

Discretionary Decision Making

Policy

Date effective: 23 November 2016

1. Purpose

The intent of this policy is to allow discretion in decision making to support fair and transparent treatment of housing clients in line with Department of Housing and Community Development ('the Department') objectives.

2. Scope

This policy applies to all Department housing staff.

3. Policy

The Department reserves the right to use discretion in decision making relating to the situation of a client, where that person's circumstances are not adequately covered by existing policy.

4. Guidelines

4.1. Using discretion to make decisions

While Departmental policies provide direction, they cannot cover all individual circumstances of clients and there are times when a client can be unfairly disadvantaged by existing policy. Some Departmental policies contain elements of discretion to allow decisions to be made which are outside of the normal application of policy.

In most circumstances, Departmental policy contains specific details on when and where discretion may be applied, and if discretion cannot be applied. However, all staff are entitled to forward a particular case or situation to their Manager or Director if they believe that normal application of policy is against the objectives of the Department and could affect procedural fairness and natural justice. Discretionary decisions should be only applied on rare occasions.

4.2. Positions with discretionary authority

Decisions using discretion can only be made by Managers or Directors within the Division, Branch and Unit where the position is situated and within financial delegations. In the absence of a Manager level position in the office, decisions with discretion will be made at Director level or above.

Example: The Manager Housing Operations (Darwin) can make a decision using discretion for the areas under the responsibility of the position, but cannot make a decision using discretion for another regional office.

4.3. Documentation of a discretionary decision

All situations where a discretionary decision is considered, whether or not discretion is applied, must be clearly documented as having considered discretion, the reasons why the decision was made and the name and position of the person having made the decision.

Where it is noted that a particular non-standard situation is being experienced with increasing frequency, the Department may develop policy and/or procedures to respond to the situation

5. Complaints and/or appeals

If a client is not satisfied with either a decision or action of the Department, they can access the Department's complaints and/or appeals processes. For further information, please refer to the Complaints and/or Appeals policies.

6. Review of the policy

If at any time the legislative, operating or funding environment is so altered that the policy is no longer appropriate in its current form, the policy shall be reviewed and amended accordingly. This policy will be reviewed within two years of release.

7. References

Legislation

Housing Act

Residential Tenancies Act

Financial Management Act

Policies

Appeals policy

Complaints policy

8. Document change control table

Release Date	Version Number	Approved by (position)	Section amended	Category
23/11/2016	2.01	Director Policy	all	Editorial amendments
11/12/2014	2.00	Chief Executive Officer	all	Revised
2/09/2013	1.00	Executive Director, Housing Operational Client Support	all	New separate policy derived from Housing Services Operational Policy Manual, Chapter 1.