

Debt Management

Policy

Date effective: 13 November 2019

1. Purpose

This policy outlines the process the Department of Local Government, Housing and Community Development (the Department) uses to prevent, review and manage public housing debt.

2. Objectives

The objectives of this policy are to:

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

3. Scope

This policy applies to current and former public housing tenants with a debt owed to the Department for tenancy related charges.

4. Definitions

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

5. Policy detail

As public housing is provided to low income households, the Department recognises that tenants sometimes struggle to pay tenancy related charges. The Department will consider individual tenant circumstances in managing debt. The provision of housing will not be withheld based on a debt owed to the Department. This means, for example, that:

- Debt from a previous tenancy will not prevent an applicant being approved for public housing, placed on the wait list, or provided housing.
- Debt from a previous or current tenancy will not prevent a tenant from transferring to another public housing premises.
- There is no requirement for a client with a debt to make repayments on the debt before housing will be provided.

5.1. Debt prevention

The Department regularly reviews rebated rent to ensure rent charged is affordable. Depending on the type of income, reviews occur every three, six or 12 months. Rent charged is also reviewed if household income changes or household members change. Refer to the Rental Rebate policy for information on how rebated rent is calculated, applied and reviewed.

To minimise and prevent debt, the Department will notify tenants when:

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

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

5.2. Review of debt

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

If a debt is valid, the Department will explain to tenants the reasons for the amount of debt owed. The Department will take steps to make the tenant aware of the existence of the debt as soon as practicable.

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

5.3. Debt at the end of a tenancy

At the end of a tenancy, the Department will confirm the balance of tenancy related charges that are valid. The security deposit (bond) paid by the tenant may be retained by the Department to pay tenancy related charges owed in accordance with section 112 of the *Residential Tenancies Act 1999*.

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

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

5.4. Agreement to Pay

As tenants may not be able to repay a debt in full, the Department allows repayment through instalments under an Agreement to Pay.

5.4.1. Repayments and maximum amount

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

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

5.4.2. Security deposit (bond)

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

5.5. Legal action to recover debt

In some circumstances, the Department may consider recovery of a debt through the Northern Territory Civil and Administrative Tribunal, or the local court, in line with obligations under the Northern Territory Government's Model Litigant policy and the *Limitation Act 1981*. This includes first reviewing the debt to confirm it is valid and seeking to resolve the matter directly with tenants.

5.5.1. Compensation orders

A compensation order is an order made by the Northern Territory Civil and Administrative Tribunal to pay an amount in compensation under section 122 of the *Residential Tenancies Act 1999* for a loss or damage suffered by the applicant. The Department may apply for a compensation order to recover costs for a loss or damage under the tenancy agreement.

Rather than seek termination, the Department may apply for a compensation order for rent arrears if a tenant is more than two weeks in rent arrears and:

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

Where the Northern Territory Civil and Administrative Tribunal make an order of compensation, the Department will seek recovery of this debt from the tenant. Tenants who are not able to pay the amount in full can pay through instalments under an Agreement to Pay.

5.5.2. Termination of tenancy

The Department will only seek termination of a tenancy as a last resort and will work with the tenant to prevent or minimise debt. The Department can apply to terminate a tenancy for non-payment of rent under section 100A of the *Residential Tenancies Act 1999*. This may be considered where there is ongoing non-payment of rent and debts (including compensation orders). Refer to the Termination of a Tenancy policy and the Tenancy Agreement Breach policy.

6. Discretionary decision making

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

7. Complaints and/or appeals

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

8. Review of the policy

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

9. References

9.1. Legislation

Financial Management Act 1995

Housing Act 1982

Limitation Act 1981

Residential Tenancies Act 1999

9.2. Policies

Allocation and Commencement of a Tenancy policy

Appeals policy

Complaints policy

Discretionary Decision Making policy

Rental Rebate policy

Tenancy Agreement Breach policy

Termination of a Tenancy policy

Northern Territory Government Model Litigant policy

10. Document change control table

Release Date	Version Number	Approved by (position)	Section amended	Category
13/11/2019	3.00	Chief Executive Officer	All	Revised
1/10/2018	2.00	Chief Executive Officer	All	Revised
30/01/2017	1.02	Director Policy	All	Editorial amendments
23/11/2015	1.01	Director Policy	All	Editorial amendments
2/09/2013	1.00	Executive Director, Housing Operational Client Support	All	New separate policy derived from Housing Services Operational Policy Manual, Chapter 9