



Aboriginal Housing Office

Housing Access Policy

May 2017

This policy outlines the criteria for allocation of housing owned and/or managed by Aboriginal Community Housing Providers under a contractual arrangement with the Aboriginal Housing Office.



Family &
Community
Services



Aboriginal
Housing
Office



Document approval

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Table of contents

1	Purpose of policy.....	4
1.1	Background and related policy	4
1.2	Related policy	4
2	Definitions	5
3	Scope and application.....	5
4	Legislation.....	5
5	Policy Statements.....	6
5.1	Allocation of housing.....	6
5.2	Information for applicants and tenants	6
5.3	Tenancy Agreements.....	6
5.4	Termination of Tenancy Agreements	6
5.5	Right of appeal.....	7
5.6	Confidentiality	7
5.7	Privacy.....	8
6	Allocation and Tenure Standards	8
6.1	AHO properties	8
6.1.1	Allocations	8
6.1.2	Tenure	8
6.2	Housing owned by ACHPs under a contractual arrangement with the AHO.....	9
6.2.1	Allocations	9
6.2.2	Tenure	9
6.3	Affordable Housing	9
6.3.1	Allocations	9
6.3.2	Tenure	9
6.4	Crisis Accommodation, Transitional and Exit housing	10
6.4.1	Allocations	10
6.4.2	Tenure	10
6.5	Employment Related Accommodation	10
7	Roles and responsibilities	10
8	Monitoring, evaluation and review	10
9	Support and advice	11

1 Purpose of policy

This policy outlines criteria for the allocation of housing owned and/or managed by Aboriginal Community Housing Providers (ACHPs) under a contractual arrangement with the Aboriginal Housing Office (AHO).

1.1 Background and related policy

The AHO is a statutory authority established under the *Aboriginal Housing Act 1998* and a NSW Government agency. The AHO provides safe, affordable and culturally appropriate housing to Aboriginal and Torres Strait Islander people in NSW.

The AHO's vision is to ensure that every Aboriginal person in NSW has equal access to, and choice in, affordable housing. We work in partnership with ACHPs and the Aboriginal community to develop a future where:

- social housing is not an end point but a point along a path for Aboriginal people
- more Aboriginal people own their own homes
- more Aboriginal people are in private rental
- Aboriginal communities have a voice and are confident in AHO services

The AHO administers the policies and funding arrangements for Aboriginal community housing in NSW. Under the *Aboriginal Housing Act 1998*, an ACHP must be registered to receive funding or assistance from the AHO.

ACHPs that receive assistance from the AHO are required to manage that assistance in accordance with policy guidance set by the AHO and comply with policies as listed in their contractual agreement with the AHO.

The AHO Housing Access Policy sets out the AHO's requirements for access to social housing, affordable housing, transitional housing, crisis accommodation and Employment Related Accommodation (ERA) housing managed by ACHPs and CHPs in NSW. This policy outlines principles that ensure AHO properties are accessible to eligible tenants, eligibility assessments are conducted fairly and without bias, and managed properties are allocated fairly.

1.2 Related policy

The following policies, contracts and guidelines are identified as linked to the AHO Housing Access Policy:

- AHO Housing Eligibility Policy
- AHO Housing Services Policy Framework
- AHO Housing Services Guidelines
- Employment Related Accommodation Policy Guidelines
- AHO Confirmation of Aboriginality Policy

- AHO Registration Policy
- NSW Community Housing Eligibility Policy
- NSW Community Housing Access Policy
- NSW Community Housing Rent Policy

2 Definitions

The table below is a list of terms, keywords and/or abbreviations used throughout this document.

Term	Definition
ACHP	Aboriginal Community Housing Provider, also identified in the <i>Aboriginal Housing Act 1998 (NSW)</i> as an Aboriginal housing organisation
AHO	Aboriginal Housing Office
CHP	Community Housing Provider
FACS	Family and Community Services
NRSCH	National Regulatory System for Community Housing
PARS	Provider Assessment and Registration System
Registered Aboriginal Community Housing Provider	As determined by the AHO Registration Policy, generally Aboriginal Community Housing Provider(s) registered under either PARS or NRSCH

3 Scope and application

This policy applies to all AHO properties governed by a contractual arrangement between the AHO and a registered ACHP for the provision of housing.

This policy also applies to properties managed on an interim basis by mainstream Community Housing Providers (CHPs) or other agencies (such as FACS Housing), through contractual agreements (or similar) with the AHO.

This policy does not apply to properties owned by ACHPs that are not under contractual arrangements with the AHO.

4 Legislation

The legislation that informs this policy includes:

- *Aboriginal Housing Act 1998 (NSW)*
- *Residential Tenancies Act 2010 (NSW)*
- *Aboriginal Land Rights Act 1983 (NSW)*

- *Privacy and Personal Information Protection Act 1998 (NSW)*
- *Health Records and Information Privacy Act 2002 (NSW)*
- *Privacy Act 1988 (Commonwealth)*

5 Policy Statements

The NSW Government through the AHO contracts ACHPs and CHPs in the management of housing. This housing is targeted to Aboriginal and Torres Strait Islander people most in need and delivered in accordance with relevant legislation, policy and contractual obligations.

5.1 Allocation of housing

ACHPs must have fair and transparent processes in place to determine allocation of housing to an eligible applicant who meets the eligibility criteria set out in the AHO Housing Eligibility Policy.

The assessment process must consider the housing needs of the applicant and their ability to resolve this need.

5.2 Information for applicants and tenants

ACHPs must provide clear and easy to understand information to residents and tenants at the beginning of their tenancy advising them of the type, length and nature of the arrangement and their rights in relation to making a complaint or appealing a decision.

ACHPs must have operational policies which are publically available and easily accessible.

5.3 Tenancy Agreements

ACHPs must have an appropriate agreement in place with residents and tenants setting out the terms and conditions of the residency or tenancy.

For social housing, affordable housing and co-operative housing, ACHPs must enter into a residential tenancy agreement in accordance with the *Residential Tenancies Act 2010 NSW (RTA)*.

For transitional and exit housing, ACHPs must have an agreement in place with each resident setting out the nature of the residency and the rights of the resident. This will generally take the form of a residential tenancy agreement.

5.4 Termination of Tenancy Agreements

ACHPs must have fair and transparent processes in place to determine and manage the termination of any resident agreement or residential tenancy agreement under the RTA. This must include a process to advise residents and tenants about the circumstances in which a resident agreement or residential tenancy agreement may be terminated.

Following a decision to terminate a residency agreement or residential tenancy agreement, an ACHP must issue, in writing, a notice to the resident

or tenant explaining the termination and setting out a reasonable timeframe for the resident or tenant to vacate the premises. The termination of a residential tenancy agreement must be in accordance with appropriate provisions under the RTA.

Use of Section 85 Notice of Termination

ACHPs should not routinely terminate agreements under Section 85 of the RTA ('No Grounds Termination') as this section of the Act does not require a tenant to be given reasons for termination and does not afford the tenant recourse to the NSW Civil and Administrative Tribunal.

ACHPs are required to make all attempts to avoid 'No Grounds Termination'. ACHPs must acknowledge that a Section 85 notice is a last resort available within the RTA and should only be made in rare and exceptional circumstances. These circumstances should be clearly defined by the ACHP.

Every effort should be made to sustain the tenancy. All other avenues with the NCAT in relation to termination of the tenancy must have been exhausted and procedural fairness and tenant rights maintained.

Any ACHPs that pursue a 'No Grounds Termination' must have:

- documented evidence that all avenues under NCAT have been pursued.
- documented processes that allow for internal and external review, prior to the decision to terminate.

5.5 Right of appeal

ACHPs must have an appropriate process in place to manage appeals from applicants and tenants in relation to their housing, including their housing allocation.

ACHPs must include a process to advise applicants and tenants about their right to an internal appeal, timeframes for appeals, what can be appealed and how to lodge an appeal.

ACHPs must also provide capacity for independent reviews of their assessments and allocation appeals. They must advise applicants and tenants of their right to request an independent review and information on how to request this.

5.6 Confidentiality

ACHPs must ensure that all confidential and sensitive business information and records are kept secure and protected from any unauthorised access or use.

ACHPs must not release any confidential or sensitive information to a third party without the prior written consent or approval of the affected person or agency that owns the information.

5.7 Privacy

ACHPs must comply with national and state privacy legislation.

ACHPs must protect the personal information and privacy of applicants, residents, tenants and household members.

ACHPs must ensure that any personal and/or health information is not collected, used, stored or disclosed other than for the proper purposes of these services. Personal information and/or health information must not be released to or exchanged with an unauthorised third party unless with the informed consent of the person affected or this is lawfully authorised or required.

Applicants and tenants must be notified that information about persons included in the application can be exchanged with the AHO or where consent provided with another social housing provider for the purposes of assessing their application.

6 Allocation and Tenure Standards

6.1 AHO properties

This section applies to all social housing owned by the AHO and managed by a registered ACHP and CHP.

6.1.1 Allocations

ACHPs and CHPs managing AHO social housing are expected to allocate properties to eligible applicants listed on the NSW Housing Register using the providers' allocation policy and procedures. Where there is no eligible applicants on the NSW Waitlist ACHPs can allocate off their own waitlist.

The rationale for allocations must be clearly documented by the ACHP. Following the allocation, ACHPs must follow the required procedures to ensure that the NSW Housing Register is adjusted accordingly.

6.1.2 Tenure

AHO owned social housing managed by ACHPs is provided as continuous tenure, subject to a tenant complying with the requirements of their residential tenancy agreement.

If a tenancy must be terminated due to the premise being sold or redeveloped, the ACHP must re-house the tenant household in appropriate, alternative accommodation. To ensure that tenants are treated fairly in these circumstances, ACHPs must have in place transparent policies that clearly set out these processes, and which meet the requirements of the RTA in relation to notice, reasons for termination and review.

6.2 Housing owned by ACHPs under a contractual arrangement with the AHO

This section applies to all housing for Aboriginal people that is owned by an ACHP in NSW under a contractual agreement with the AHO. This includes housing owned and managed by an ACHP, housing under a Headlease/Sublease arrangement and Housing Aboriginal Community Program (HACP) properties.

The access and management of properties not under agreement with the AHO is at the discretion of the owning ACHP, consistent with their legislative and constitutional responsibilities.

6.2.1 Allocations

ACHPs must have a fair and transparent Allocations Policy and associated procedures. Housing must be allocated in accordance with this Allocations Policy. This policy should include any specific allocation requirements for particular properties or locations, as determined by the property owner.

The rationale for allocations must be clearly documented by the ACHP.

6.2.2 Tenure

Aboriginal Housing is provided as continuous tenure, subject to a tenant complying with the requirements of their residential tenancy agreement.

If a tenancy must be terminated due to the premise being sold or redeveloped, the ACHP must re-house the tenant household in appropriate, alternative accommodation. To ensure that tenants are treated fairly in these circumstances, ACHPs must have in place transparent policies that clearly set out these processes, and which meet the requirements of the RTA in relation to notice, reasons for termination and review.

6.3 Affordable Housing

Affordable Housing refers to housing that has been developed with some assistance from the NSW and/or Commonwealth Governments, including through planning incentives. It may include a range of housing types and sizes, including single or multi-bedroom units or houses, as well as studio apartments. It is only available in some locations. Eligibility criteria apply.

6.3.1 Allocations

Affordable housing must be allocated in accordance with the [NSW Affordable Housing Ministerial Guidelines](#).

6.3.2 Tenure

Affordable housing is provided for a fixed term or on a continuous basis, and tenancies may be renewed subject to the tenant household continuing to meet the eligibility criteria for affordable housing.

In accordance with the [NSW Affordable Housing Ministerial Guidelines](#), the length of each fixed term residential tenancy agreement is determined by the

ACHP and must be relevant to tenant circumstances. However, each fixed term residential tenancy agreement should be no longer than a period of ten years.

6.4 Crisis Accommodation, Transitional and Exit housing

6.4.1 Allocations

Allocations to transitional and exit housing and crisis accommodation must be based on the specific criteria associated with the use of the properties. Properties must be allocated to eligible households and targeted to the identified client group.

6.4.2 Tenure

Tenants in transitional and exit housing must be issued with fixed term residential tenancy agreements.

6.5 Employment Related Accommodation

Allocations to Employment Related Accommodation (ERA) housing must be based on the specific criteria associated with the use of the properties. Properties must be allocated to eligible households and targeted to the identified client group.

Tenants in ERA housing must be issued with fixed term residential tenancy agreements as specified in the ERA guidelines

7 Roles and responsibilities

The main roles and responsibilities for the implementation of this policy are as follows:

1. Housing providers managing properties under a contractual arrangement with the AHO are responsible for ensuring this policy is adhered to and that their own policy documents are consistent with policy set by the AHO.
2. The AHO Director, Housing Client Services is responsible for ensuring that this policy is being adhered to by contracted housing providers, consistent with the Contract and Performance Monitoring Framework and Contract Compliance Policy.

8 Monitoring, evaluation and review

It is the responsibility of the AHO Policy, Programs and Design Innovation Unit to monitor and update this policy when required.

This policy will be reviewed when any significant new information, legislative or organisational change warrants amendments to this document.

9 Support and advice

Support and advice about this policy can be obtained from:

- AHO Policy, Programs and Design Innovation Unit or
- AHO Regional Offices

If reviewing a printed version of this document, please refer to the AHO website to confirm that it is the most recent version of the policy.