the reasonable repayment amount if they demonstrate that they can afford to, though, in general, these arrangements should not be for more than 45% of the household's rent payable. Where this occurs, the arrangement must be approved by a Manager Housing Operations or Director Housing Services.
- Where a tenant makes an arrangement that is more than the reasonable repayment amount, they may request that their arrangement be reduced to lower the amount.

- Where a tenant breaks an arrangement, they must agree to a new reasonable repayment amount.

Delegations and controls

Delegations and controls applicable to this procedure:

Procedure Name	Step	Delegation type	Description
Identify and Determine the Appropriate Action for Accounts in Arrears	8	Admin	A Senior Client Service Officer, Housing Manager or Team Leader can issue a Notice of Termination.
Make, Record and Monitor an Arrears Repayment Arrangement	5	Admin	• A Senior Client Service Officer can approve a repayment arrangement for between 35% and 39% of the household's rent payable. • A Team Leader can approve a repayment arrangement for less than 35% or between 41% and 45% of the household's rent payable. • A Director Housing Services or District Director can approve a repayment arrangement for more than 45% of the household's rent payable.
Enforce a Money Order	2	Admin	A Team Leader can decide if it is appropriate to pursue a money order.
Enforce a Money Order	4	Admin	A District Director can approve recovery action for money order.

Related links

- Guide: Managing Arrears
- App Guide - Arrears Arrangement
- App Guide - Arrears Arrangement with RDS
- App Guide - Authority for Rent Deduction
- App Guide - Arrears Action - Client Contact
- App Guide - Housing Statement
- App Guide - Consent to Exchange Information

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- Directorate
  Homes NSW Housing Services

[Housing Hub](#)

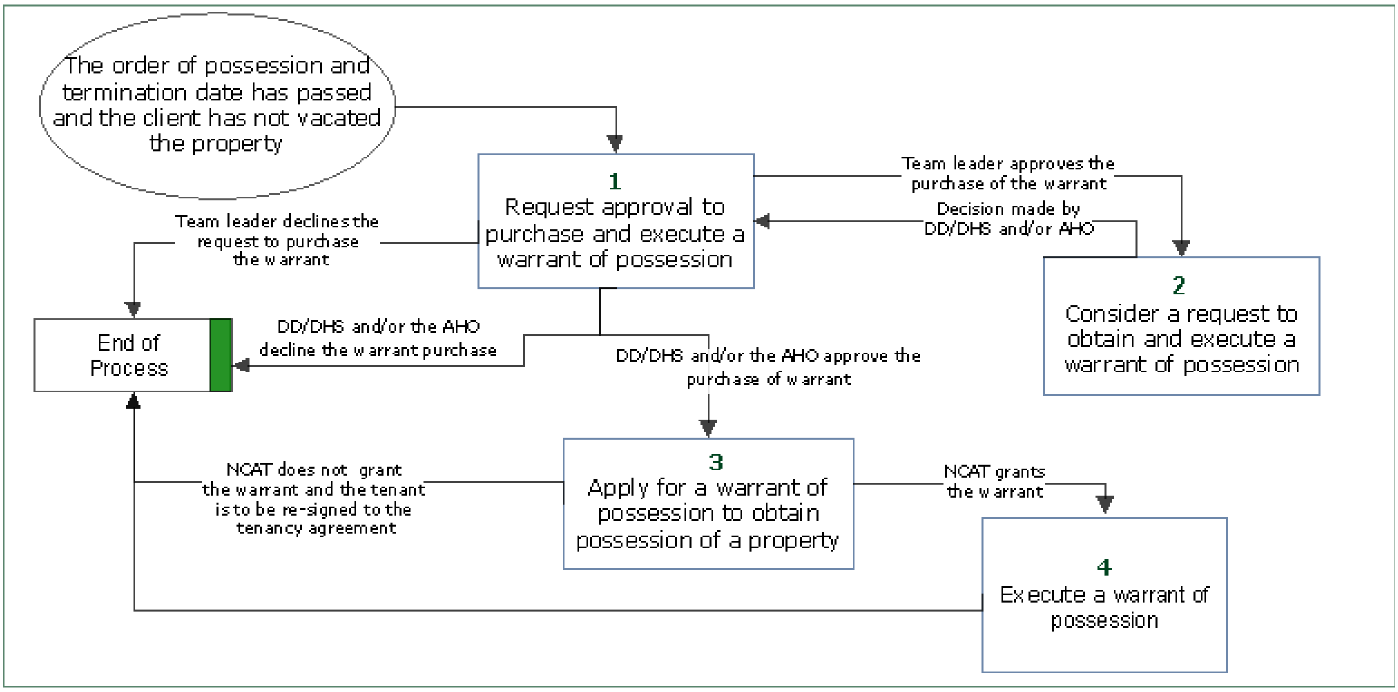
[Processes](#)>[Manage tenancies](#)>Manage evictions
Process

Manage evictions

Business area:
Tenancy management

- Policy
  - [Ending a Tenancy Policy](#)
- Procedures within this process
  - [Request approval to purchase and execute a Warrant of Possession](#)
  - [Consider a request to obtain and execute a Warrant of Possession](#)
  - [Apply for a Warrant for Possession to obtain possession of a property](#)
  - [Execute a Warrant for Possession](#)

Process diagram −



Overview

This process commences in the event that:

- the NSW Civil and Administrative Tribunal (NCAT) has granted an Order of Termination and Possession, and
- the tenant has not vacated the property by the date set by the NCAT.

For information and practical guides on how to support Aboriginal and Torres Strait Islander tenants, refer to the following resources:

- [Foundations for Success Guide](#)
- [Foundations for Success Easy Reference Guide](#)
- [Working with Aboriginal and Torres Strait Islander clients](#)
- [AHO and DCJ exchange guidelines](#)

If you are working with Aboriginal clients with complex needs, a referral may be necessary to:

- an Aboriginal SCSOS or a SCSOS
- your local Aboriginal Tenants Advice and Advocacy Service (ATAAS)
- Services Our Way.

The process ends in the event that either:

- the Department of Communities and Justice (DCJ) Housing executes a Warrant of Possession; or
- a decision is made not to proceed with an eviction and the client signs a new Tenancy Agreement; or
- the tenant vacates before DCJ Housing executes a Warrant of Possession.

Process rules

- You must make a request for a Warrant of Possession within 30 days of the date of vacant possession.
- If extra time is required to apply for and execute a warrant, you can email a request to the NCAT Registry, within 30 days of the date that vacant possession was to be given. A list of the email address for each NCAT registry is available on the NCAT's website.
- If DCJ Housing requests a warrant after the timeframe (30 days) has expired, it must satisfy the NCAT with evidence that this delay was due to attempts to reach an agreement with the tenant, and that these attempts have subsequently failed. This is in accordance with Section 121(3) of the *Residential Tenancies Act 2010*.
- If the NCAT does not grant the warrant, end the tenancy in HOMES and sign a new tenancy agreement. The tenant must be categorised as a former unsatisfactory tenant and a six month lease offered. For more information go to the Specific conditions for former social housing tenants or occupants section in the Social Housing Eligibility and Allocations policy supplement.
- If a termination and possession order or a warrant has been issued solely for non-payment of rent, and the tenant pays all the arrears owing or enters into and fully complies with a repayment plan agreed by DCJ Housing before they vacate:
  - under section 89(3) of the *Residential Tenancies Act 2010* the order and/or warrant are no longer valid. Do not end the tenancy and do not sign a new tenancy agreement, and
  - notify the NCAT if a warrant has not been issued, or
  - return the warrant to the Sheriff's Office, if a warrant has been issued.
- If a termination and possession order or a warrant has been issued for any other breach of the tenancy agreement, the tenant may make an offer to resolve the breach at any time during this process. If the tenant negotiates a satisfactory arrangement (for example, an appropriate support plan), DCJ Housing can decide to stop the process right up to and including the day of the eviction. You should only accept rent if you are reasonably sure that the tenant will comply with the terms of their tenancy agreement.
- If DCJ Housing decides not to proceed with the eviction, the tenant must be categorised as a former unsatisfactory tenant and must meet the social housing eligibility criteria, including the income eligibility limits before you can offer another lease and sign a new tenancy agreement. You should offer the tenant a six month lease if they meet these criteria. For more information go to the Specific conditions for former social housing tenants or occupants in Social Housing Eligibility and Allocations Policy Supplement.
- Under Section 123 of the *Residential Tenancies Act 2010*, a client who fails to comply with an order for possession may be liable to pay a daily occupation fee to DCJ Housing for the period the client remains in the property after the date that they were required to vacate.
- The occupation fee payable is an amount equal to the rent that would have been payable for that period if the tenancy agreement had not been terminated.
- A Submission for approval to execute a Warrant of Possession (PDF, 99.6 KB) form must be completed. The submission must outline all attempts to resolve the breach, including:
  - evidence of early, consistent engagement with the tenant to address the breach; and
  - referrals made to support agencies. In the case of an Aboriginal tenant, include referrals to any Aboriginal support agencies and other options taken to resolve the breach; and
  - in the case of rent/water arrears, include documentation which demonstrates all attempts made to maintain an affordable repayment plan; and
  - evidence of flexibility around reasonable arrears repayment plans which may have taken into account the tenant's circumstances.
- Approval from the Executive District Director (DCJ) must be obtained if children are part of the household.
- The AHO will make the final determination regarding an eviction of a tenant residing in an AHO property.
- If DCJ Housing proceeds with the eviction, DCJ Housing must, with the tenant's consent, make a referral to a Specialist Homelessness Service. The referral must be made 7 working days prior to the eviction.

Delegations and controls Procedure name

Procedure name	Step	Delegation type	Description
Consider a request to obtain and execute a warrant of possession	1-3, 5	Admin	The Director Housing Services or Executive District Director must approve the obtaining and execution of a warrant of possession.
Consider a request to obtain and execute a warrant of possession	4	Admin	Under the terms of the service agreement between DCJ Housing and the Aboriginal Housing Office, an AHO delegated officer must approve the obtaining and execution of a warrant of possession in relation to an AHO tenancy.

Related links

- Section 117 of the *Residential Tenancies Act 2010* provides that a demand for, or acceptance of rent, or the institution of proceedings for the recovery of rent, do not constitute waiver of any breach of the residential tenancy agreement or waiver of any notice of termination for breach of the agreement. Nor do they constitute evidence of the creation of a new tenancy. The Order of Possession should include provision for a daily occupation fee.

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