



Aboriginal Housing Office Housing Services Policy Framework

May 2017

The Housing Services Policy Framework sets out the operational policy requirements for a range of housing services provided by Aboriginal Community Housing Providers registered with the Aboriginal Housing Office.



Family &
Community
Services



Aboriginal
Housing
Office



Document approval

The AHO Housing Services Policy Framework has been endorsed and approved by:

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Table of contents

Introduction	4
Context	4
Legislation.....	4
The Framework.....	5
Scope	5
Section 1: Specific Policy Requirements	6
Introduction	6
Confirmation of Aboriginality	6
Housing Eligibility.....	6
Housing Access	7
Rent.....	7
Asset Management.....	7
Water Usage.....	8
Section 2 - General Requirements	9
Introduction	9
Establishing Tenancies	9
Changing Tenancies	9
Ending Tenancies	10
Tenant Complaints and Appeals	11
Governance	11
Protecting Aboriginal Children and Young People.....	12
Privacy and Confidentiality	12
Conflict of Interest	13
Roles and Responsibilities.....	14
Monitoring, Evaluation and Review	14
Support and Advice	14
Related Documents and Policies	14

Introduction

Context

The Aboriginal Housing Office (AHO) is a statutory authority established under the *Aboriginal Housing Act 1998* and a NSW Government agency. It is governed by an all-Aboriginal Board that provides advice to the Minister for Family and Community Services.

The AHO's vision is to ensure every Aboriginal person in NSW has equal access to, and choice in, affordable housing. We work in partnership with Aboriginal Community Housing Providers (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 is tenant outcome focused

The AHO develops policies, programs and initiatives that help realise this future.

ACHPs registered with the AHO are required to manage their housing in accordance with the policies and standards set by the AHO and in a way that is responsive to Aboriginal peoples' needs, sensitive to culture and consistent with the principles of self-determination and self-management.

The Aboriginal community housing sector is diverse. Providers are located across NSW with a significant concentration in regional and remote areas, including ownership and management of discrete communities. They vary greatly in size from very small to substantial organisations managing a large number of properties for various owners, including the AHO and other Providers. The AHO strives to develop policies and operational standards that recognise the diversity of the sector.

Legislation

- *Aboriginal Housing Act 1998*. Part 4 of the Act allows the AHO to enter into housing agreements with registered organisations which may require the organisation to meet specified standards and targets in relation to Aboriginal housing services and programs.
- *Residential Tenancies Act 2010*
- *Aboriginal Land Rights Act 1983*
- *Children and Young Persons (Care and Protection) Act 1998*
- *Privacy Act 1998*

The Framework

The Housing Services Policy Framework sets out the minimum requirements for a range of housing and housing related services provided by Aboriginal Community Housing Providers (ACHPs) registered with the AHO. It sets out the tenancy and asset management policies and processes that ACHPs must have in place in order to manage AHO properties.

Contractual arrangements between the AHO and a registered ACHP requires the ACHP to comply with the policies under this Framework and as listed in any AHO housing or assistance agreement, as well as the minimum standards for providing social housing services detailed in the AHO Housing Services Guidelines.

Monitoring of compliance with the policies outlined in this Framework is undertaken within the AHO's contract compliance monitoring process.

Scope

All properties owned by the AHO and managed by a registered ACHP as well as those managed on an interim basis by mainstream Community Housing Providers (CHPs) are covered by this Framework.

The Framework outlines both the specific policies and the general requirements which ACHPs and CHPs who have contractual agreements with the AHO for delivering housing and housing related services are required to comply with.

Section 1: Specific Policy Requirements

Introduction

ACHPs and CHPs that are managing AHO properties and have contractual and funding agreements with the AHO are required to comply with the policies prescribed in the Housing Services Policy Framework.

ACHPs and CHPs may also be required to comply with requirements for the AHO's Provider Assessment and Registration System (PARS) or the National Regulatory System for Community Housing (NRS).

The AHO expects that all AHO housing is targeted at Aboriginal people most in need.

Confirmation of Aboriginality

The AHO Confirmation of Aboriginality Policy provides guidance to ACHPs on how to assess, recognise and establish the eligibility of tenants who wish to be housed in AHO properties.

ACHPs must have in place an appropriate process for Confirmation of Aboriginality. The process and level of proof required must be consistent with the AHO's process for Confirmation of Aboriginality and any other relevant legislation.

Housing Eligibility

The AHO Housing Eligibility Policy sets out the requirements for eligibility to housing and housing related services and products owned and/or managed by ACHPs that have a contractual arrangement with the AHO.

ACHPs must have in place fair and transparent policies and processes that are consistent with the AHO's Housing Eligibility Policy and relevant legislation to:

- receive, assess and record applications for each type of rental accommodation they provide. This includes assessing entitlements, such as an extra bedroom to help Aboriginal families meet their family responsibilities (subject to availability).
- accelerate progression of applications on the NSW housing register for confirmed Aboriginal people aged fifty five (55) years and over.

All ACHPs are encouraged to participate in the Family & Community Services (FACS) Housing Pathways system which provides a common social housing register and assessment framework.

Housing Access

The AHO Housing Access Policy sets out the requirements for access to and management of housing and housing related services and products owned and/or managed by ACHPs that have a contractual arrangement with the AHO.

ACHPs must have fair and transparent policies and processes in place to determine an allocation of rental accommodation to an applicant who meets the eligibility criteria as set out in the Housing Eligibility Policy. The policies should be publically available, accessible and consistent with the AHO Housing Access Policy and relevant legislation.

ACHPs must clearly document the rationale for allocations. The assessment process must consider the housing needs of the applicant and their ability to resolve this need. This process should also identify the circumstances for making allocations based on family connections to land and/or property, where applicable.

ACHPs must provide clear information to tenants on the conditions of their tenancy and their rights in relation to making a complaint or appealing a decision at the beginning of their tenancy.

Rent

ACHPs are required to apply the AHO Build and Grow Rent Policy or the NSW Community Housing Rent Policy. For Affordable Housing, ACHPs must apply the rent settings as outlined in the NSW Affordable Housing Ministerial Guidelines. They must have a published policy on setting, assessing and reviewing rent levels, including a formula on how to determine rent levels.

The Property or Market rent is the maximum rent payable for each property. To establish Property or Market rent, ACHPs must use the local market rent data relevant to the type and location of the property. This information is published quarterly in the Rent and Sales Report on the FACS website.

In locations where there is no comparable 'market rent' the AHO will set the property or market rent. These areas include remote NSW, very remote NSW, isolated discrete communities and some outer regional Local Government Areas where market rent is difficult to measure.

Asset Management

ACHPs must have asset plans, policies and processes in place that consider the needs and costs of maintaining and operating assets over their life cycles to meet current and future housing needs of Aboriginal communities.

These plans must show the resources and actions required each year to manage the assets and that the plans are sustainable. The elements and complexity of these plans will vary according to the scale and scope of a providers' housing portfolio and where relevant their PARS class or NRS tier.

When developing their asset plan the ACHP should consider:

- Taking a life cycle approach – procurement, maintenance and disposal

- Developing cost-effective management strategies for the long term
- Providing a defined level of service and monitoring performance
- Understanding of local demographics and planning for future demand
- Managing risks associated with asset failures
- Sustainable use of physical resources

ACHPs must maintain all housing stock owned and/or managed by them at an acceptable standard to minimise the need for recurrent and extensive maintenance. The provider will need to have plans and processes in place that ensures:

- Properties are well maintained
- Maintenance is undertaken in a timely manner
- Maintenance work is undertaken by suitably qualified staff/contractors/consultants
- Tenants are provided with easy-to-use information on repairs and maintenance

ACHPs should take all available steps to improve the amenity of the housing stock over time.

ACHPs must comply with the *Residential Tenancies Act 2010* which requires a landlord to provide a reasonable state of cleanliness and repair.

ACHPs should consult the AHO Housing Services Guidelines for the minimum standards required for asset management.

Water Usage

The AHO expects that water use charges to tenants are in accordance with the Ministerial Guidelines on Water Charging for Aboriginal Community Housing Providers. ACHPs may choose to charge tenants for water usage. This charge is not compulsory. Providers may choose for operational reasons to absorb these costs.

Where ACHPs choose to raise water usage charges they must do so in accordance with the *Residential Tenancies Act 2010* (Part 7, S139) which makes provision for social housing landlords to pass on charges for water usage for tenancies covered under a social housing agreement.

The *Residential Tenancies Act 2010* requires social housing landlords to charge tenants for water usage in accordance with guidelines approved by the Minister. The Ministerial Guidelines on Water Charging for Aboriginal Community Housing Providers is available at www.aho.nsw.gov.au.

Where ACHPs choose to raise water charges for their tenants they must have in place a clear and easy to understand information and water charging policy that is readily available to tenants.

ACHPs are responsible for meeting any other costs associated with water provision, including water connection charges, sewerage and charges for areas of common water usage.

Section 2 - General Requirements

Introduction

This section outlines the general policies, procedures and operational requirements that the AHO expects ACHPs to have to comply with their obligations as a social housing provider.

ACHPs are expected to have processes in place that adhere to the general policies, procedures and operational requirements covered in detail in the Aboriginal Housing Service Guidelines. The AHO will monitor these processes to ensure an ACHP fulfils their contractual obligations as a social housing provider and have processes in place that are closely aligned to the legislative compliance requirements for ACHPs registered under the NRS and/or under PARS.

Establishing Tenancies

ACHPs must have policies on establishing and maintaining tenancies that are consistent with the *Residential Tenancies Act 2010* and with the AHO's Eligibility and Access policies.

ACHPs must inform tenants of all policies and procedures related to their tenancies at the signing of an agreement.

For Social and Affordable Housing, ACHPs must enter into a residential tenancy agreement in accordance with the *Residential Tenancies Act 2010*.

For Crisis and Transitional accommodation, ACHPs must have an agreement with each tenant that sets out the nature of the residency and the rights of the tenant.

ACHPs must have policies and processes in place that respond to changing tenant needs. This includes establishing and maintaining arrangements that are adequate to ensure tenants with support needs receive appropriate support, if relevant and where available, to maintain their tenancies.

Changing Tenancies

A tenant housed in an Aboriginal community housing owned or managed property who is experiencing a change in circumstances that affects their housing needs may request a transfer to another property. An ACHP should use its best efforts to fulfil a transfer request if the request is based upon a genuine housing need.

ACHPs must have in place policy and processes to manage transfer of tenants to another property. The assessment should include the following.

The eligibility criteria for transfer

The criteria for assessing the urgency of a tenancy transfer application should take into account such factors as the risk posed to the tenant or members of the household remaining in their current property.

In the case where ACHPs can only transfer tenants within their portfolio and there is an urgent need for transfer to another location, the ACHP can provide a support letter to the tenant, who then can contact a “Housing Pathways” provider to apply to be on the NSW Housing Register.

Succession of tenancy

Succession of tenancy will ensure that eligible household members will not be made homeless or forced to face hardship because the tenant has left the property or has died.

ACHPs must have in place a culturally appropriate decision-making process to determine the eligibility of applicants for succession of tenancy when the tenant has left the property due to health reasons, has been imprisoned, has died or wishes to relinquish their tenancy.

In general a household member applying for succession of tenancy must be eligible for an Aboriginal community housing property, is an approved additional occupant of the property with a satisfactory history of occupation of at least two years or as otherwise prescribed by the provider and should be able to demonstrate an ongoing need for assistance.

ACHPs must have a process to manage succession of tenancy where there are cultural factors that may apply, such as ongoing family connection to property.

If an applicant is not a current member of the tenant’s household the provider must consider whether the applicant meets the eligibility requirements for Aboriginal community housing, whether there are any extenuating circumstances and whether the applicant can demonstrate a long term association to the property and the area. Such factors may include but are not limited to:

- The applicant was active in the child’s/children’s upbringing.
- The applicant has grown up in the dwelling and has a long-term association with the dwelling and the area.
- Other eligibility criteria consistent with making culturally appropriate decisions concerning Aboriginal people.

Providers must require appropriate proof that the applicant meets relevant eligibility criteria for succession of tenancy.

Ending Tenancies

ACHPs must have fair and transparent processes in place to determine the termination of any residential tenancy agreement under the *Residential Tenancies Act 2010*. This must include a process to advise tenants about the circumstances in which a residential tenancy agreement may be terminated.

The termination of a residential tenancy agreement must be in accordance with appropriate provisions under the *Residential Tenancies Act 2010*.

ACHPs should not routinely terminate agreements under s85 of the *Residential Tenancies Act 2010* 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.

Where an ACHP does use a s85¹ termination notice, the provider should have a documented process which includes provision for internal and external review prior to the decision to terminate under s85.

See the AHO Housing Access Policy for further requirements regarding the use of s85 notices of termination.

Tenant Complaints and Appeals

ACHPs should have policies and procedures for accepting and responding to informal and formal complaints and for appealing decisions.

ACHPs must ensure that tenants and applicants are able to make complaints and appeal against decisions made by the organisation. The organisation should address all complaints and appeals promptly, fairly, confidentially and without retribution.

ACHPs should provide tenants and applicants with information on external bodies they can complain or appeal to if they are not satisfied with decisions/actions of the organisation

ACHPs should also have in place processes to record outcomes and ensure applicants and tenants are provided with the reasons for a decision in relation to any complaint received.

Governance

All ACHPs should have a clear structure and a clearly defined process of accountability to allow the community and other stakeholders to have confidence in the organisation.

ACHPs must establish a Board or Management Committee with clearly defined roles and responsibilities for its members.

The ACHP should have a written code of conduct for staff, volunteers and management which is read and signed by all staff.

¹ 85 Termination of periodic agreement

(1) A landlord may, at any time, give a termination notice for a periodic agreement.

(2) The termination notice must specify a termination date that is not earlier than 90 days after the day on which the notice is given.

(3) The Tribunal must, on application by a landlord, make a termination order if it is satisfied that a termination notice was given in accordance with this section and the tenant has not vacated the premises as required by the notice.

(4) This section does not apply to a residential tenancy agreement if the tenant has been in continual possession of the same residential premises for a period of 20 years or more.

In selecting members to the Board or Management Committee, the ACHP should ensure that prospective members have the experience and expertise relevant to the business and can best represent the interests of the community.

The ACHP should ensure that the Board/management committee meets regularly and considers reports on the performance of the key aspects of the business and ensure that poor performance is addressed.

Protecting Aboriginal Children and Young People

Keep Them Safe, the NSW Government's response to the Wood report, is a five-year plan to improve the safety and wellbeing of children and young people in NSW. *Keep Them Safe* includes actions to support and work with Aboriginal children and families and to reduce the number of Aboriginal children coming into contact with the child protection system.

An ACHP's role in child protection is to report to FACS Community Services any reasonable suspicion that a child or young person is at risk of significant harm.

All ACHP staff are mandatory reporters by law and if, during the course of their work, staff have a reasonable suspicion that a child or young person is at risk of significant harm, a report must be made as soon as practicable to Community Services. ACHP staff are not authorised to investigate suspected cases of child abuse or neglect.

ACHPs have a responsibility to ensure that:

- They are aware of their responsibilities under the *Children and Young Persons (Care and Protection) Act 1998*.
- Staff receive training in how to recognise and report cases of child abuse and neglect.
- There are properly implemented child protection policies, guidelines and procedures in place to ensure that staff are aware of their obligations and the process they must follow for referral.

The Child Wellbeing and Child Protection - NSW Interagency Guidelines sets out in practical terms the ways the wider community and FACS agencies can collaborate in their work with children, young people and their families where there are "at risk" or harm concerns. The guidelines detail general indicators of child abuse and neglect which can assist staff in identifying whether a child or young person is being abused or neglected.

Privacy and Confidentiality

ACHPs must have policies and processes in place to protect the privacy of individuals which are consistent with relevant privacy legislation. ACHPs must protect the personal information and privacy of applicants, tenants and household members.

Providers must ensure that any personal and/or health information are not released to or exchanged with an unauthorised third party unless with the

informed consent of the person affected or if this is lawfully authorised or required.

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

ACHPs will notify applicants and tenants that information about the persons included in the application can be exchanged with the AHO for the purposes of assessing their application or making decisions about termination of the tenancy.

Conflict of Interest

ACHPs must have policies and processes in place to manage any conflict of interest when providing and/or managing housing and/or housing related services.

Serving the community or public interest is central to the duties of each person working or volunteering in an Aboriginal Community Housing organisation. Acting in the community or public interest means that the person carries out official duties for the organisation in a fair and unbiased way and makes decisions that are not affected by self-interest or desire for personal gain.

A conflict of interest is a conflict between a person's duties and responsibilities in serving the community or public interest when managing housing, and the person's private interests.

Conflicts of interest can be actual, potential or perceived. Regardless, they can affect the ability of staff to carry out their duties objectively and can undermine public confidence in the ACHP.

Private interest is any interest that can bring benefits and personal gain to an employee, contractor, volunteer or others, e.g. their relatives.

ACHPs must have systems in place to ensure that staff and volunteers are aware of any actual, potential or perceived conflicts of interest and that they enable conflicts of interest to be disclosed immediately and that any action to address conflicts of interest are undertaken in an open, honest and accountable manner.

Roles and Responsibilities

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

1. The AHO Chief Executive will endorse and approve this document and all related documents
2. The AHO Director, Housing Client Services is responsible for ensuring that this Framework and associated AHO Policy is being adhered to by contracted ACHPs, consistent with the Contract and Performance Monitoring Framework and Contract Compliance Policy

Monitoring, Evaluation and Review

Performance and monitoring will be undertaken through AHO's existing Provider Contract & Performance Management Framework.

Support and Advice

Support and advice about this Framework can be obtained from:

- AHO Policy, Programs and Design Innovation Unit who has carriage of this document, or
- AHO Regional Offices

Related Documents and Policies

This document should be read in conjunction with the following:

AHO Housing Access Policy

AHO Housing Eligibility Policy

AHO Confirmation of Aboriginality

Ministerial Guidelines on Water Charging for Aboriginal Community Housing Providers

AHO Build and Grow Rent Policy

Community Housing Rent Policy

AHO Interim Subsidy Policy

NSW Affordable Housing Guidelines

Housing Pathways

[Keep Them Safe: a shared approach to child wellbeing](#)

[Supporting Aboriginal children and families](#)

AHO Housing Services Guidelines