



Discretionary Decision Making Policy

Last updated: February 2023

Policy Intent

This policy supports the Department of Communities (Communities) exercising judgement where a client's circumstances fall outside of existing Housing policy, or a decision made solely within current policy could result in inequitable treatment of the client.

Communities reserves the right to use discretion to make decisions regarding a client in such circumstances and apply common sense where it is identified a non-standard situation is being experienced.

Scope

The Discretionary Decision-Making Policy applies to all clients who are impacted by decisions regarding the Department of Communities (Housing) products and services.

Communities considers that substantive equality must be applied in the decision making process and that the same application of rules to unequal groups can have unequal outcomes. It may be necessary to provide different approaches depending on a person's circumstances.

Policy Statements

1. Discretion in decision making can only be applied by authorised officer's which include:
 - a) Minister for Housing
 - b) Department of Communities Director General
 - c) Department of Communities Leadership Team
 - d) Housing officers with operational responsibilities that include or are the equivalent to:
 - i. Regional Executive Director
 - ii. Regional Manager

- iii. Manager Housing Transitions
- iv. Bond Assistance Coordinator
- v. Regional Business Improvement Officer
- vi. Manager Housing Services
- vii. Area Manager
- viii. Manager Property Maintenance
- ix. Manager Client Services
- x. Administration Manager

2. Officers without authority to make a discretionary decision and faced with a situation requiring one, will refer the decision to an authorised officer as soon as possible.
3. Discretionary decisions will be clearly documented with an explanation to support the decision and will consider:
 - a) The particular circumstances of the client,
 - b) All facts and reasons why existing policy is not applicable,
 - c) Any impact in relation to setting precedents, ministerial correspondence and appeals.
4. The right to appeal decisions made under this policy is as follows:
 - a) Decisions made by authorised officers are appealable through the Housing Appeals Mechanism,
 - b) Decisions made by a member of the Communities Leadership Team are appealable and will progress directly to Tier 2 of the Housing Appeals Mechanism,
 - c) Decision made by the Minister for Housing and the Department of Communities Director General are not appealable.
 - d) Matters that cannot be appealed as documented under the Housing Appeals Mechanism also apply to discretionary decisions.

Related Legislation

- *Housing Act 1980*
- *Residential Tenancies Act 1987*
- *Residential Tenancies Regulations 1989*
- *Equal Opportunity Act 1984*

Related Department of Communities (Housing) Policy

- All Department of Communities (Housing) operational policies
- Housing Appeals Mechanism

Document control

Version number	10
Effective date	February 2023
Review date	February 2024
Owner	State-wide Services - Community Services

Amendments

Version	Effective Date	Description	Author	Reference number
10	February 2023	Policy reformatted, Officers with discretionary authority updated with new titles , Seniors specific section removed as covered by new substantive equality statement.	Senior Operational Improvement Officer	A52084280
9	February 2017	Minor error corrections. Section 4: "F A" deleted and changed to "A". Section 3: "the" removed from first sentence.	A/Policy and Practice Support Officer	17/D176925
8	February 2016	The positions Housing Pathways Coordinator, Tenancy Compliance Coordinator and Manager Housing Transitions have been removed and the position of Housing Transitions Coordinator has been inserted in the Officers with Discretionary Decision Authority list as a result of the restructure of the Housing Transitions branch. The position title Director General has been replaced by the Chief Executive Officer, the position title Executive Director Service Delivery has been replaced by the Director Client Services and the position title Manager Maintenance has been replaced by Manager Housing Maintenance.	A/Aboriginal Policy and Practice Officer	16/D214690

Version	Effective Date	Description	Author	Reference number
7	February 2016	Contents added and owner and contact details updated to meet auditing requirements. Grammatical and formatting amendments for accuracy and clarity.	A/Policy and Practice Support Officer	15/D1519883 15/D1519906
6	February 2016	Department of Housing updated to Housing Authority due to name standardisation (legal name).	A/Policy and Practice Support Officer	15/D972729
5	August 2015	The position of Regional Business Improvement Officer has been inserted in the Officers with Discretionary Authority list.	A/Policy and Practice Officer	15/D0846631
4	June 2013	The positions Tenancy Compliance Coordinator and Housing Pathways Coordinator have been inserted in the Officers with Discretionary Authority list as a result of Restructure of Housing Transitions branch.	A/Senior Policy and Practice Officer	13/D471910
3	June 2013	The position title Manager Tenancy Compliance has been replaced by Manager Housing Transitions and the position title Manager Bonds has been replaced by Bond Assistance Coordinator as a result of Restructure of Housing Transitions branch	A/Senior Policy and Practice Officer	13/D0336995 13/D471910
2	November 2011	Manager Tenancy Compliance added to the Officers with Discretionary Authority.	A/Policy & Practice Support Officer	

Version	Effective Date	Description	Author	Reference number
1	June 2010	Document removed from Rental Policy and Bond Assistance Loan Policy to sit alone to maintain version control and easier staff access.	A/Business Solutions Manager	