



# THE BUTTERY

ENRICHING LIVES

## RENT POLICY

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## 1. POLICY STATEMENT

The purpose of this policy is to outline how The Buttery calculates rent for all social housing properties and manages the bi-annual Rent Review.

## 2. SCOPE

This policy applies to tenants who live in a social housing property that is owned or managed by The Buttery. As a registered Community Housing provider, The Buttery's Rent Policy must comply with the NSW Department of Community and Justice's Community Housing Rent Policy. This policy sets out the NSW Government's requirements for rent setting by community housing providers in NSW.

## 3. DEFINITIONS

<b>Commonwealth Rent Assistance (CRA)</b>	Is a non-taxable income supplement payable by the Commonwealth Department of Social Services to eligible people who rent in the private market or community housing.
<b>Community Housing Rent Policy</b>	The NSW Community Housing Rent Policy published by the NSW Department of Communities and Justice as amended which can be accessed online: <a href="#">Community Housing Rent Policy</a>
<b>NSW Rent and Sales Report</b>	The rent and sales report prepared from time to time by the NSW Department of Communities and Justice which provides rent data on private market dwellings in NSW which can be accessed online: <a href="#">NSW Rent &amp; Sales Report</a>

## 4. PRINCIPLES

The Buttery's Rent Policy sets out a clear and consistent rent setting approach for all social housing tenants.

As a starting point, The Buttery charges market rent for its properties. The market rent for capital properties is based on the NSW Rent and Sales Report.

People in receipt of very low to moderate incomes can apply for a rental subsidy to meet the cost of market rent. This subsidy varies according to the type of program and the income level of the tenant and household members.

The Buttery has the authority to grant a rent subsidy under the provisions of the *Community Housing Rent Policy 2020* and the *NSW Residential Tenancies Act (RTA) 2010*. For The Buttery to determine if a tenant is eligible for a rental subsidy, the tenant and household members must provide details of their income and assets to The Buttery. This happens every six months when The Buttery conducts a rent review, in March and September, to coincide with changes in Centrelink payments.

## 5. POLICY

The Buttery calculates how much a tenant should pay in rent taking into account the market rent for the property and any subsidy that the tenant should receive to assist them to meet the costs of their rent including Commonwealth Rent Assistance.

## 6. MARKET RENT

The market rent is the rent shown in the Residential Tenancy Agreement. For capital properties and properties leased from the New South Wales Land and Housing Corporation, market rent is calculated as the median rent for a property of the same type and bedroom size in the Local Government Area. The median rent is determined by the NSW Rent and Sales Report. The Buttery updates market rents on capital properties annually.

For arms-length leasehold properties, market rent is the actual rent payable to the landlord for properties leased from the private rental market. Market rents for leasehold properties are reviewed and updated when the actual rent for the property changes. If there is a change in the market rent for a property, tenants are given notice in writing as per the *NSW Residential Tenancies Act 2010*.

## 7. RENT SUBSIDY

If a household has a low or moderate income, the tenant can apply for a rental subsidy using The Buttery's Application for Rental Subsidy Form. If a rent subsidy is granted, this will effectively subsidise the market rent payable. This means that the amount of rent paid by tenants is based on a percentage of their income and assets.

When assessing eligibility for a rental subsidy, The Buttery will ensure that:

- Each assessment of rent subsidy and the application of market rent is fair, consistent and transparent.
- The complex needs and vulnerability of our tenants will be taken into account and we will be proactive and empathetic in our approach to communicating these circumstances.

Staff are properly trained and resourced to implement this policy.

## 8. RENT CHANGING

The Buttery will calculate the amount of rent to be charged to the tenant on the assessable income of the household. This includes the tenant and all residents.

The *Community Housing Rent Policy 2020* specifies what is included in assessable income. In summary assessable income includes:

- Income from statutory payments,
- Wages or casual earnings,
- Self-employment,
- Any assessable supplement payment, and
- Any household member not eligible for a payment or who is eligible for a statutory payment will be charged rent based on the statutory allowance amount.

In a simple form, rents are calculated as follows:

*Market rent payable by a tenant = (% of household income and assets) + 100% Cth Rent Assistance*

Table 1 below shows the percentage of income payable by different members of a household in a social housing property. There are different rates based on the ages of the tenants and the payment they receive from Centrelink.

**Table 1:** Percentage of income payable in social housing rent

Rate	Position
25% - 30%	The tenant, and their spouse or live-in partner, irrespective of their gender or age.
	All other persons living in the household who are aged 21 years or over.
15%	People living in the household aged 18 to 20 years inclusive who are not the tenant, their spouse or live-in partner.
15%	Family Tax Benefit Part A & B
100%	Of household weekly CRA entitlement
NIL	Persons living in the household aged under 18 years who are not the tenant, their spouse or live in partner are not assessed for rent- setting purposes.

## 9. INCOMING FROM WAGES AND CASUAL EARNINGS

Tenants and household members, who receive a wage or casual earnings, must provide pay slips showing their current gross income per week.

If the tenant or household member work fixed hours per week, 4 weeks of pay slips must be provided. If the tenant or household member work casual hours (changes per week) and/or works overtime, 12 weeks of pay slips must be provided.

If pay slips are not available, The Buttery can accept either a signed letter from the employer on headed paper, or a completed The Buttery Income from Employment Form. This form must be completed by the employer and officially business stamped or be received directly from an authorised representative of the employer (such as a HR Representative).

## 10. SELF-EMPLOYED TENANTS

Self-employed tenants will have to provide their income details to The Buttery to verify their eligibility for subsidised rent. Their income details must be provided in accordance with the *Community Housing Rent Policy 2020*. This states that The Buttery cannot accept a 'Notice of Tax Assessment' as details of a self-employed income.

One of the following types of information must be received by all self-employed tenants:

- Full version of a completed lodged Australian Tax Return from the Australian Tax Office website. This must include all pages of the tax return, which includes the individual's income, expenses and interest earned for the financial year; or
- a profit and loss statement from a chartered accountant.

All self-employed applicants must provide the last three months Bank statements showing transaction details from all investment organisation/banks for all accounts held for all business and personal accounts, including any savings and shares.

Self-employed income will always be calculated on the income earned from the previous financial year. During the rent review held in September, all self-employed tenants must provide their income details for the last financial year to be used to calculate future subsidised rent. For rent reviews held in March, we will use the calculated subsidised rent from the rent review held in September, unless the tenant advises The Buttery of a sufficient change in income. If a self-employed tenant's income changes significantly from the previous financial year, The Buttery can make the decision to apply a retrospective adjustment from the 1<sup>st</sup> of July of that year, to amend the tenant's subsidised rent.

## 11. NO STATUTORY INCOME OR REDUCED STATUTORY INCOME

As indicated in the *Community Housing Rent Policy 2020* the following applies.

The rent subsidy application will be assessed based on the statutory allowance the tenant or other adult household members would normally receive when:

- the tenant or adult household member has chosen not to apply for a statutory income to which they are entitled.
- the tenant or adult household member is not eligible to receive a statutory income.
- the tenant or adult household member is receiving a reduced statutory income and has no income from any other sources.

Where a tenant or household member is not eligible to receive statutory income based on the partner's income, The Buttery will apply a rent charge amount that is deemed acceptable for the household.

## 12. PROOF OF INCOME

Tenants must provide proof of income. Proof of income must be original and can be:

- Provided through the 'Income Confirmation Scheme' for all Centrelink income support type payments. Tenants and household members can give their authority for The Buttery to access their income details in line with the Centrelink eService Terms and Conditions and Policy by completing the Centrelink eService's Multiple Consent and Authority Form.
- Provide a current income statement by the Department of Veteran's Affairs. Tenants must contact the Department of Veteran's Affairs to request an updated income statement and send direct to The Buttery.
- Payslips, a letter, or statement from the employer detailing gross wage, applicable tax, deductions, pay period and payee details for salary or wages.
- Profit and loss statement completed by an accountant, or a lodged taxation return with at least three-month business and personal bank statements for self-employed tenants and household members.
- Letter or statement from an Overseas Government detailing the amount received for foreign pensions, if not recorded through Centrelink.
- Letter or statement from iCare (Workcover) or an insurance company detailing the gross amount received.
- Bank statements showing transaction details from all investment organisation/banks for all accounts held for the period specified for each household member aged 18 and over.

Documents must not be more than one month old on the date they are submitted, and Centrelink income statements must be current showing the change in payments in line with the increase in CPI rates. An exception is given for tax returns, which must not be more than 13 months old.

## 13. RENT SUBSIDY REVIEWS AND RENT CHANGES

The Buttery will undertake a general income and rent review for all tenants in March and September of each year, in line with changes in the consumer price index.

For tenants in Fee for Service Programs, a general income and rent review will be undertaken according to the management contract with the property owner.



During a rent review, The Buttery requires the following details for each tenant and household members:

- Application for Rent Subsidy Form
- Proof of income pursuant to clause **Error! Reference source not found.** or **Error! Reference source not found.** for the tenant and any household member aged 18 and over (including details of assets where relevant).

These forms will be included in the Rent Review Notification Letter, which is sent 60 days before the rent increase date, as well as an additional 4 days for expected post to be delivered. This also constitutes as 60 days' notice of a market rent increase.

Tenants agree to supply their income details to The Buttery when commencing their tenancy, under Section 187 of the *NSW Residential Tenancies Act 2010*.

Tenants who fail to supply a completed Application for Rental Subsidy Form and verification of the household income by the due date will no longer be eligible for a rental subsidy and will be required to pay market rent from the specified due date and may be subject to New South Wales Civil and Administrative Tribunal (NCAT) action.

#### 14. FAILURE TO RESPOND

If a tenant fails to provide all details to allow assessment of household income to take place by the relevant due date, the following will take place:

- The rent will be increased to the market rent value on the increase date of change for the rent review process, which is in effect 60 days after the first notification letter was sent notifying the tenant of the increase of market rent.
- Within the 14-day period to the date of change, an appointment will be made for the tenant to come to The Buttery office to meet with their Tenancy Officer and provide the relevant documentation to support their application for rental subsidy. Therefore, The Buttery are providing a further warning to tenants that market rent may be applied.
- At the time of the appointment, the tenant must provide the outstanding information required to allow assessment. Additionally, the tenant must provide reasons for not providing the documentation within the original 60 days' notice period given.
- Failure to attend the appointment (or to attend an appointment arranged at another time) within the 14-day period, will result in market rent being applied on the increase date of change for the rent review process.
- Market rent will continue to be charged until or unless all the required information is provided and results in the tenant being eligible for a rental subsidy.

- If the tenant is in fact eligible for a rental subsidy, the rent subsidy will be reviewed based on the circumstances surrounding the reasons why the information was not returned by the due date and may be backed from the date market rent was applied. This will be in accordance with The Buttery's Tenant Feedback Policy.

A tenant can appeal the decision of the market rent charge period (see Tenant Feedback Policy). Any such appeal should provide evidence supporting the reasons for not providing the required information within the prescribed timeframe. Appeals relating to application of market rent may be appealed at any time up until the next rent review.

## **15. NOTIFICATION TO TENANTS**

Tenants will be notified in writing of any changes in their assessed rent and such notification will include a copy of the rental assessment.

Where the assessed rent results in an increase of rent payable by the tenant, The Buttery will ensure that any action taken to increase the tenants' rent does not conflict with the relevant provisions of the *NSW Residential Tenancies Act 2010*.

## **16. VULNERABLE TENANTS**

If a tenant is identified as vulnerable and receives no ongoing support, The Buttery will review their situation and consider this individually. If the tenant is identified as vulnerable and it is considered that the tenant may have difficulty or have a history of not providing the relevant documentation for the rent review process within the time period, then the Chief Executive Officer, may decide to calculate their rent subsidy without all the necessary information received until other arrangements to obtain the information are made (including where The Buttery obtains permission to gather this evidence on behalf of the tenant). This includes the application for rental subsidy and the household income details. To calculate the rental subsidy without the household income details, The Buttery staff will have to consider if we can confirm the type of income received based on previous calculations.

## **17. FLUCTUATIONS IN INCOME**

Where a tenant's income varies, and The Buttery identifies a consistent change in the tenant's rent assessment, it is possible to average the tenant's income over a 3 or 6 month period for the purposes of rent assessment or if the tenant requires we can complete quarterly rent reviews.

## **18. NEWLY ARRIVED RESIDENTS OR THOSE HOLDING AN IMMIGRATION VISA**

Some new migrants have no income because they are not eligible for Commonwealth Government Assistance through Centrelink for the first two years of arriving in Australia. If the person also has work restrictions The Buttery can apply a rent charge that is deemed acceptable.

The Buttery will require a copy of the individual's visa, including bank statements showing all transactions for the period specified for each account held. If the visa shows ineligibility for Centrelink payments, but has no work restrictions, The Buttery will assess their rent based on the statutory income rate as per the *Community Housing Rent Policy 2020*.

If the accounts show a value exceeding the assessable rate or an income, this will be calculated as income as per the *Community Housing Rent Policy 2020*.

## **19. RENT REVIEW – EFFECTIVE DATES**

During the rent review period it is important to keep to the effective dates to ensure the assessment is fair in accordance with the 60 days' notice period required for market rent increases.

## **20. DECREASE IN RENT**

The date for the application of a decrease in rent will be the same date as the date The Buttery was notified of the change in the tenant's household income and all the required information was provided by the tenant. For administrative purposes, The Buttery will use the previous Monday as the effective date.

## **21. INCREASE IN RENT**

The effective date for the application of an increase in rent will be the date as advised by the initial notification by The Buttery in the Rent Review Notification Letter.

## **22. RENT CHANGE – EFFECTIVE DATES**

### **22.1. Decrease in Rent**

In circumstances of a rent decrease, the date for the change in rent will be the date of the change in the assessable household income, providing the tenant notified The Buttery of this change within 21 days and all the required income information was provided by the tenant within the period.

If the tenant notifies The Buttery outside of 21 days from the date of change in the assessable household income, the date for the change in rent will be the date The Buttery was notified by the tenant, and all the required income information was provided by the tenant.

For administrative purposes, The Buttery will use the previous Monday as the effective date.

If the tenant appeals the decision not to backdate the decrease in rent to the original date of change, and the appeal is approved the decrease can be actioned but must not exceed a maximum of 6 weeks from the date The Buttery was originally notified.

## 22.2. Increase in Rent

In circumstances of a rent increase due to the tenant or household member beginning work, The Buttery will increase the rent 28 days from the date of change, providing the tenant notified The Buttery within 21 days of the date of change and all the required information to assess the rental subsidy, is provided by the tenant.

In all other circumstances of a rent increase the date of change in rent will be the following Monday from the date of change in income, providing the tenant notified The Buttery within 21 days of the date of change and all the required information to assess the rental subsidy is provided by the tenant.

If a tenant notifies The Buttery outside of 21 days from the date of change in the assessable household income, the date for the rent increase will be the date of change in the income.

For administrative purposes, The Buttery will use the following Monday as the effective date.

A retrospective adjustment will be applied to the tenants Rent Account, which may result in arrears, and will be subject to New South Wales Civil Administrative Tribunal (NCAT) action.

Where the tenant or household member has begun work and has given 'good cause' for having been unable to or having not provided the required information within 21 days of the increase in assessable household income, consideration can be given to increase the rent 28 days from the date of the change. Such approval can be given by the Income Coordinator.

## 23. CHANGE IN HOUSEHOLD INCOME

Tenants must inform The Buttery within 21 days if there is a change in the household income. Within these 21 days, tenants must have also provided all the relevant income details required to calculate the change in the subsidised rent, if any. Failure to advise The Buttery of changes in the household income or complement may result in formal tenancy action.

Where a failure to advise The Buttery of changes to the household income or complement of the tenancy is considered repeated or deliberate, The Buttery may take formal action to terminate the tenancy.

When a tenant informs The Buttery of a change in their circumstances, the Tenancy Officer will send a written letter to acknowledge the request for a re-calculation based on their change and request any relevant documentation that may be required to complete the review.

The Buttery will ensure that tenants are informed at sign up, and during each rent review period, that they must notify The Buttery of any changes to their household income and complement (the number of people in their household), as a condition of their tenancy obligations.

Each tenant has the responsibility of providing the income details and bank statements for all accounts for all household members to The Buttery. This responsibility applies to all rent changes, during or outside a rent review period.



When applying for a rent subsidy a tenant must declare all assessable income, (including details of financial assets) and provide proof of the amount received by their spouse/partner and each other member of their household aged 18 years and over.

All documentation concerning rental assessment and rent reviews will be retained on the tenant's file.

## **24. START WORK INCENTIVE**

Start Work Bonus (SWB) assists The Buttery tenants starting work for the first time or re-entering the workforce after a break.

If a person in the household over the age of 18 commences employment and they are approved for SWB, the extra money from starting a new job will not be included for up to 26 weeks when we calculate their rent. They will pay the same rent as they did just before they started work.

To be eligible, you must be a The Buttery tenant or household member over the age of 18, been out of work for at least 12 months (If claiming SWB for the first time) or 3 years (if you have previously claimed SWI) and tell us about starting working within 21 days.

Tenants can apply for SWB by submitting an Application for Rental Subsidy Form, Income Details Form for the full household, Income and Employment Form and an offer letter from employer.

At the end of SWB period after 26 weeks, The Buttery will do a rent review and the rent will be recalculated at 25% of income as normal.

## **25. RENT DURING APPROVED ABSENCES**

In accordance with the Absence from Property Policy, a tenant must notify The Buttery if they are away from the property for more than two weeks by completing an Absence from a Property Form. Absences from a property are reviewed on a case-by-case basis.

The Buttery will generally allow up to 3 months absence. Tenants will be expected to provide an agent while the tenant is away and meet all rental charges during this time.

A tenant may apply for a reduction in rent to \$5 per week for up to twelve weeks under certain circumstances. The following principles must be applied when determining a reduction in rent based on the above circumstances:

- Tenants or household members will only be eligible for a reduction in rent if they are required to pay fees for their absence, such as essential accommodation expenses (e.g., nursing home or respite care), or where they are not entitled to receive an income during their absence (e.g., incarceration).

- Evidence must be provided to confirm the commencement and end date of the absence period, as well as documentation confirming the expenses incurred for the alternative accommodation or that the person is not eligible for an income during that period.
- If there are household members in the property during the absence, their income will continue to be included in the rent calculation.
- Holidays, including visits within Australia or overseas for any purpose (other than those stated above) do not constitute eligibility for \$5 rent.

\$5 rents must be approved by the CEO. Any extension of the original decision which would extend over 12 weeks must be provided to the CEO for out of guidelines consideration and will only be approved in exceptional circumstances.

Further information on the circumstances and process for applying for an absence from property are contained in the Absence from Property Policy.

## 26. RENTAL SUBSIDY FRAUD

In NSW, all community housing tenants must verify their eligibility for a rental subsidy at the request of the housing provider. This may occur at any time during the tenancy and for different reasons.

Some requests for review of rental subsidy eligibility are planned and cyclical, whilst others are at the request of the housing provider, to ensure that the tenant remains eligible for a subsidy and in some cases to investigate an allegation of rental subsidy fraud or non-disclosure.

**Rental subsidy fraud** occurs when a tenant deliberately makes a false, incomplete, or misleading statement about the income or assets of themselves or any member of their household. This includes intentionally failing to notify The Buttery about changes to their household circumstances including permitting unapproved occupants to live at the property.

**Rental subsidy non-disclosure** occurs when a tenant has failed to notify The Buttery of any change to their household circumstances but has not done so deliberately.

It is a tenant, visitor/s, or additional occupants' responsibility to prove that they are eligible to receive a rental subsidy and to ensure that all changes in their household circumstances are reported to The Buttery.

If The Buttery receives information that a tenant is receiving a rental subsidy that they may not be entitled to, we are required to investigate to determine if:

- Rental subsidy fraud has occurred; or
- Rental subsidy non-disclosure has occurred; or
- The rental subsidy is correct, and no further action is required.

Once investigated and The Buttery has proven rental subsidy fraud or rental subsidy non-disclosure, action may include any or all the following:

- Cancellation or adjustment of the rental rebate – this may be backdated, and the debt placed on the tenant's rental account.
- In cases of serious and deliberate fraud, take formal action to terminate the tenancy.
- If the fraud is of a criminal nature, refer the matter to NSW Police.

Tenants must ensure that all occupants of the property have been approved by The Buttery and that they are paying rent in accordance with the *Community Housing Rent Policy 2020*. If an additional household member is approved, The Buttery will then backdate any rental charges from the date of occupancy. In the case where a household member is not approved, they have the right to appeal this decision if they believe it is incorrect. If the appeal is upheld in favour of the tenant, it is important to remember that the rent will be backdated to the date of occupancy and in many cases, this results in a significant debt.

The Buttery encourages tenants to be prepared for this, should the appeal be determined in their favour.

If the tenant does not appeal the additional occupant decision and the person(s) continue to reside in your tenancy, The Buttery will proceed with seeking orders from NCAT. The Buttery will apply to the NSW Civil and Administrative Tribunal (NCAT) to take action against the tenancy for unapproved occupants residing in the property.

The Buttery will, however, ensure that tenants are aware of the steps taken and that you have access to an appeal's process prior to any action taken at the NCAT, particularly if this action is likely to have a serious effect on your tenancy.

The Buttery will investigate an allegation of rent subsidy non-disclosure or fraud and will apply procedural fairness. We will ensure that tenants are made aware of the nature of the allegations wherever possible and that they are advised of their right to provide evidence to refute any allegations made against them.

When investigating incidents of rental subsidy fraud or rent subsidy disclosure, tenants can expect to:

- Have an impartial hearing with The Buttery,
- Have a support person of their choice present at interviews,
- Have an interpreter, if required,

- In most cases The Buttery will advise the tenant of the information and any documentary evidence The Buttery has obtained of the allegation,
- Have an opportunity to respond to the allegations made against them,
- Receive a written letter recording the findings of the interview. Tenants will have an opportunity to read and check that The Buttery has recorded an accurate account of the interview, and details of their right to appeal, and
- Receive a final determination in writing.

Social housing is a scarce resource, and a rental subsidy is based on a tenant's eligibility and circumstances. As such, tenants will be expected to provide reasonable evidence to satisfy The Buttery that the allegations of fraud are false. To verify information, The Buttery may seek information or make inquiries in relation to:

- The tenant's employer or alleged employer,
- Neighbours,
- Supply authorities, like gas, electricity, water, and telephone providers,
- Real estate agents,
- State Government agencies,
- NSW Police,
- Centrelink,
- Banking authorities, and
- Any other likely sources of relevant information.

## **27. COMPLAINTS AND APPEALS**

This is an appealable policy.

If a tenant is not satisfied with a service provided by The Buttery or does not agree with a decision it has made in relation to the calculation, backdating or cancellation of a rental subsidy, they can ask for a formal review. The Buttery's Tenant Feedback Policy outlines how we will undertake a review of our decision. A copy of our policy and information leaflet, is available from The Buttery's office or website: [www.buttery.org.au](http://www.buttery.org.au).

An appeal regarding rental subsidy will be considered by The Buttery within the rent review period, and up until the following rent review. Appeals relating to application of market rent may be appealed at any time up until the next rent review.



If a tenant is unhappy with the outcome of an appeal to The Buttery, they can lodge a second level appeal with the Housing Appeals Committee. The Housing Appeals Committee is an independent agency that reviews certain decisions made by staff of Community Housing organisations and Housing NSW. For information on the Housing Appeals Committee call 1800 629 794 or go to [www.hac.nsw.gov.au](http://www.hac.nsw.gov.au).

## 28. RELATED DOCUMENTS

### 28.1. Internal

GEN.FORM.043	Application for Rental Subsidy
GEN.POL.020	Tenant Feedback Policy
GEN.POL.024	Absence from Property Policy

### 28.2. Legislation

- NSW Community Housing Rent Policy 2020
- NSW Residential Tenancies Act (RTA) 2010

## 29. REVISION HISTORY

Version	Date	CQI #	Lead author/ reviewer	Consultative panel	Significant changes
1	11/04/2023	#40	Ari Soemardi	QA Committee	New Policy