

DEBT RECOVERY POLICY

1. Purpose

This document defines Evolve Housing's policy on tenancy charges including rent and non-rent debts. Evolve Housing requires all Tenants living in property owned or managed by Evolve Housing to pay tenancy charges. Tenancy charges include rent and non-rent debts — including any combined former debt.

Evolve Housing will establish a separate account for rent and non-rent accounts, as charges become due Evolve Housing will add the charge to the relevant account. The Tenant is required to meet their obligations to pay those charges as they become due.

When a Tenant moves out of their property, all rent or non-rent debt including Tenant charge maintenance items remaining are known as ex-Tenant account debt.

2. Scope

This Policy applies to Tenants and former Tenants of property owned or managed by Evolve Housing. Evolve Housing will treat debt recovery with sensitivity and have an emphasis on privacy whilst recognising the capacity of the individuals to meet their commitments.

The impact upon an organisation such as Evolve Housing to function as a social housing provider is dependent upon not carrying debt. Tenants are required to pay rent in advance, in accordance with their Residential Tenancy Agreement.

Evolve Housing understands there are competing demands upon families to meet their commitments; however the payment of rent and non-rent charges should be considered a priority.

3. Policy Statement

Evolve Housing is committed to maintaining its function as a social housing provider. Evolve Housing is able to apply and recover tenancy related charges in accordance with the provisions of the

Residential Tenancies Act 2010 and the Housing Act 2001.

Tenants have a legal obligation to pay their tenancy charges as they become due. If Tenants do not make payments their accounts will fall into arrears; this will result in a breach of their tenancy agreement.

Tenants must notify Evolve Housing immediately if they are unable to make payments. Evolve Housing will work with Tenants to ensure they meet their obligations to pay their tenancy charges however Evolve Housing will take appropriate legal action when there are major or persistent arrears.

Former Tenants must pay all money owing on ex Tenant accounts. Evolve Housing will take action through the NSW Civil & Administrative Tribunal (NCAT) to recover monies owing, or pursue legal action if former Tenants do not make repayments.

3.1 Advising current Tenants of arrears on their tenancy accounts

Evolve Housing may contact Tenants in writing, by phone, SMS, or by visiting them in their homes if their accounts fall into arrears. Evolve Housing will act quickly to help ensure the Tenant pays their tenancy charges on time and to help prevent the debt from escalating.

3.2 Managing current accounts in arrears

Evolve Housing reserves its right to issue a Notice of Termination in accordance with the Residential Tenancies Act 2010, if there have been breaches of the Residential Tenancy Agreement.

Evolve Housing expects all outstanding debts to be repaid as soon as possible and will seek all monies in full in the first instance.

Where a Tenant claims financial hardship or other difficulties that may affect their ability to pay in full, Evolve Housing may accept a repayment arrangement which will require Tenants to supply evidence of their financial position. Evolve Housing may also refer a Tenant to various financial and other support services in order to assist in managing their arrears.

If Evolve Housing is unable to negotiate a reasonable repayment arrangement, it will escalate the arrears recovery process.

Depending upon the circumstances, Evolve Housing may apply to NCAT for a Specific Performance Order to repay debt or for an order to terminate the tenancy.

Before taking action at NCAT, Evolve Housing will attempt to work with the Tenant to try to resolve any problem relating to their non-payment of monies owing to Evolve Housing.

Evolve Housing may consider the following:

- The Tenant's payment patterns;
- The amount of time the Tenant has been in arrears and the amount of arrears;
- The reason for the Tenant being in arrears;
- The Tenant's ability and willingness to repay the arrears;
- Possible involvement of support services;
- Previous arrears patterns, including the steps that have been taken to resolve the problem.

Evolve Housing may then consider whether to:

- Negotiate a repayment arrangement;
- Issue a Notice of Termination (NOT);
- Apply to NCAT for a Specific Performance Order (SPO);
- Apply to NCAT for an Order of Termination and Possession

3.3 Specific Performance Order (SPO)

Should the Tenant breach the terms of the SPO, Evolve Housing will either ask for the debt to be repaid in full, or return to NCAT and seek an Order of Termination and Possession.

3.4 Order of Termination and Possession

An Order of Termination and Possession is an order granted by NCAT which legally ends the tenancy on a certain date. An Order of Termination and Possession sets a date by which the Tenant

must vacate. If a Tenant fails to vacate the property by the date in the possession order, Evolve Housing will apply to NCAT for a Warrant of Possession which authorises the NSW Sheriff's Office to evict the Tenant.

3.5 Managing ex-Tenant rent and non-rent accounts

When a Tenant moves out of an Evolve Housing property, all charges and payments relating to the property will be reconciled. This may result in an amount remaining as a credit or debit. In order to manage any refund or debt notices it is important the Tenant provides Evolve Housing with a forwarding mailing or email address.

3.6 Tenants who vacate and are no longer being housed by Evolve Housing

Evolve Housing may automatically transfer balances between the Tenant's accounts if the Tenant has left the property and will no longer be housed by Evolve Housing.

If there is a credit balance on one account and a debit balance in another Evolve Housing will use the credit to pay off the debit. Evolve Housing will advise the former Tenant in writing of their final accounts including whether any amount has been transferred between accounts and the reasons for the transfer.

3.6.1 Credit balances if whereabouts known

Evolve Housing will refund any credit amount if the whereabouts of the former Tenant is known, following reconciliation of all accounts.

Evolve Housing will refund credits where an account is in credit or an extra deduction has been made from the Tenants Centrelink payment after they have left the property or where the Tenant's financial institution has deducted an additional amount by direct debit after the Tenant has left the property.

If a former Tenant is deceased, Evolve Housing will refund any credit to the Executor of the former Tenant's estate.

6.1.2 Debit balances if whereabouts known

Evolve Housing will waive debit balances where the Tenant is deceased, or the former Tenant is declared bankrupt. The debt in this instance will be waived up to the date of the bankruptcy.

If a former Tenant does not repay the debt in full, Evolve Housing will apply to NCAT for an order of payment of monies owing.

When the whereabouts of the ex-Tenant is known, Evolve Housing may take recovery action either through a Letter of Demand or a mercantile agent.

If a joint tenancy account is in debit, all the former Tenants are liable for the debt. If one of the former Tenants reapplies for assistance, they will have to arrange to repay all money owing

3.7 Tenants who vacate and are going to another social housing property

Where a Tenant will be housed in another Evolve Housing property, Evolve Housing will transfer any credit balance on a current account to pay a debt on a previous account.

2.7.1 Credit balances

Tenants will be encouraged to transfer a credit balance to their new account so that this tenancy commences with a credit balance.

3.7.2 Debit balances

Evolve Housing will not transfer a Tenant if they have a debit balances at their current property. In exceptional circumstances if a Tenant is being transferred to another property under 'At Risk' or 'Management' reasons the Executive Manager may approve

a repayment arrangement which may include a lump sum payment.

In line with Section 140 of the Residential Tenancies Act 2010 a Tenant who has an outstanding debt from a former tenancy must make a reasonable arrangement to repay the debt and continue making repayments, or Evolve Housing may take action against their new tenancy through the NSW Civil & Administrative Tribunal (NCAT).

3.8 Further Information

When making decisions about managing accounts, Evolve Housing will consider various information and evidence. If a Tenant disagrees with a decision Evolve Housing has made they should first discuss their concerns with a Housing Manager.

The next step if they still believe Evolve Housing has made an incorrect decision is to lodge a formal appeal of the decision.

For information on how an appeal works the Tenant can ask a Housing Manager for a copy of the Appeals Fact Sheet, or obtain a copy of the Evolve Housing Appeals Policy.

The Tenant cannot ask for a formal review if rental arrears results in eviction proceedings. In these cases, NCAT, which is an independent body, will hear the matter. The role of NCAT is to resolve disputes between Tenants and Landlords.

DEFINITIONS

- **NCAT** — NSW Civil & Administrative Tribunal
- **Residential Tenancy Agreement** — a written agreement between a tenant and Evolve Housing (as property manager) which governs the terms on which the tenant occupies the property
- **Tenant** — a person who signs the Residential Tenancy Agreement with Evolve Housing

RELATED RESOURCES

- Evolve Housing Appeals Policy
- Evolve Housing Transfer Policy
- Residential Tenancies Act 2010 (NSW)
- Housing Act 2001 (NSW)

NB This Policy is subject to change from time to time at the discretion of Evolve Housing.

Further information

For more information or answers to any questions, please visit or contact the Evolve Housing head office:

Address: Henry Dodd House

9-13 Argyle Street, Parramatta NSW 2150

Phone: **1800 693 865**

Email: myevolve@evolvehousing.com.au

Website: evolvehousing.com.au

Translation service

If you need help with interpreting or translation because English is not your first language, phone the All Graduates Translating and Interpreting Service on **1300 652 488**. They will phone the housing organisation and interpret for you for free.