

Rent setting by registered housing agencies – guide for tenants and prospective tenants

This information sheet has been developed for tenants and prospective tenants of registered housing agencies who have questions about rents being set by their landlord.

Rent setting is very flexible

There is not one standard model for setting rents across community housing and rent calculation methods can vary according to the type and ownership of a property.

However the following principles generally apply to rent setting by registered agencies:

- rent calculations are income based, market rent based, or a combination of these; and
- rents for lower-income households must not exceed 30 per cent of gross income (excluding Commonwealth Rental Assistance and service charges)
- rents should not exceed 75% of the market rent applied by the registered agency to the property.

A rent figure quoted by an agency can include an income related portion, a Commonwealth Rental Assistance (CRA) portion and/or service charges.

For some tenants rent may be a higher percentage of their actual income (excluding CRA) than what they would pay in an equivalent public housing property, but for others it can be a lower percentage.

What can be counted as assessable income?

Income primarily includes any wages or Centrelink benefits or other government allowances you get paid, and any interest on savings or investments you receive.

Some government benefits and allowances are assessed at less than 100% of the amount paid to you.

If you are not sure how different forms of income that you receive are assessed by a registered agency, discuss this with your tenancy manager.

What is Commonwealth Rental Assistance?

Commonwealth Rental Assistance (CRA) is a rent subsidy from the government available to tenants of registered agencies who:

- receive a Centrelink payment; and
- are paying more than a specified minimum amount of rent.

The amount of CRA varies according to:

- the household type (family situation) of a tenant; and
- the level of rent being paid by a tenant over and above the specified minimum level.

Registered agencies in determining the rent for a tenant will generally take into account the maximum amount of CRA to which you are entitled. This is then included in the rent charged to you.

It is generally your responsibility to ensure you have applied for CRA and are actually receiving the correct amount due to you.

You may not always be in receipt of your full entitlement unless you have notified Centrelink of your current rent figure (including any recent increase in rent).

Some registered agencies offer a service where you can give consent for your registered agency to inform Centrelink on your behalf by the Centrepay system about any changes to your rent.

If you have any questions about CRA or how best to keep Centrelink informed of your current rent, ask your tenancy manager.

What are service charges?

Some agencies may, in addition to rents, ask tenants to pay a service charge to pay for:

- electricity, gas, water, or central heating services; and
- laundry and other shared facilities including cooking areas, recreational areas, lifts, garbage disposal, common areas and gardens,

where the agency cannot accurately measure an individual tenant's use of those services.

The cost for the service/s is then apportioned across all tenants in the property. This cost is then included in the rent charged to you.

A service charge may be increased or decreased in line with changes in the cost of providing the services.

If you have any questions about service charges, ask your tenancy manager.

If your rent calculation does not show service charges (or CRA), you can ask for a breakdown of your rent calculation to check to see if they have been included in the rent figure provided to you.

What is market rent?

A registered agency can determine the market rent that applies to a property in different ways. It can be based on:

- the agency's own assessment of the rent that could be obtained if the property was rented on the private market, either through independent valuations or the agency's own assessment from data such as real estate agency listings;
- market rent figures provided by the Department of Health and Human Services; or
- Australian Tax Office market rent benchmarks for charities.

Registered agencies may use a discounted market rent approach (commonly 75%) for some properties. Under these arrangements rent does not automatically adjust if household circumstances change. However the registered agency must have policies and strategies for tenants who may experience financial hardship as a result.

Registered agencies may adopt a combined income and market rent based approach to rent setting where rent charged is based on the lower of two calculations:

- designated percentage of income (generally between 25 and 30%); OR
- designated percentage of the applicable market rent (generally 75%)

If you have any questions about an agency's determination of the market rent for the property in which you live, or about its use of the market rent figure in its calculation of your rent, ask your tenancy manager.

Who decides what rents can be charged, and what income is included in calculations?

There is not an easy or simple answer. It is complex both for tenants and the managers of the properties.

A good starting point if you are questioning the rent charged to you, is to ask:

- **who is the owner of the property you are living in; and**
- **are there any owner requirements for the property about the rent that can be charged, and/or income included in rent calculations.**

1. The ownership of the property is a major factor

Essentially in most cases the owner of a property determines the rent model to be applied and income to be assessed.

The majority of properties managed by registered housing agencies are either owned by:

- the Director of Housing (a legal representative of the Victorian government and based within the Department of Health and Human Services); OR
- the registered agencies themselves

(a) If owned by the registered agency

Where an agency is the owner of the property, the agency's rent policy will set out the model being used and income included in assessments.

For some properties owned by an agency in which government has made a major contribution to their development (or may have transferred ownership to the agency), the rent model and income to be assessed is set out in government guidelines applied to those properties.

You can request from a registered agency a copy of the agency's rent policy and rent setting model, as well as summaries of any relevant government guidelines relevant to the property in which you live.

(b) If owned by the Director of Housing

Where the Director of Housing (DoH) owns the property and has leased it to an agency to manage, the lease agreement between the DoH and the agency sets out the rent model to be used and income to be included in assessments.

2. Government funding program requirements

Transitional housing (THM) properties are managed by registered agencies under a service agreement with DHHS rather than a lease with the DoH. The program guidelines for the THM program govern the rent model to be used and income to be included in assessments.

Occasionally a specific government program under which housing has been developed and is not owned by government for example the Commonwealth National Rental Affordability Scheme (NRAS) will govern how rent and income are handled.

NRAS also has particular rules about assessment of market rents, which include a requirement for independent valuations of market rent during certain points in the period that NRAS applies to the property. NRAS requires rent to be no more than 80% of market rent.

What about bonds?

Some registered agencies may require tenants to pay a bond. Under the RTA, a landlord cannot require a bond of more than one months' rent. Bonds are lodged with the [Residential Tenancies Bond Authority](#).

Some tenants may be eligible for a bond loan from DHHS. You can refer to the DHHS Housing website at <http://www.housing.vic.gov.au/bond-loan-scheme> for more information.

Requesting a rent assessment by Consumer Affairs Victoria

A tenant can request a rent assessment by Consumer Affairs Victoria (CAV) if the landlord has given notice of an increase that the tenant thinks:

- is excessive (after considering market rent); OR
- has not appropriately allowed for reduced or withdrawn services, facilities or other items that the tenant was getting previously as part of his or her rental agreement.

You must request CAV in writing to carry out a rent assessment within 30 days of having received a notice from the registered agency advising you of a rent increase.

You have 30 days from receiving CAV's rent assessment report to apply to the VCAT for a hearing. VCAT may then set a maximum rent, having regard to a range of factors, including the rent payable for comparable rented premises in the same locality.

In general, this process will only be of assistance to you if you believe that the registered agency has set a rent which is in excess of the market rent for the property.

Disputing your rent charge

If you have any concerns about your rent assessment (or service charges) contact your tenancy manager and ask for an explanation, including a breakdown of the rental figure and supporting calculations, showing how the rent or service charge has been calculated.

Should you then be concerned about any components within the breakdown, for example service charges, you may request further information or submit a complaint to the registered agency if appropriate.

All registered agencies are required under the Act to implement a complaints management process. This can be used if you believe that a registered agency has not complied with its rent or service charges policy or has not adequately explained how a new rent figure has been calculated when requested to do so.

Following completion of this process, the complaint may be referred to the Registrar of Housing Agencies (the Registrar) which has the power to appoint external agents to review and investigate complaints falling within its jurisdiction.

The Victorian Civil and Administrative Tribunal (VCAT) has a limited role with rent disputes as its jurisdiction only covers:

- matters relating to the level of rent where a tenant is paying market rent and the tenant believes the agency's assessment of market rent is excessive; and
- matters relating to service charges exceeding actual costs incurred.

Contacting the Registrar

You can contact the Registrar on **9651 1402** or via email at housingregistrarcomplaints@dtf.vic.gov.au

Before contacting the Registrar, you are encouraged to:

- discuss any questions about the rent being charged to you with your tenancy manager as described above – getting a breakdown of your rent calculation is often a critical step;
- request a rent assessment via Consumer Affairs Victoria and a VCAT hearing where relevant; and
- submit a formal complaint to the registered agency and allow it 30 days to resolve your complaint.

In your initial contact with the Registrar, you will be asked whether you have done these things, and to provide copies of all relevant documentation associated with you having taken these steps but not been successful in resolving your rent concerns.

