

ARREARS MANAGEMENT POLICY

Date approved: December 2024
Date for review: 3 years from approval date
Version control: December 2024
Document administrator: CEO
Document approver: CEO
Record of Review:

<i>Date issued</i>	<i>Review date</i>	<i>Reason for review</i>
30 January 2020	30 January 2021	First release
18 May 2020	18 May 2021	Added role of Aboriginal Tenancy Advice Service
3 July 2020	3 July 2021	Revised escalation ladder incl. owner consultation, approval steps, and requirements for face-to-face meetings with tenants.
15 February 2021	15 February 2022	Addition of details relating to certified payment orders including application & standard payment plan request and lodgement.
7 November 2021	7 November 2022	Changed policy name from Maintaining Tenancy Policy. Removed details and included in applicable policies: Tenant damage moved to new Repairs and Maintenance Policy; termination for reasons other than arrears to Ending a Tenancy; Commencing a tenancy to Housing Management Policy. Addition of related documents section.
December 2024	December 2027	Changing Maintaining Tenancy Escalation Ladder Flowchart and Maintaining Tenancy Escalation Ladder from an eight-week process to a 15-day process. Update Termination Notice under Section 85 to Section 92. Add wording as a minimum of \$50 per week.

This Policy will be reviewed from time to time to reflect changes in business operations, legislation or three (3) years from the date of adoption.

ARREARS MANAGEMENT POLICY

Everything that Many Rivers Regional Housing does, and the decisions that are made, are driven by our understanding of, and respect for, the lived experience and cultural integrity of Aboriginal families and communities. We do this by following the values of cultural integrity, self-determination, good management, accountability and fairness.

1. POLICY STATEMENT

The Maintaining Tenancy Policy outlines Many Rivers Regional Housing Management Services Aboriginal Corporation's (Many Rivers) commitment and approach to tenancy management. Our approach is tenant-focused and works collaboratively with tenants and the community to establish and maintaining stable tenancies.

The tenancy management practices are documented, transparent and applied consistently across Many Rivers Regional Housing departments, our owning partners and tenancies, providing accountability for all.

The Policy ensures that the best interest of all stakeholders is achieved.

2. PURPOSE

The purpose of the policy is to provide guidance on Many Rivers' primary aims in the delivery of Aboriginal community housing:

- a. Deliver culturally appropriate housing services that assist tenants in establishing, and maintaining, affordable and secure tenancies
- b. Implementing strategies to minimise the risk of termination resulting from unpaid rent and non-rent charges associated with a tenancy, whilst maintaining the financial viability of our partners' property portfolios.
- c. Working in culturally appropriate ways to improve the housing conditions within communities, the long-term sustainability of tenure and the financial viability of our partners' property portfolios.

3. SCOPE

This policy applies to tenants and employees.

Many Rivers has developed documented systems for tenancy management that are consistent with relevant legislation and align with the Residential Tenancies Act NSW 2010, the Aboriginal Housing Act 1998 and AHO Guidelines.

The Many Rivers supports tenants to sustain their tenancies using different approaches under different circumstances. This policy covers:

- Arrears Management
- NCAT Applications & Terminations
- Tenancy Support: Interagency Referral and Advocacy

4. DEFINITIONS

This policy uses a number of repeated common terms and phrases. Those terms and phrases are also explained within the Policy, but for convenience we have provided immediately below a brief definition or explanation of several common terms and phrases;

- **Many Rivers** – Many Rivers Regional Housing
- **Tenant Agreement** – The person or persons as listed on the Residential Tenancy.
- **Stakeholder** – A party that has an interest in the corporation and can either affect or be affected by the business.
- **Residential Tenancy Agreement** – An agreement under the Residential Tenancy Act 2010. In this policy the RTA is between Many Rivers and the tenant established for the purpose of tenant leasing a residential property.

5. POLICY OVERVIEW

Many Rivers are committed to supporting tenants to maintain safe and stable tenancies. High quality and well-managed housing are pivotal to improving the lives of Aboriginal people.

To ensure this Many Rivers is responsible for:

- Providing culturally safe and respectful services
- Treating all tenants fairly and equally, without regard to the tenant's position within the community.
- Endeavouring to build an open and positive relationship with all tenants
- Providing accurate and timely tenant statements each month
- Actively monitoring rent and water payments
- Communicating by using clear and easy to understand language
- Providing consistent information to all tenants regarding their rent and non-rent charges
- Ensuring policies and procedures are consistent with the NSW Residential Tenancies Act 2010
- Maintaining privacy and confidentiality when managing tenants' information
- Informing tenants of their rights, responsibilities and the process of appeal
- Using feedback from tenants to identify and respond to opportunities for improvement

6. ARREARS MANAGEMENT

Many Rivers have a clear framework to reduce and prevent arrears rent and non-rent arrears. Our focus is on repayments and future arrears prevention, not eviction.

Many Rivers work collaboratively with tenants and support services to sustain tenancies that are vulnerable or in jeopardy.

Tenants have a legal obligation to pay their tenancy charges as they become due. If they do not make payments, their accounts fall into arrears; this is a breach of their Residential Tenancy Agreement.

Procedures supporting arrears management are developed by Many Rivers and regulated by The Residential Tenancy Act NSW 2010. Many Rivers endeavours to ensure that all tenants are up to date with their rent and water charges. In line with the Residential Tenancies Act 2010, rent is required to be paid two weeks in advance, and non-rent charges are to be paid on time in accordance with the Residential Tenancy Agreement.

Many Rivers, pro-actively and consistently, monitors rent and non-rent arrears. The Many Rivers Maintaining Tenancy Escalation Ladder (Attachment 1) is utilised to provide early intervention, minimise arrears and provide consistent and transparent processes. At each step on the escalation ladder, tenants are fully informed of the status of their tenancy.

The Maintaining Tenancy Escalation Ladder classifies each tenancy and provides corresponding actions.

Many Rivers Regional Housing recognises that tenants will be faced with financial difficulties during their tenancy, especially when the unexpected happens. If a tenant is facing financial difficulty Many Rivers will:

- Will assist the tenant to access support agencies
- Use positive, strength-based strategies to assist the tenant
- Seek to negotiate a repayment arrangement
- Maintain contact and work with the tenant through each step of the Maintaining Tenancy Escalation Ladder

The Many Rivers team are required to be:

- Respectful, honest and helpful to tenants
- Sensitive to tenants' circumstances
- Follow procedures as outlined in this policy
- Meet responsibilities under the Residential Tenancies Act 2010
- Ensure all relevant policies and forms are accessible to tenants

Tenancy arrangements surrounding rent payments and arrears are regarded as sensitive information. Information of this nature is not divulged to another party without the prior written consent of the tenant.

Many Rivers monitors compliance with our policy and procedure framework, AHO policies and relevant legislative requirements.

7. NCAT APPLICATIONS AND TERMINATIONS

All tenants are supported to maintain tenancy through each step of the escalation process, including before, and during, any NCAT application.

Many Rivers will issue a termination notice under section 89 of the Residential Tenancies Act 2010 due to the non-payment of rent when the escalation ladder process directs it, and all requirements of lodgement have been reached.

- The rent must have been in arrears for at least 14 days when the Termination Notice is given
- The termination notices states that the tenant is not required to vacate the property if they pay all the rent owing or agree to and comply with a repayment plan with your organisation

In exceptional circumstances, and as a last resort, Many Rivers Regional Housing may issue a Termination Notice under Section 92 of the Residential Tenancies Act 2010. This occurs following serious breaches of the RTA such as extreme violence, illegal activity, and willful property damage.

Termination of tenancy is carried out only when support and advocacy steps have been attempted.

We seek to keep our partners (property owners) well informed about developments with their portfolio. Partners are notified when a Termination Notice is sent to a tenant (i.e. Tenant enters Step 2).

Partners are consulted and consent obtained prior to an application to NCAT for eviction.

When an application for vacant possession (eviction) is made for a tenant with arrears, the following steps are taken:

- The NCAT application always requests a certified money order for outstanding rent and non-rent arrears.
- The NCAT application always requests a repayment plan as a minimum of \$50/per week.
- The decision to lodge the certified money order at the local court is determined on a case-by-case basis by the Manager of Housing and Tenancy services. Lodgement makes an Order enforceable by a garnishee order to have the money taken from the person's wage or bank account or a writ for the levy of property (authorising the Sheriff to seize and sell property to enable repayment of the debt). There is a fee for lodgement. The Manager, in making the decision regarding lodgement, takes into consideration the likelihood of debt recovery in the future. This is based on factors such as the tenant's age, employment status (incl. current and any predicted future employment) and property ownership, as well as input from the owner and/or relevant housing support officer, where appropriate.

8. TENANCY SUPPORT: INTERAGENCY REFERRAL AND ADVOCACY

Many Rivers work with all tenants to sustain tenancies. This is achieved through early intervention and strong tenant relationships. Many Rivers encourages tenants to contact their Housing Support Officer as soon as possible if they believe they need assistance with sustaining their tenancy.

Interagency referrals and advocacy are undertaken to assist and support tenants to sustain their tenancy. Many Rivers facilitates access to support services via our interagency support database and networks. These external relationships are developed and maintained via service provider interagency networks, partnerships (formal and informal) and community connections.

Many Rivers will engage the Aboriginal Tenant Advice and Advocacy Service prior to all termination applications to NCAT.

Many Rivers respect and maintain the tenants' right to self-determination, agency and autonomy. Many Rivers do not require tenants to access support services or action referrals to maintain their tenancy. At all times, the decision to access services remains at the tenant's discretion.

9. RELEVANT REFERENCE MATERIAL

The following documents may provide relevant supplementary information:

- *Tenant Handbook*
- *Complaints and Appeals Policy*
- *Housing Management Policy*
- *Repairs and maintenance policy*
Tenant Support Referral Form

1. LOCATION AND CONTACT

This Policy will be stored and made accessible via Many Rivers Regional Housing > MRRH-Shares > Office Management > 9. Policies and Procedures > 1. Policies > > Arrears Management Policy. Should any clarification be needed for the contents of this Policy, the reader should contact their direct manager.

Maintaining Tenancy Escalation ladder

	Triggers to enter level	Actions to be undertaken	Time period before escalation
Goal	100% of the rent is being paid and arrears are stable or decreasing	Nil	N/A
Step 1 Tenancy of concern Support, Plan & Monitor First Arrears Letter	<100% of the rent is being paid Arrears are increasing	Tenant is informed in person or by phone: <ul style="list-style-type: none"> <input type="checkbox"/> Current risk to tenancy if situation and escalation steps to be followed if no change. <input type="checkbox"/> Establish any challenges to pay rent <input type="checkbox"/> Informed of the escalation steps Interventions <ul style="list-style-type: none"> <input type="checkbox"/> Establish any challenges to pay rent <input type="checkbox"/> Provide referral(s) to appropriate services <input type="checkbox"/> Negotiate a Many Rivers payment plan 	1 month
Second Arrears Letter		<ul style="list-style-type: none"> <input type="checkbox"/> Tenant provided letter outlining 1) recommended support services, 2) agreed payment plan and 3) time frame for next escalation step and consequences of next escalation <input type="checkbox"/> Phone contact should also be made to notify the tenant of the letter. 	A maximum of 1 month of monitored Many Rivers payment plan with contact (letters and phone/in person) made at: <ol style="list-style-type: none"> 1. Initiation 2. 2 weeks (if non-compliant)
Final Arrears Letter		<ul style="list-style-type: none"> <input type="checkbox"/> If after 2 weeks of the payment plan there has been no change, the tenant provided a letter outlining 1) recommended support services, 2) agreed payment plan and 3) time frame for the next escalation step and consequences of next escalation <input type="checkbox"/> Face to face visit with tenant to discuss situation. Seek exemption from Management if face to face not able to be undertaken. 	
Step 2 Termination Notice	All actions of Step 1 completed, and timeframes expired	<ul style="list-style-type: none"> <input type="checkbox"/> Seeking approval from Manager Housing and Tenant Services for Termination notice to be sent <input type="checkbox"/> Notify owning partner of Termination Notice 	As per Termination Notice dates.
Step 3 NCAT – Special Performance Order (SPO)	All actions at Step 2 completed and timeframes expired.	<ul style="list-style-type: none"> <input type="checkbox"/> Prepare brief with evidence of steps completed for approval by the Manager Housing and Tenancy Services <input type="checkbox"/> Tenant informed in person or by phone that the timeframes have expired and NCAT orders are being sought <input type="checkbox"/> Application to NCAT for eviction with request for orders of payment plan at Tribunal hearing 	1 month of monitored NCAT payment plan with contact (letters and phone/in person) made at: <ol style="list-style-type: none"> 1. Initiation 2. 2 weeks (if non-compliant)

Step 4 NCAT -Eviction	All actions at Step 3 completed and timeframes expired.	<ul style="list-style-type: none"> <input type="checkbox"/> Prepare brief with evidence of steps completed for approval by the Manager Housing and Tenancy Services and CEO <input type="checkbox"/> Obtain written approval from owning partner <input type="checkbox"/> Tenant informed in person or by phone that the timeframes have expired and NCAT orders are being sought <input type="checkbox"/> Application to NCAT for eviction 	
Step Eviction			

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Eviction