

Arrears Policy

REVISION NO. 1.0
ISSUED XX/XX/2023

Our vision is that **Aboriginal Victorians secure appropriate, affordable housing as a pathway to better lives and stronger communities**. We believe that achievement of our vision is through the provision of housing services which enhance the dignity of our clients and renters and which respects and celebrates their cultural beliefs, values and practices.

Our policies and procedures are designed so that our practice and service delivery is in accord with this cultural statement.

1 Policy Objectives

This policy aims to achieve early intervention and to support renters to prevent the escalation of rental arrears. It sets out the approach for managing rent arrears and debt recovery.

Rent is the main source of revenue for Aboriginal Housing Victoria (AHV). Failure to recover rent directly impacts on AHV's ability to continue to deliver its services and to assist Aboriginal Victorians with their housing needs.

2 Scope

This policy applies to all social housing properties owned or managed by AHV.

3 Guiding principles

AHV sets rents at affordable levels in line with AHV's Rent Setting Policy and provides clear communication to renters about their rental obligations. Where rental payments are late or rental arrears accrue, AHV will contact renters as early as possible to ensure rental arrears are addressed; renters have access to support services; and the rental income necessary to fund the supply of community housing is collected.

In applying this policy AHV will ensure:

- Renters are provided with timely and accurate information regarding their rent and other debt accounts.
- Issues are addressed as early as possible to keep rent arrears at a minimum and support renters to sustain their tenancies.

- Eviction is a measure of last resort.
- Proper consideration is given to the human rights of renters under the *Charter of Human Rights and Responsibilities Act 2006 (Vic)* (Charter) that may be impacted by decisions around evictions.
- A commitment to respond to matters that may be family violence related that is trauma informed and aligns with the Family Violence Multi-Agency Risk Assessment and Management Framework (MARAM).
- Consistent, fair, and accountable processes are followed, and renters will be provided information about processes that impact their tenancies.
- All our legal, regulatory, and contractual duties are met.

4 Managing rent arrears

AHV aims to achieve early intervention and to support renters to prevent the escalation of rental arrears. In addition to protecting AHV's revenue base, this approach maximises the opportunities for renters to re-establish regular payment patterns and to repay arrears before their debts become too large to manage.

At the commencement of a tenancy, AHV provides each renter with information on the weekly rent payment amount including how the rent was calculated. Renters are also advised on how to make a rent payment and how to contact AHV if there are any issues making a required payment by the date it is due.

Rental accounts are monitored on a weekly basis to enable prompt identification of potential rent arrears. In the first instance of rental arrears renters are contacted and provided with a reminder via one or multiple communication methods, including:

- A letter
- SMS
- Phone call
- Email
- Home visit

The respective rights and responsibilities of renters and rental property providers, including payment of rent and action that can be taken to recover rent arrears, are outlined in the Residential Tenancies Act 1997 (RTA).

In addition to its legal obligations and rights as a rental property provider under the RTA, AHV takes actions to support renters to address tenancy issues such as rent arrears and/or tenancy breaches.

4.1 Local agreements

AHV works to resolve cases of rent arrears directly with renters, through the negotiation of local agreements. This is a more cost-effective approach. Local agreements also avoid the need for renters to attend a Victorian Civil and Administrative Tribunal (VCAT) hearing which can be an intimidating experience for some Aboriginal people who may have experienced

negative contact with the justice system, either directly or within their extended family and community.

There is no restriction on the number of local agreements that can be negotiated where the renter's account is less than 14 days in arrears.

If a renter does not maintain payments as required in the local agreement and their account is more than 14 days in arrears, further local agreements may be negotiated at the discretion of their Housing Officer. This is subject to the renter's agreement to pay their rent and arrears via Centrepay, if they are in receipt of a Centrelink payment.

Alternatively, should the renter not maintain rental and arrears payments via a local agreement, the renter will be issued with a Notice to Vacate (Rental Arrears) as stipulated under the RTA.

4.2 Support Services

When responding to arrears, staff will assess what appropriate support services may be helpful in assisting renters to remedy their arrears and sustain their tenancy.

This may include referrals to:

- Aboriginal Housing Victoria Wellbeing programs
- Community legal centres
- Specialist tenancy support and advocacy services
- Financial counselling services
- Community based mental health services, or
- Disability support services

4.3 Hardship

AHV recognises that there are circumstances where a household may face difficulties that lead to non-payment of rent, these circumstances will be assessed on a case-by-case basis in line with AHV's Rent Setting Policy.

4.4 Debt Waiver

AHV will negotiate with renters in over 12 weeks of arrears to agree to lump sum contributions and a payment plan which would then be met with a co-contribution (via debt write off) by AHV, under the following circumstances:

1. An agreement with the renter to a rental arrears repayment plan over a fixed term of no more than 6 months;
2. The rental arrears would be waived at the conclusion of the plan on the renter achieving significant progress toward their rental arrears target in the plan.

The value of any offer by AHV to partially retire debt will not exceed one third of the total arrears outstanding and will only be available in circumstances where repayment of the

remaining two thirds of the debt has been achieved, either by the renter directly, or by a combination of renter repayments and a financial contribution by a community agency.

The debt waiver program is only available once within a tenancy period and approval for more is at discretion of Director Aboriginal Housing Services.

4.5 Legal action

Notices to Vacate

If a local agreement can't be reached (Section 4.1 above), or a renter refuses to communicate with AHV and rent remains unpaid exceeding 14 days in arrears, tenancy managers in consultation with a Senior Housing Officer, may decide to issue a Notice to Vacate in relation to the unpaid arrears.

Applications to VCAT

At the expiry of the Notice to Vacate, if there is no agreement with the renter regarding repayment, AHV may begin the Victorian Civil and Administrative Tribunal (VCAT) process to apply for a Possession Order and Warrant of Possession in line with the Ending Tenancies Policy.

AHV will continue to attempt to contact the renter/s following the issuing of a Notice to Vacate and the application to VCAT and seek to enter into a repayment agreement. Repayment agreements may be lodged with VCAT and a repayment amount may become the subject of a VCAT order.

If arrears remain at the end of a tenancy, AHV will seek to claim compensation via an order to VCAT.

4.6 Statute of Limitations

Statute of Limitations legislation prevents action being taken through the courts to recover a debt or compensation where the debt or compensation was incurred more than six years previously. AHV cannot take action to recover outstanding arrears or TRMC, where the debt or compensation is more than six years old.

However, renters are required to repay any outstanding rent arrears and substantiated TRMCs prior to signing a new tenancy agreement with AHV, even if the outstanding charges accrued more than 6 years previously. Refer to the Eligibility and Allocations Policy for further details.

4.7 Bankruptcy

If a renter with rent arrears is declared bankrupt, the renter is required to provide the documentation to confirm bankruptcy.

Where one renter in a joint tenancy or group household is declared bankrupt, AHV will write-off the outstanding arrears or TRMCs for the remaining renters. AHV, along with all other

creditors is entitled to share in any dividend, for example payments from the proceeds in the bankrupt estate.

The Trustee in Bankruptcy controls the renter's finances throughout the period of bankruptcy. For this reason, AHV arranges for the renter(s) to sign a new Residential Tenancy Agreement if he/she wishes to remain as renter of the property. The end date of the bankrupt tenancy and start date of the new tenancy is the effective bankruptcy date. AHV follows standard rent arrears and TRMC policies to recover outstanding charges incurred after the date of the bankruptcy.

Where a renter is declared bankrupt for a second time and has outstanding charges from a current tenancy, AHV may commence proceedings through VCAT to gain possession of the property. Although AHV cannot seek possession based on the amount outstanding, an application may be pursued for a breach of tenancy that the non-payment of rent represents. Such action will only be taken with the approval of the CEO or CEO delegate (Director Aboriginal Housing Services).

4.8 Represented renters

In the case of represented renters who have an appointed attorney with Enduring Power of Attorney or administrator to assist them to manage their financial affairs, AHV ensures that the attorney/administrator is advised of any tenancy matters that may require their action.

When a represented renter accrues outstanding charges resulting from unpaid rent and/or TRMCs, standard AHV policies are applied. AHV maintains contact with both the renter directly on these issues, and the attorney/administrator, unless specifically requested by the renter to direct all financial matters to the attorney/administrator. AHV also liaises with the attorney/administrator to negotiate the repayment of arrears.

The attorney/ administrator must sign all documentation, including repayment agreements.

5 Relevant Documents

5.1 Policies and procedures

Related policies, procedures
Eligibility and Allocations Policy
Ending tenancies and eviction Policy

5.2 Legislation

Legislation, standards, guidelines

Charter of Human Rights and Responsibilities 2006

Family Violence Protection Act 2008

Housing Act 1983 (Victoria)

Performance standards for registered housing agencies 2015 (Victoria Housing Registrar)

Residential Tenancies Act 1997 (Victoria)

Victorian Civil and Administrative Tribunal Act 1998

Document control

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Revision	Approval date	Approved by	Changes	Review date
1	2008			
2	July 2013	AHV Board		July 2014
3			New policy format	June 2015
4	24 Sept 2015	AHV Board	Consolidation and re-formatting of Tenancy Services manual	2016
5	29 January 2016		Minor edits	2018
6	4 December 2018	AHV Board	Transition to VHR	2020
7	2008			
8	xx		Updated policy	XX