

C 1.20 Rent Arrears Policy

1. Purpose

- 1.1. CENSW is committed to ensuring that tenant rent payments remain two weeks in advance as agreed in the Residential Tenancy Agreement
- 1.2. This policy is to outline how CENSW and Co-ops monitor and manage rent arrears. The focus is on managing rent arrears responsibly and balancing the financial wellbeing of the tenant and the organisation's viability when entering into repayment plans.

2. Scope

- 2.1 Applies to CENSW staff and co-operative officers involved in monitoring tenant rent payments.

3. Exceptions

NA

4. Definitions

CENSW – Common Equity NSW Ltd

Financial hardship – The genuine inability to meet financial commitments, rather than an unwillingness to do so. Financial hardship can result from several factors including unemployment, illness, family breakdown or a natural disaster.

Landlord – CENSW or the co-operative Board

NSW Civil and Administrative Tribunal (NCAT) – The main forum for resolving residential tenancy disputes between landlords and tenants in New South Wales.

Rent arrears – Means that a tenant has an outstanding amount on their rent account and is not paid up to date.

Residential Tenancy Act 2010 (RTA)- The Act and the regulations set out a standard residential tenancy agreement that gives rights and obligations to landlords and tenants.

5. Responsibilities

5.1 Operations Manager

- 5.1.1 Review recommendations from Co-op Development Manager in relation to cases of financial hardship matters and provide authority for action.

5.2 Co-op Development Manager

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- 5.2.1 Review recommendations for eviction, ensuring that all reasonable steps to reach agreement on a debt repayment plan and referrals to support have been undertaken.
- 5.2.2 Oversee rent arrears process and escalation to NCAT

5.3 Landlord (CENSW or Co-operative)

- 5.3.1 Manage rent arrears as per the Residential Tenancies Act 2010; CENSW Rent Arrears Procedure, Community Housing Rent Policy
- 5.3.2 Develop, maintain, and implement rent monitoring procedures for early detection of rent arrears.
- 5.3.3 Maintain early contact with tenants who are in rent arrears.
- 5.3.4 Maintain the confidentiality of tenants experiencing financial hardship and/or rent arrears by limiting access to information on a need to know basis.
- 5.3.5 Offer support and referral to financial or budgeting counselling services as appropriate

5.4 Co-op Development Officers

- 5.4.1 Work collaboratively with tenants or co-operative landlords in the management of rent arrears.
- 5.4.2 Adhere to this policy and procedure.
- 5.4.3 Participate in training related to this policy and procedure.
- 5.4.4 Keep up to date with support available to tenants in financial stress and refer to external support agencies as appropriate.

6. Policy Statement

In accordance with the Residential Tenancy Agreement, tenants are legally responsible for ensuring that their rent is paid in full when due.

Rent arrears are a debt owed the Landlord as a result of a tenant failing to make the required rent payments, constituting a breach of the Residential Tenancy Agreement.

CENSW and Co-ops will take a fair and consistent approach when dealing with rent and non-rent arrears. CENSW staff via the tenant support program will work proactively with tenants to address any underlying issues impacting on their tenancies to ensure that where possible tenants do not lose their property through non-payment of rent.

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7. Procedure

CENSW and Co-ops overall approach for the management and collection of rent and non-rent charges is detailed below. When a tenant's rent account goes into arrears, we recognise that early intervention is crucial to protect the tenant from falling further into debt.

7.1. Rent Payment Culture

7.1.1. The landlord will promote a consistent rent payment culture by:

- Clarifying the responsibility of tenants for ensuring that rent payments are made punctually and regularly.
- Ensuring the early detection strategies are adopted and followed up routinely and without delay
- Outlining the range of methods available for rent payment and assisting in identifying the most appropriate method for the individual tenant.
- Explaining the information on rent account statements/rent ledgers as required.
- Making tenants aware of the range of local debt and welfare advice agencies, including the provision of contact information, and encourage tenants to use these services.
- Informing tenants that whilst support will be provided, non-payment of rent is a serious breach of the tenancy agreement and may lead to termination of their tenancy.

7.2. Rent Monitoring

7.2.1. The landlord will:

- Review fortnightly rent statements to identify tenants who are in arrears for more than 5 days so that early preventative action can be taken for directly managed tenancies and co-ops where possible.
- Where rent payment information is available, review the Arrears Report fortnightly to monitor tenants who are in arrears to ensure agreed payment plans are being adhered to
- Take reasonable and proactive steps to maintain rent arrears at or below 2.5%- Sector benchmark.

7.3. Management of Rent Arrears

7.3.1. The landlord will:

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- Establish early contact (within seven days) of becoming aware of tenants identified as being in arrears.
 - Contact the tenant initially via telephone or email requesting the full amount of the unpaid rent be paid by a nominated date as confirmed in the service agreement with co-ops
 - Discuss the rent arrears and a repayment plan if the full amount cannot be repaid by the nominated date.
 - Negotiate realistic repayment agreements with tenants to pay off rent arrears if tenants are unable to pay the arrears in full.
 - Put the agreed repayment plan in writing and have it signed by both the tenant and the landlord. Enter payment agreements into Greentree.
 - Monitor (fortnightly) the repayment agreement until the arrears have been paid.
- 7.3.2. The tenant must continue to maintain their regular rent payments while repaying any rent arrears.
- 7.3.3. The tenant may apply for consideration of their current rent under the financial hardship provisions; however, this process runs parallel to the rent arrears payment process and does not absolve the tenant from existing rent arrears.
- 7.3.4. The landlord will respect and apply the principles of natural justice in each case of rent arrears to ensure the tenant is provided with access to information and support.

7.4. Persistent Rent Arrears

- 7.4.1. If a Co-op tenant has breached a repayment agreement without adequate communication about their circumstances; and/or has refused to have contact with the Co-op and continues to be in rent arrears, the Co-op landlord must contact CENSW for further advice, to issue a Termination Notice and/or take further action at NCAT.
- 7.4.2. In the first instance, CENSW may lodge an application to the NCAT and request a Specific Performance Order to ensure regular rent payments or for a non-payment termination notice depending on each individual case. If the arrears persist, CENSW may apply for termination of the tenancy. The decision by the Co-op landlord to recommend application to NCAT should be based on the Community Housing Rent Policy and in accordance Residential Tenancy Act 2010. CENSW is the Co-ops landlord agent and acts at NCAT on behalf of the Co-op.

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7.4.3. A Termination Notice must be in writing signed by the landlord/agent and set out:

- The address of the premises.
- The day by which the landlord/agent wants the tenant to vacate the premises – at least 14 days’ notice must be provided, plus 7 days postage.
- The grounds for the notice: i.e. non-payment of rent.

The landlord/agent must properly deliver the notice to the tenant in person, by post, by fax, or by hand in an addressed envelope to a mailbox at the tenant’s home or business address. If the notice is posted, the landlord/agent must allow an extra 7 days for delivery.

7.4.4. If a tenant defaults on rent payments (within the relist period) after a Specific Performance Order has been issued by the NCAT, the landlord in co-operation with CENSW, will apply for an order of possession and payment of rent arrears. This occurs within 7 days of the tenant’s default on the payment. If this occurs outside of the relist period, a Termination Notice must be issued to commence the eviction process. Attempts for the recovery of rent arrears after eviction will be made in accordance with the RTA.

8. Quality Improvement

8.1. The landlord will regularly review its approach to the management of rent arrears; and periodically assess how performance can be improved.

9. External References

9.1. Residential Tenancies Act 2010

9.2. Community Housing Rent Policy

10. Internal Associated Documents

10.1. Financial Hardship Policy and Procedure

10.2. Fortnightly Arrears Report

10.3. Company Co-operative Agreement

10.4. Administrative and Management Service Agreements

10.5. Service Agreement with Co-operative

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Contact/Responsible Delegation	Co-op Development Manager
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