

## C 1.20 RENT ARREARS POLICY AND PROCEDURE

### 1. Purpose

**1.1** This policy outlines how CENSW and Co-operatives the management and collection of rent and non-rent charges in accordance with the NSW Residential Tenancies Act 2010 and NSW Community Housing Policy.

### 2. Scope

**2.1** This policy applies to all tenants of CENSW and Co-operatives.

### 3. Definitions

**3.1 CENSW** – Common Equity New South Wales.

**3.2 Co-op** – Co-operatives – Tenancies where residents collectively manage their housing and share responsibilities.

**3.3 NCAT** – NSW Civil and Administrative Tribunal.

**3.4 Landlord** – CENSW or Co-operative Board – The person who grants the right to occupy residential premises under a residential tenancy agreement.

**3.5 Tenant** – The person who has the right to occupy residential premises under a residential tenancy agreement.

**3.6 Rent Arrears** – In the NSW Residential Tenancies Act 2010 rent arrears refer to the situation where tenant has not paid rent by the due date, resulting in being behind in rent.

**3.7 NSW Residential Tenancies Act 2010** – The NSW Residential Tenancies Act 2010 is legislation that outlines the rights and obligations of landlords and tenants, including matters related to rent, rental bonds, and residential tenancies agreements.

**3.8 NSW Community Housing Policy** – The NSW Community Housing Policy outlines the requirements and guidelines for managing social, affordable, co-operative, transitional housing and crisis accommodation to ensure community housing providers follow specific criteria for access, eligibility, rent setting, and tenant rights.

### 4. Responsibilities

**4.1 Landlord** – Manage rent arrears as per the NSW Residential Tenancies Act 2010

**4.2 Head of Co-operative Services** – to ensure this policy and associated procedures are applied and committed to by the Co-operative Support Team

**4.3 Co-operative Support Team Manager** – to provide the team with timely policy-related support and guidance, to ensure familiarity with this policy and related

procedures, to commit to following them accordingly and where relevant, promote the policy to their team.

**4.3 Co-operative Support Officer** – Work collaboratively with the Co-operative Support Team Manager, Co-operatives and tenant in the management of rent arrears.

## 5. Policy

When a tenant account falls into arrears, action is immediately commenced to prevent further debt. To avoid arrears, the landlord closely monitors accounts and contact tenants if they fall into arrears, with a view to clearing debt as soon as possible. Community Housing providers are required to monitor and manage these arrears through early intervention, regular communication and maintaining detailed records of all actions taken.

**5.1** In accordance with the Residential Tenancy Agreement, tenants are legally responsible for ensuring their rent is paid in full when due. This means tenants should not have a negative balance on their rent account at any time.

**5.2** Arrears are debt owed to CENSW or Co-operatives because tenants failing to make required rent payments, constituting a breach of the Residential Tenancy Agreement.

**5.3** A fair and consistent approach when dealing with rent arrears. CENSW and Co-operatives will work proactively with tenants to address the any underlying issues impacting on their tenancies to ensure, that where possible, tenants do not lose their tenancy through non-payment of rent.

## 6. Rent Arrears Procedure

**6.1** When a tenant is in rent arrears, depending on their individual circumstances, and the legislative requirements of the NSW Residential Tenancies Act 2010, we will take a range of actions which include:

- Promptly notifying them when account is in rent arrears
- Providing rent statements when requested by tenant
- Undertaking rent review
- Negotiating a rent Payment plan
- Obtaining a Specific Performance Order (SPO) through the NSW Civil and Administrative Tribunal when regardless of reminders of rent arrears and payment plans in place, tenants are not paying rent.

### 6.2 Positive Payment Culture

We promote a positive payment culture in the following ways:

- At tenancy sign-up and other key contact points, we remind tenants of the importance of meeting the responsibility for paying their rent
- We provide a range and efficient simple payment option, including payment by Centrepay
- Explain the information on the rent statement/account as required
- Where appropriate, we will refer tenants to other agencies that provide a range of financial support and services including Centrelink
- Provide support through the CENSW Co-operative Service Officer to enable them to discuss their rent or tenancy charges

### **6.3 Rent Monitoring**

#### **6.3.1 The landlord will:**

- Regular rent reviews to identify any rent arrears promptly
- Communicate with tenant about any overdue rent through written notices, phone calls, or home visits
- Supporting and assisting tenants by referring them to financial counseling, payment plans, to help manage their arrears
- Document all details and record all communications and actions taken regarding rent arrears
- Follow up regularly with tenant to ensure they are making progress in clearing arrears

### **6.4 Management of Rent Arrears**

#### **6.4.1 The landlord will:**

- Establish intervention to prevent debt from becoming unmanageable for tenants. We will proactively monitor all rent accounts and encourage tenants to speak to their Co-operative Services Team Officer before they get into difficulty with their payments. We will contact tenants as soon as they go into arrears using phone calls, email and home visits where required.
- Discuss and negotiate a rent arrears and a repayment plan if the full amount cannot be repaid by the nominated date
- Ensure the agree payment plan is documented and in writing and signed by both the tenant and landlord.
- Monitor the payment plan progress fortnightly until the arrears are paid off in full

#### **6.4.2 By fulfilling these responsibilities, tenants can work towards resolving their rent arrears and maintaining their tenancy. The Tenant will:**

- Must continue to maintain their regular rent payments while repaying any rent arrears
- Tenants should engage with any support services available which may include financial counselling, benefits advice, or other forms of assistance to help manage rent payments

- If a Payment plan is in place and agreed upon to clear arrears, tenants must adhere to this plan. This involves paying the current rent plus an agreed amount towards the arrears
- Tenants must comply with any legal requirements and notices issued by CENSW or Co-operatives which may include attending court hearings if the arrears situation escalates

## 6.5 Persistent Rent Arrears

The NSW Community Housing Rent Policy refers to **persistent rent arrears** as situations where tenants consistently fail to pay their rent on time, leading to an accumulation of unpaid rent over a period. CENSW and Co-operatives are required to address rent arrears promptly to ensure financial sustainability and support for tenants.

When a tenant falls into arrears, CENSW and Co-operatives will intervene as early as possible. If the arrears exceed two weeks, formal steps will be taken to ensure the rent is brought up to date. This may include setting up repayment plans or if possible, providing support to tenants experiencing financial difficulties.

6.5.1 When a rent arrear arrangement is breached, CENSW and Co-operatives will follow structured steps to address the issue. These steps include:

- Review the situation – CENSW and Co-operatives will review the tenant payment history, and the terms breached to understand the extent of the arrears and any previous communications or agreements
- Contact the tenant – CENSW and Co-operatives will reach out to discuss the breach. This might involve sending formal notice or arranging a meeting to understand the tenant circumstances and reasons for the breach
- Offer support – If the tenant is facing financial difficulties, CENSW and Co-operatives may offer support services such as financial counselling, budgeting advice, or referrals to external agencies that can assist
- Negotiate a New Agreement – CENSW and Co-operatives can negotiate a new payment plan with the tenant, considering their financial situation. This plan should be realistic and manageable for the tenant
- Formal notice – If the tenant fails to respond or comply with the new agreement, CENSW and Co-operatives may issue a formal notice of the breach. This notice will outline the consequences of continued non repayment, which could include legal action
- Legal Action – If the situation does not improve, CENSW and Co-operative may proceed with legal action to recover the arrears. This could involve applying or Tribunal or court for an order to recover debt or to terminate the tenancy
- Eviction – As a last resort, if all other efforts fail, CENSW and the Co-operative may seek to evict the tenant. This step is usually taken only after all other avenues have been exhausted and is done in accordance with legal procedures

## 7. References

7.1 C 1.70 Rent Policy

7.2 Community Housing Rent Policy (<https://www.facs.nsw.gov.au/housing/community-housing-policies/rent>)

7.3 NSW Residential Tenancies Act 2010 ([Residential Tenancies Act 2010 No 42 -NSW Legislation](#))

## 8. Variations

This policy can be reviewed and amended as required by Common Equity.

Name, Designation and Signature of Approver	Head, Cooperative Services (HCS)
Contact/Responsible Delegation	Cooperative Support Team (CST) Manager
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