

# Housing Operating Policies, Procedures and Guidelines

## Section 5:

# Tenants rights and participation

Policy statement

5.01 Complaints and appeals procedures

5.02 External complaints and dispute resolution

5.03 Privacy statement (residential tenancy agreements)

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## Document history

Version	Date	Changes and updates
Version 1:	November 2018	<ul style="list-style-type: none"> <li>Consolidation of existing asset and maintenance procedures into new document.</li> </ul>
Version 2:	August 2019	<ul style="list-style-type: none"> <li>Updated policy statements as endorsed by Management</li> <li>Charters of rights reviewed and updated</li> <li>Complaints and appeals factsheet added</li> <li>Information included about external dispute-handling bodies</li> </ul>

## Policy statement

Momentum:

- Promotes and supports the user and tenancy rights of tenants.
- Ensures tenants are made aware of their responsibilities prior to signing a lease for a property.
- Protects the rights to privacy of its clients.
- Values feedback and will provide ways for tenants to provide feedback or make a complaint about decisions made in line with these policies.
- Aims to provide tenants, advocates and family members with fair and transparent processes so they can exercise their right to raise and resolve complaints with Momentum.
- Provide for tenants to seek a review of any decision made by Momentum's Housing service.
- Is committed to developing ways for tenants to participate in their immediate and wider communities.

### Charter of rights

Tenants of Momentum have the right to:

- have their tenancy rights explained at the signing of their residential tenancies or accommodation agreement with Momentum;
- be assisted to understand the tenancy agreement with a support person or worker where required;
- be provided with the information about Momentum's policies, rules and procedures;
- be provided with a copy of their residential tenancies or accommodation agreement;
- be treated in a fair and non-discriminatory manner;
- be treated with respect;
- access safe and secure housing, according to their eligibility for the social housing products delivered by Momentum;
- discuss issues related to their tenancy and/or support needs with a staff member;
- be referred to support services where they are available to help them maintain the tenancy;
- be consulted on housing needs and preferences during application, allocation and if their needs change during their tenancy;
- have their personal information treated confidentially;
- be consulted on substantial changes on the way their tenancy is managed;
- security of tenure (within the terms of the tenancy agreement, funding guidelines and rules of social housing);
- access information about other support organisations at Momentum offices, where available;
- lodge a complaint and appeal against decisions without fear of retribution;
- receive assistance where literacy issues are identified and use an advocate or support person in their dealings with Momentum;

- be informed of how to participate in the organisation and contribute to decision-making, where that option is available; and
- obtain advice from the Tenants Advice and Advocacy Services (TAAS), Northern Rivers Community Legal Centre (NRCLC), or any other source of advice and information on tenancy, social housing and welfare matters and be referred by Momentum, where required.

## Tenant responsibilities

Tenants and clients of Momentum have a responsibility to:

- treat Momentum employees and contractors with respect;
- treat other users of the service with respect;
- care for their property, including the grounds and gardens;
- abide by the terms and conditions of their residential tenancies or accommodation agreement;
- report any repairs or maintenance issues at their property as soon as practical;
- pay rent on time and in advance;
- work cooperatively with Momentum employees;
- respect the rights of their neighbours to the quiet enjoyment of their premises and not cause or allow any noise or nuisance, engage in anti-social, threatening, aggressive or violent behaviour to any person on or near the property;
- notify Momentum of any changes to household income or size within 14 days of the change;
- allow access of their property to Momentum employees or contractors, when required;
- notify Momentum of any changes in their contact details;
- inform Momentum if they are going to be absent from their property for a period exceeding two weeks;
- not make changes to their property without the consent of Momentum;
- not conduct any business or trade at the property without the written consent of Momentum;
- ensure no illegal activity occurs at the premises;
- ensure all visitors and household members abide by these listed responsibilities; and
- return the property in the same condition it was originally leased (fair wear and tear excepted) when vacating the premises.

## Access to services

Momentum clients are able to access the full range of services provided by the organisation.

This means that:

- Offices are located in accessible locations and are fully accessible for people with disabilities.
- Office operating hours maximise service delivery outcomes for clients.
- Momentum ensures that all its written information, including letters, newsletters, etc. is clear and is written in plain English.
- The written policies and (relevant) procedures of Momentum will be available to any clients on the Momentum website and to all clients upon their request.
- Where clients have been identified with special communication needs e.g. inability to read English, sight impairment, illiteracy, cognitive impairment, etc. arrangements will be made to ensure that any information is understood.
- Clients will be welcome to bring friends, family or advocates of their choice to any interview or meeting with Momentum.

## Privacy & confidentiality

Momentum regards maintaining the privacy of our clients is an important principle of our service.

Privacy is important because people expect us to handle their personal information properly. Momentum has a legal obligation to protect the privacy of personal information, and we also have funding arrangements which require us to ensure the privacy and confidentiality of the information we collect. Momentum recognise that even a simple breach of privacy could potentially have serious consequences.

All Momentum staff must be aware of the relevant privacy and information legislation and standards.

A Privacy Statement will be provided to all new Momentum tenants and will be made available to all tenants of the organisation. This statement will:

- meet the principles and requirements of national and State-based privacy legislation;
- clearly document how the privacy of Momentum tenants will be protected across all areas of the business; and
- outline situations where exclusions to general privacy standards may be legally required of Momentum.

## Feedback and complaints

Momentum will:

- provide ways for suggestions and feedback to be made to Momentum in writing, in person or by phone;
- respond to complaints from applicants and tenants in a timely manner;
- provide a complaints process that is easy to understand and use; and
- seek to resolve any complaint fairly, without fear of recrimination, or interruption to the services being delivered.

The Complaint Form and the Complaints Handling Policy and process are available on request and from the Momentum website.

## Decision review

Momentum aims to provide tenants, family members, guardians and advocates a fair and transparent process in relation to decision-making to ensure that they have a right to:

- have a decision reviewed
- lodge a request with Momentum to have a decision reviewed
- lodge an application with the Housing Appeals Committee (HAC) to have the appeal reviewed, if they are not satisfied with the outcome of the internal review process.

An applicant for housing or housing services or a tenant can request a review of a decision made by Momentum if they believe it was incorrect, unfair or would like the opportunity to provide additional supporting information.

## Tenant participation

Momentum welcomes suggestions about how it can do things better and will provide ways for tenants to offer suggestions, provide feedback, or contribute to decisions which significantly affect the way their tenancies are being managed.

Tenants will be informed throughout their tenancy of the different ways they can participate or provide feedback to the organisation.

Effective participation by tenants:

- assists Momentum to better understand the needs of our tenants and communities
- allows Momentum to make improvements as a result of feedback where possible
- allows tenants to become involved with their housing provider and their community

- improves the relationship between tenants and Momentum employees
- provides an opportunity for tenants to meet their neighbours and other housing service tenants
- helps tenants to understand how Momentum operates and makes decisions
- educates tenants about their rights and responsibilities
- informs tenants about any changes within the organisation which may affect the way their tenancy is managed or their property maintained.

Momentum respects the right of tenants to decline to participate in any activity or event.

### **Communication and working with tenants**

Momentum will provide information about issues relating to a tenant's tenancy through a range of formats such as newsletters and tenant meetings.

Momentum will assist tenants directly, or by referring tenants to other support agencies.

Momentum staff will support local community activities or help establish social groups or meetings.

## **5.01 Complaints and appeals procedures**

For procedural information concerning the lodgement of complaints and appeals with Momentum, see:

- Momentum Complaints policy
- IONMY – How to Guide Complaints, Feedback and Compliments
- Momentum management of complaints - procedure

Additionally, the following procedural requirements are in place for matters relating to Momentum housing clients (tenants and applicants):

### **Appeals (request for a decision review):**

Any request from a client (or advocate) for Momentum to review a decision made concerning their tenancy is regarded as an "appeal".

- Use Add Note to the tenant's record in Chintaro
- Select "Appeal (first-level)" from the Note Type list
- Direct the note to the person who made the original decision and give them 14 days to respond
- The original decision-maker makes a recommendation to either uphold, party-uphold or decline the appeal (and provides reasons for doing so) Note: The original decision-maker has no authority to make the final decision on appeals (because all appeals need some independent review of the original decision, but this is their chance to explain their original decision – and change it if they wish to do so)
- The matter is then directed to me for a final decision and to organise a response to the tenant

### **Complaints (expression of service dissatisfaction):**

- Use Add Note to the tenant's record in Chintaro
- Select "Complaint" from the Note Type list
- Direct the note to General Manager Housing and provide 14 days to respond

Complaints are also lodged in IONMY and subject to the Complaints handling procedures of Momentum.

## **5.02 External complaint and dispute resolution**

All Momentum clients have the right to raise their matter with external agencies, where their appeal or complaints has not been addressed by Momentum.

The following agencies may assist tenants of Momentum.

## Registrar of Community Housing

Free call: 1800 330 940

Email: [registrar@facs.nsw.gov.au](mailto:registrar@facs.nsw.gov.au)

Mail: PO Box 4001 Ashfield BC 1800

The Registrar of Community Housing is statutory body responsible for registering and regulating community housing providers in Australia. Momentum is a registered community housing provider under National Housing Law and its operations and performance are monitored by the Registrar.

An important function of the Registrar is to investigate complaints and other matters in respect of community housing providers.

Anyone who has concerns about whether a registered provider is meeting its responsibilities under the National Regulatory Code can notify the Registrar of their concerns or make a complaint. This includes tenants, tenant advocates, and people who work with providers.

Notifications and complaints can be provided in writing, by telephone or via an online form.

## Housing Appeals Committee

Free call: 1800 629 794

Email: [hac@facs.nsw.gov.au](mailto:hac@facs.nsw.gov.au)

Website: [www.hac.nsw.gov.au](http://www.hac.nsw.gov.au)

The NSW Housing Appeals Committee (HAC) is an independent agency which deals with appeals from people who are unhappy with decision made by social housing providers, including community housing. It was established to ensure that clients of government funded housing services have access to an independent system of review and redress.

Appeals can be about decisions made across a wide range of issues affecting tenants of social housing and applicants for housing services.

HAC cannot accept appeals from residents of:

- Specialist disability accommodation (see following information about the NDIA in this section) ;
- Crisis accommodation, including Refuges; or
- Boarding and lodging accommodation

Generally, HAC will not hear matters in which the tenant has access to the NCAT for redress.

## The NSW Civil and Administrative Tribunal (NCAT)

Telephone: **1300 00 NCAT** or 1300 006 228

Website: [www.ncat.nsw.gov.au](http://www.ncat.nsw.gov.au)

The NCAT is a specialist tribunal service which covers a range of legal matters, including disputes between rental landlords and tenants.

NCAT makes legally binding decisions about these disputes, which include

- unpaid rent by tenants
- rent increases
- property repairs and maintenance
- property damage by tenants
- termination of agreements by either the tenant or landlord
- behaviour of tenants
- a failure of the landlord to repair the property
- rental bonds

- The landlord or the tenant can make an application for a hearing to resolve a tenancy.
- The NCAT also has the power to award financial “compensation” to one party because of the results of the actions of the other.
- Applications to the NCAT can be made online or by visiting the NCAT website.

More information about the NCAT is available in Section 9 Procedures Ending tenancies.

### **Office of the Australian Information Commissioner**

**Email:** enquiries@oaic.gov.au

**Post:** GPO Box 5218 Sydney NSW 2001

You can make a complaint to the Office of the Australian Information Commissioner (OAIC) about the handling of your personal information by Australian government agencies and other organisations covered by the Privacy Act.

It is free to lodge a complaint and matters are generally resolved through conciliation.

Complaints to the OAIC must be made in writing.

### **National Disability Insurance Agency (NDIA)**

Telephone: 1800 035 544

<https://www.ndiscommission.gov.au/about/complaints-feedback/complaints>

Momentum is a registered provider of specialist disability accommodation with the NDIA. A tenant of specialist disability accommodation may raise a matter of concern with the NDIA that they been unable to resolve with Momentum. The rights of residents are protected by the NDIS Quality and Safeguards Commission.

Matters might include:

- The terms of the accommodation agreement with Momentum
- The assessment of rent payments or other charges
- The standard of accommodation being provided

An online complaint form is also available from the NDIS website:

## **5.03 Privacy statement (residential tenancy agreements)**

The following text will be added as an additional terms to all Momentum residential tenancy agreements:

The landlord agrees:

- To comply with the Federal Privacy Act 1988 (Cth), the Privacy and Personal Information Protection Act 1998 (NSW) and the Health Records and Information Privacy Act 2002 (NSW), and
- To only collect personal information about the tenant that is relevant or necessary for the Proprietor to conduct its business and activities and to collect information in a way that respects the privacy of the occupant, and
- To ensure the tenant’s personal information is stored and destroyed securely, and
- To use the information collected for its intended purpose or a directly related purpose, unless an exception applies, and
- To only disclose collected information to a third party either with consent of the tenant or under other legal authority or requirement of the Proprietor, and
- The tenant has a general right to see the information held about them by the landlord and to request that the landlord amend data that is not accurate, up to date, incomplete, or is misleading

The tenant agrees:

- If the tenant has a history of behaviour that is intimidating or aggressive, or any other behaviour that is a potential safety concern, the landlord may disclose certain information to protect the safety of its employees and other representatives when visiting the premises, and
- The landlord may disclose information to the Police where it is reasonably believed there is a serious and imminent threat to the life, health or safety of an individual or where the information is reasonably necessary for law enforcement purposes, and
- The landlord may disclose information to other Commonwealth or State/Territory agencies, courts, tribunals or statutory authorities, where the Proprietor is legally required to do so.

## References

<b>Legislation and other requirements</b>	<ul style="list-style-type: none"> <li>• Residential Tenancies Act 2010 (NSW)</li> <li>• Residential Tenancies Regulation 2010 (NSW)</li> <li>• National community housing standards</li> <li>• National Regulatory System for Community Housing</li> <li>• National Disability Insurance Scheme</li> <li>• Quality Improvement Council Standards (Community Services)</li> <li>• Community housing access policy</li> <li>• Community housing eligibility policy</li> <li>• Quality Improvement Council Standards (Community Services)</li> <li>• Australian Work Health and Safety Standards</li> <li>• AS/NZS 4801</li> </ul>
<b>Related policies and procedures</b>	<ul style="list-style-type: none"> <li>• Momentum Complaints policy</li> <li>• IONMY – How to Guide Complaints, Feedback and Compliments</li> <li>• Momentum management of complaints – procedure</li> <li>• Complaints and appeals factsheet</li> <li>• Tenant Handbook</li> <li>• Residential Tenancies Agreement (Social Housing)</li> <li>• Residential Tenancies Agreement (Affordable Housing)</li> <li>• Occupancy agreement (SDA)</li> <li>• Boarding and lodging agreement</li> <li>• Crisis accommodation agreement</li> <li>• Section 1: Access to housing</li> <li>• Section 2: Establishing tenancies</li> <li>• Section 3: Rent setting and management</li> <li>• Section 4: Asset management</li> <li>• Section 6: Tenancy management</li> <li>• Section 7: Changing needs of tenants</li> <li>• Section 9: Ending Tenancies</li> <li>• Section 10: Special conditions and programs</li> <li>• Disclosure consent form</li> </ul>