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| Rent setting and rebate operational guidelines |
| Overview V 2.2September 2023 |
| OFFICIAL |

# Revision history

| Version | Amended section | Effective | Details |
| --- | --- | --- | --- |
| 1.0 |  | August 2018 | Date of IssueIncorporation of version control table |
| 1.1 | Temporary absence subsidy | September 2018 | Clarified wording to align with Temporary absence operational guidelines September 2018 |
| 1.2 |  | February 2019 | Addition of resident moving in |
| 2.0 | Throughout | October 2021 | Updated template, terminology changes, updates to rent review cycle and the inclusion of Affordability offset. |
| 2.1 |  | June 2023 | Updated with section numbers and Director of Housing now to Homes Victoria.Inclusion of verbal consent for Centrelink Confirmation eServices, processing rebate applications without a form and Temporary absence applications made using email. |
| 2.2 | 2.2 Processing rebate assessments without a form | September 2023 | Table to support staff identify when a rebate form is required or not |

## More Information

To find out about housing options visit the [Housing website](http://www.housing.vic.gov.au) <http://www.housing.vic.gov.au> or contact your local [Housing Office](http://www.housing.vic.gov.au/contact-a-housing-office) <http://www.housing.vic.gov.au/contact-a-housing-office>.

To receive this publication in an accessible format contact Homes Victoria <enquiries@homes.vic.gov.au>.

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# 1. When do these operational guidelines apply?

These guidelines are used when determining the amount households living in public housing pay each week to contribute to the rent for the property. This is known as the Weekly payment amount.

The weekly payment amount is determined when a household member:

* signs a new residential rental agreement (rental agreement), including a transfer of tenancy
* consents to join Centrelink’s Income Confirmation service and this information is used to calculate their rebate entitlement
* tests their eligibility for a rental rebate by submitting a rental rebate application
* responds to a request from the Department of Families, Fairness and Housing (the department) to update their household details.

## 1.1 Introduction

This operational guideline outlines the process the department uses to satisfy one of the objectives of the *Housing Act 1983* which is: “to ensure that every person in Victoria has adequate and appropriate housing at a price within his or her means”.

All rental agreements must specify the market rent value for the property. The market rent is the rent value the property could attract in the private rental market and is determined annually by a qualified independent valuer.

 Each rental agreement is a legally binding agreement between the renter(s) and Homes Victoria ([[1]](#footnote-2).

Where the market rent is more than 25 per cent of the household income, the amount a renter pays is based on the household income.

## 1.2 Human Rights considerations

All staff are required to consider the potential impact of any proposed action on the renter’s (and their household’s) rights under the *Charter of Human Rights and Responsibilities (2006)* (Charter).

By taking a human rights based approach, the department is able to ensure the renter and their household members are at the centre of all decisions made. It does not mean that renter’s human rights can never be limited. It means that any decisions made, or actions taken that do limit human rights must be lawful, necessary, logical, reasonable and proportionate.

Staff taking action in line with these operational guidelines must:

* understand the objective and rationale of the actions they are taking
* consider the impact of a proposed action on the person’s Charter rights (more than one right might be relevant)
* consider whether the proposed impact is balanced, proportionate and necessary to achieve the objectives for these operational guidelines and
* choose the least restrictive measure reasonably available.

When assessing a renter’s weekly payment amount, it is important to ensure accuracy in decision making. This ensures that any subsequent actions that engage human rights (such as issuing a notice to vacate) are based on accurate information.

## 1.3 Market rent

The rental agreement specifies the market rent of the property and is signed by all renters of a household at the commencement of a tenancy. The market rent is the rent value the property could attract in the private rental market and is determined annually by a qualified independent valuer.

The independent valuer performs a desktop evaluation to determine the market rent of properties using indexation factors based on movements in the private rental market in the local area every four years. These recommendations are used to adjust the market rent value for each property. Every fifth year the valuer conducts a kerbside valuation where a physical inspection of a representative sample of Homes Victoria stock is used to validate that the market rent for those properties is accurate and aligns to private rental market rents for similar properties in those locations.

Where the independent valuation determines an increase in market rent, the department must give a minimum of 60 days written notice to renters before this change is applied as outlined in the requirements of the *Residential Tenancies Act 1997*. Additionally, a minimum interval of 12 months is required between notices for an increase in the market rent. This also means that the market rent cannot increase for at least 12 months after tenancies commence.

Homes Victoria advises all renters each year in writing about any change to the market rent of the property, including when there has not been an increase in market rent. Renters can seek an independent assessment of an increase in market rent within 30 days after receiving the notice of rent increase. The independent assessment is completed by a representative of the Director of Consumer Affairs Victoria (CAV).

Where CAV advises that the increase to the market rent of a property is excessive, the department will review the advice. If Homes Victoria agrees to CAV’s recommendation the market rent value is adjusted accordingly and the renter notified in writing of the outcome. If Homes Victoria does not agree with the CAV assessment, the renter may challenge the market rent assessment at the Victorian Civil and Administrative Tribunal (VCAT).

## 1.4 Rental rebate

A rental rebate is the discount amount that Homes Victoria provides eligible renters to reduce the household’s weekly contribution towards the costs of living in public housing.

The value of the rental rebate is the difference between 25 per cent of the total assessable income of all household members and the market rent of the property. If the market rent of a property is less than 25 per cent of the household’s income, the household will pay the lower market rental value.

Any market renters who have experienced an increase in their rent are encouraged to apply for a rental rebate to ensure they pay no more than 25 per cent of their income on rent.

Only incomes determined as assessable for rebate purposes are used to calculate the rebate entitlement and these are outlined in **Rent setting and rebate operational guidelines: Assessable income** found on the [Provider’s website](https://providers.dffh.vic.gov.au/rent-setting-and-rebate-operational-guidelines) < https://providers.dffh.vic.gov.au/rent-setting-and-rebate-operational-guidelines >.

## 1.5 Weekly payment amount

The Weekly payment amount is what renter(s) pay towards their rent. The weekly payment amount is:

* 25 per cent of primary household income and 15 per cent of family payment income. If a renter is eligible for a rental rebate or equals the market rent where the renter is not eligible for a rental rebate and
* includes service charges (if applicable) and a
* debt repayment agreement amount (if applicable).

The weekly payment amount is calculated using the assessable income(s) of all household members with the rebated amount rounded down to the nearest five cents. Any relevant charges and debt repayments are added to this result to determine the total weekly payment amount.

Renters who pay the market rent of their property will continue to pay that amount unless they apply for a rebate assessment. Households paying market rent excluded from the six monthly rebate eligibility review process, however they are encouraged to complete a rebate assessment if their circumstances change.

Renter(s) are responsible for ensuring payment of their weekly payment amount to Homes Victoria. Homes Victoria allows individual members of a household to determine the contribution that they each make to the household’s total weekly payment. For example, payment of the weekly payment amount may be shared equally between household members.

The amount of the rebate is not a standardised figure and will depend on the circumstances of each tenancy. Eligibility for a rental rebate is based on an application and assessment process.

Homes Victoria requires current income and asset information for the household to be submitted so that eligibility for a rebate is assessed as part of the sign-up process for a new tenancy.

For existing households that are receiving a rental rebate, eligibility is re-assessed every six months through the Automatic Fixed Rent Review (AFRR).

Renters can request a review of their rebate at any stage during their tenancy and can do so by submitting a rebate application. Renters are required to submit a rebate assessment when there has been a change in household circumstances. This is usually when someone moves in or out or there has been a change of income.

Homes Victoria may request renters to provide an update of household details when made aware of a change in circumstances. This generally requires the renter to submit a rental rebate application.

## 1.6 Rental subsidy

Homes Victoria can apply a rental subsidy in certain circumstances to further reduce the weekly payment amount a renter pays. A rental subsidy is different to a rental rebate. The full range of rental subsidies that can be applied are set out in the[Rental subsidies](#_Rental_subsidies) section of this guideline.

Examples of when a rental subsidy may be applicable include:

* where the market rent for a property to which renters and their household members are temporarily relocated to is higher than the market rent of the previous property - a subsidy is used to retain the previous market rent value
* renters or their household members have severe difficulty in being able to afford their weekly payment amount due to being absent from their property and having to pay for accommodation elsewhere
* property-related circumstances that prevent a renter or their household member occupying the premises.

# 2. Gathering household income and other information

Income details for household members are collected by Homes Victoria in various ways.

## 2.1 New tenancy

When an offer of housing is accepted, Homes Victoria requires current income and asset information for the renter and each household member eligible for an independent income. As a result, renters will have their eligibility for a rebate assessed as part of the sign up process.

## 2.2 Processing rebate assessments without a form

A rebate form is required when documents are submitted in person or a new household member is added to the tenancy. In some circumstances, rebate assessments can be completed without using a form.

Rebate assessments can be completed without a form when:

* the assessment is part of the rent review process when the following circumstances apply:
	+ a rebate application has been automatically opened (not requested by Homes Victoria or the renter)
	+ the renter(s) have submitted all required income documentation or confirmed via income confirmation, and
	+ there have been no household changes.

Renters can also use Housing Vic Online Services (HVOS) to submit additional documentation. For example, renters with a dependant discrepancy error can submit supporting evidence via their HVOS service.

More information on the use of HVOS is available in the [HousingVic Online Services](https://providers.dffh.vic.gov.au/housingvic-online-services-operational-guidelines) operational guidelines <https://providers.dffh.vic.gov.au/housingvic-online-services-operational-guidelines>

**Table 1** shows scenarios where staff can process rebates without a form

|  |  |
| --- | --- |
| Assessment type | Rebate form required |
| Household change | Yes |
| Rebate automatically opened as part of rent review and no household change | No |
| Rebate automatically opened when household member(s) is not on Income Confirmation  |  No – if renter consents to Income Confirmation |
| Renter submits supporting documentation for rebate assessment and no household change | No |
| Renter submits supporting documentation for rebate assessment due to a household change | Yes |

## 2.3 Centrelink’s Income Confirmation service

The Income Confirmation (IC) service is an online service that allows Homes Victoria to obtain a participating client’s income and asset details directly from Centrelink. All household members in receipt of a Services Australia payment are eligible to consent to IC. Clients may provide their consent for this service at the beginning of their tenancy or at anytime during their service. Participation also enables automatic updating of client details required for rent reviews.

The IC service is used to obtain information used in the rebate assessment. This can include the type of payments received, frequency of payment, partnered status and the number of dependants and percentage of care.

Clients who consent to the use of the IC service do not have to submit documentation to the department to calculate their weekly payment amount. Additional information is only required if household circumstances change, such as the birth of a child or a person moving in or out of the property.

To obtain client information via Centrelink Confirmation eServices, the client must provide their consent either in writing, electronically or verbally. If obtaining verbal consent from a client, staff must first confirm their identity and read out the script given at section 2.3.1. The script has the exact wording on the consent form they would normally sign.

A client’s identity can be verified by confirming at least three of the following personal details from the HiiP system:

* service ID number
* full name
* date of birth
* telephone number
* names and dates of birth of family members (for example, their spouse or children)

### 2.3.1 Script for verbal consent of Centrelink Confirmation eServices

“I <Customer name> authorise:

* *The Department of Families, Fairness and Housing (DFFH) to use Centrelink Confirmation eServices to perform a Centrelink enquiry of my customer details and concession card status in order to enable the business to determine if I qualify for a concession, rebate or service.*
* *Services Australia (the agency) to provide the results of that enquiry to DFFH.*

I understand:

* *The agency will disclose personal information to DFFH including my <name/address/concession card status/payment type/payment status/one off payment/income/assets/deductions/shared care arrangements/partner status/Youth Allowance Independent Rate> (add and delete characteristics included in your characteristic profile) to confirm my eligibility for <relevant concession/rebate/service>.*
* *This consent, once signed, remains valid while I am a customer of DFFH unless I withdraw it by contacting DFFH or the agency.*
* *I can get proof of my circumstances/details from the agency and provide it to DFFH so that my eligibility for <relevant concession/rebate/service> can be determined.*
* *if I withdraw my consent or do not alternatively provide proof of my circumstances/details, I may not be eligible for the <concession/rebate/service> provided by DFFH.”*

Once this verbal consent is provided by the client, staff must record the consent at the same time it is received by creating a file note in HiiP, including the words used to get consent and note the following:

* the date, time, and location the consent was received
* the method of consent e.g., phone, in person
* the name of the staff member receiving consent
* the method used to confirm the identity of the client.

## 2.4 Automated contact reviews (ACR)

The weekly payment amount of some households cannot solely be determined by using the IC service as this process does not provide information for household members who are not eligible to use the IC service. Households members receiving only wages or for household members who choose not to use IC cannot have their weekly payment amount automatically assessed must provide supporting documentation.

An ACR letter is sent by Homes Victoria to these household members every six months. This is sent around the same time as the request file is sent to Centrelink for income details for eligible IC clients.

Renters sent an ACR letter are asked to submit a rebate application form. If the renter does not provide the application with the requested information for non-IC household members, then the weekly payment amount will be increased to the full market rent from the next Fixed Rent Effective Date (FRED)[[2]](#footnote-3).

## 2.5 Automatic Fixed Rent Review (AFRR)

Eligible clients using the IC service have their weekly payment amount automatically adjusted twice each year through the rent review process. Client information is requested from Centrelink and this information is used to automatically adjust the weekly payment amount from the FRED.

In some circumstances rebate assessments can be completed without a rebate form. For further information, refer to [section *2.2*](#_2.2_Processing_) *Processing rebate assessments without a form.*

In some instances weekly payment amounts are unable to be updated automatically and the household must complete a rebate assessment. In these cases there is usually a discrepancy between the information held by Centrelink and the information held by Homes Victoria about a client. When a discrepancy occurs, the renter(s) are sent a letter requesting that they manually provide updated household income and other information in order to enable the new weekly payment amount to be determined from FRED.

The ACR letter requests the renter to provide either:

* a manual rebate application to confirm the affected household member’s information
* a statutory declaration to confirm household details (such as the number of dependants) or
* any other information required by Homes Victoria to determine the weekly payment amount.

Renters who do not respond to their ACR letter will have their rental rebate cancelled and their weekly payment amount will increase to the market rent from the next FRED. If there are any direct debit arrangements in place, these will not be affected by the cancellation of the rebate entitlement, which may put the tenancy at risk of falling into rental arrears.

**Note:** The direct debit is updated to automatically deduct the market rent amount from the payment if the tenancy is paying the market rent amount over two consecutive FRED dates.

## 2.6 Age reviews

When a renter or household member is turning 18 or 25 years of age; a letter is automatically sent to the renter advising that the weekly payment amount will increase from the start of the next fixed rent period. The letter also includes an ‘Authority for Centrelink to release information to the Director of Housing’ form for 18 and 25-year-olds who have not indicated either ‘yes’ or ‘no’ to using the IC service.

Dependants turning 16, 18 or 25 years of age are also subject to an age review and are promoted to a resident from the day of their birthday if the payment rate has changed. The weekly payment amount remains unchanged until a rebate assessment is completed.

Once a week, Homes Victoria identifies all accounts that require age promotion. They are:

* dependants and residents turning 18 years of age
* dependants turning 25 years of age.

Where a dependant is turning 16 years of age, a letter is automatically sent advising the renter to submit an ‘Application for rental rebate’ if their household or income has changed.

If the relevant income documentation is not provided, or IC authorisation is not obtained by the department prior to the next FRED, the eligible Centrelink entitlement is imputed to recalculate the rental rebate entitlement for these accounts, from the next FRED.

## 2.7 Ad-hoc requests for household income and other information

Homes Victoria may request updated household information if there is reason to believe there has been a change to household circumstances that has not been disclosed. When this occurs, an Income Verification Letter (INCVL) is sent requesting that the renter must confirm their household details by submitting a rental rebate application with supporting documents. If the renter does not respond to this request within 28 days’, the rental rebate will be cancelled at the next FRED.

**Note:** When the INCVL is generated after the AFRR date, if the renter fails to respond the rental rebate will be cancelled from the following FRED.

Where a rebate application has been submitted and the form is either incomplete or additional supporting documents are still needed, a letter is sent requesting the information required (FDOC) to be provided within 28 days. If the renter does not respond to this request for further information the rental rebate will be cancelled at the next FRED.

## 2.8 Fraud

It is considered that a renter has acted fraudulently when false information has been provided or when it is apparent that information has been intentionally withheld.

For an alleged offence to be considered fraudulent, a deliberate intent to deceive must be proven by the person making the allegation. In these cases, advice from Legal Services Branch should be sought.

## 2.9 Market Rent Payers

Twice a year, Homes Victoria reminds renters paying the market rent value of their property to keep their household income details up to date.

When these households receive their annual letter advising of any change to the property’s market rent, they are also reminded to keep income and other details up to date.

The rebated rent review (AFRR) only includes households currently receiving a rebate, a separate reminder letter called the Market rent payer reminder (MRPR) letter is sent. This letter advises renters paying the market rent for the property that they can apply for a rebate if their household circumstances have changed. This reminder letter does not automatically trigger a rebate application. If the renter wishes to apply for a rebate they will need to do so at their local office.

# 3. Six-monthly assessment cycle and FRED

Households receiving a rental rebate have their eligibility reassessed every six months. Weekly payment amounts are then set from the FRED. The FRED is usually the third Sunday in May and the third Sunday in November. The six-month period between these dates is called the fixed rent period.

Prior to each FRED, the department determines what each household’s weekly payment amount will be. This involves capturing current household income and other information which is then used to assess eligibility for a rebate and determine the weekly payment amount for the next fixed rent period. This process is called the AFRR and generally occurs in February and August.

The information used to calculate the weekly payment amount is obtained

* from Centrelink if a client participates in Centrelink’s IC service, or
* through ACR if household members are not eligible for or choose not to use the IC service.

Renters are notified by mail about any changes to their weekly payment amount before they are applied. Deductions are automatically adjusted for renters who pay their weekly payment amount by direct debit.

## 3.1 Increases to household income during a fixed rent period

If a renter advises Homes Victoria of an increase to household income during a fixed rent period, the increase in the weekly payment amount would generally not occur until the start of the next fixed rent period.

Increases in household income are applied as follows:

* If household income increases before the start of the next fixed rent period, the increase in household income is used to assess the weekly payment amount at the **next** AFRR. The change to weekly payment amounts that results from this increase will be effective from the **next** FRED.
* If there is an increase in household income after the weekly payment amounts have been assessed (at AFRR) but before the next FRED, household income will be stored to the **following** AFRR. The change to weekly payment amounts that results from this increase will be effective from the **following** FRED.
* If a change occurs immediately before the AFRR or FRED, the change is stored until the following AFRR and FRED. The change will come into effect on the second FRED after the change.

For example, the AFRR date is in March and the FRED is May and a new household member joins the household.

This would mean an increase in total household income **before** AFRR which will increase the weekly payment amount from the next FRED on 21 May 2023.

If the increase to total household income occurs **after** the AFRR then the weekly payment amount will increase at the **following** FRED in November. The updated income details would be stored and applied in November.

**Note:** This applies to each six monthly rent cycle.

**Exemptions**

An increase in total household income that results in a higher total weekly payment amount is generally applied at the next FRED unless:

* the department is made aware of an increase in a household’s income that was not disclosed by the renter. This is referred to as **failure to disclose household information** and when the rebate assessment is performed, the tenancy will generally incur a rebate backdate debit which may result in arrears
* when a renter or resident is **absent from their property due to special circumstances**, the increase in the weekly payment amount is applied from the Sunday following their return to the property as there has not been a change to household income, instead the subsidy applied to the tenancy has been removed.
* when a **renter or resident resumes work after a temporary break from an ongoing contract**, the increase in the weekly payment amount is applied from the Sunday after they recommence working
* where there has been an **administrative error** in a previous rebate assessment which has been discovered and resulted in charging a lower amount of rent, the rebate is reassessed as normal, with the increase in the weekly payment amount being effective from the FRED following the change. A subsidy is then applied to reduce the weekly payment amount for the period of time from the FRED following the actual change in income and the Sunday following the discovery of the error.

## 3.2 Decreases to household income during a fixed rent period

Renters may request a review of their weekly payment amount if household income decreases. This includes the income of renters and/or residents.

If total household income decreases after the start of the FRED, the weekly payment amount is to be reassessed with effect from the Sunday **before** to the change in circumstances.

The maximum period of time that a reduction in a household’s weekly payment can be credited for is:

* 26 weeks from the date that the rebate is ready for assessment, **plus**
* the additional period between when the rebate is ready for assessment and when it is actioned in HiiP. This is because local offices have 28 days to complete a rebate assessment.

If a decrease in household income occurred more than 26 weeks prior to a rebate being ready for assessment, the reassessment will be backdated to the Sunday prior to the change in circumstances to a maximum of 26 weeks.

### **3.2.1** Rebate returned date, rebate ready for assessment, and action date

The rebate returned, ready for assessment and action date can all be different dates and will affect how the rebate backdate is applied.

The date that a rebate form is returned may be prior to when the rebate is actually ready for assessment. This can occur when a rebate form has been returned, but not all required documentation has been provided or further information is needed. In this case, the renter will continue to pay the current weekly payment amount and the 26 week time limit will commence when the rebate is ready for assessment.

The date that a rebate is assessed in HiiP may be after the date that the rebate is returned and ready for assessment. This is because local offices have 28 days to complete a rebate assessment.

### **3.2.2 Exceptions to the 26 week time limit**

Discretion around limited credit backdates can be applied.

Some rebate assessments where there has been a change in household circumstances may result in a backdated assessment for a period of greater than 26 weeks. A VPS5 manager or above will review the assessment to determine if the credit should be given for the entire period or cut off at the 26 week period.

Discretion can be used by the local manager of VPS5 level where the household member can demonstrate reasonable grounds why they were not able to apply for a rental rebate credit within 26 weeks of change in circumstances.

When considering whether to approve an assessment greater than the 26 week time period the VPS5 manager or above should assess whether the renter has reasonable grounds as to why they were not able to apply for a reassessment of their rebate earlier. The review will also examine whether the renter is experiencing the following issues, impacting on their ability to complete a rebate in a timely manner:

* severe health problems
* poor mental health
* being from a non-English speaking background
* experiences of family violence or family breakdown
* meeting the special circumstances criteria for temporary absence
* engagement with other departmental services.

Note: There may be other reasons considered to be a reasonable basis as to why the household member was unable to apply for a rental rebate which can be used to determine the outcome of the review.

## 3.3 Household changes during a fixed rent period: additional requirements

There are occasions where a manual reassessment of a household’s weekly payment amount is required during a fixed rent period due to household members joining or leaving the property.

As well as assessing changes to household income as outlined above, there are additional requirements that need to be followed depending on the nature of the change to the household.

Renters must declare household movements as soon as they occur to ensure they are always charged the correct weekly payment amount.

### 3.3.1 When a renter, resident or dependant of a renter dies

When a renter dies, Homes must establish whether the remaining renter(s) or resident(s) are eligible for a transfer of tenancy before re-assessing the weekly payment amount. The weekly payment amount is reassessed on the remaining household members’ total assessable income and applied from the Sunday prior to the death of the renter.

If a household member is in receipt of a Centrelink benefit or pension and their spouse dies, they will receive a pension or benefit at the partnered rate for 14 weeks from the date of their spouse’s death. Homes Victoria does not assess their income at the partnered rate during this period. Eligibility for a rental rebate is assessed at the single pension or benefit rate from the Sunday prior to the date of death of a spouse.

If a renter receiving care dies, Homes Victoria assesses whether the caregiver is eligible for a Transfer of tenancy. More information on the eligibility for a transfer of tenancy is available in the Transfer of Tenancy operational guidelines [Transfer of Tenancy](https://providers.dffh.vic.gov.au/tenancy-management-manual-transfer-tenancy-word) <https://providers.dffh.vic.gov.au/tenancy-management-manual-transfer-tenancy-word >.

If the caregiver is approved for a transfer of tenancy, the tenancy is transferred into their name and the household’s rebate entitlement is assessed based on any remaining household members from the Sunday after the assessment. The Carer’s Pension may continue to be paid to the carer for 14 weeks following the death of the person receiving care. The caregiver should notify Homes Victoria when their income changes so the rental rebate can be reassessed.

If a renter’s dependent passes away the parent or guardian may receive a lump sum payment of 14 weeks of Family Payment. This payment is not included as assessable income.

### 3.3.2 Renter moves out

When a renter leaves a household a transfer of tenancy assessment must be completed. If the transfer of tenancy assessment results in a reduction of household income and the Service ID remains the same, the decreased weekly payment amount is automatically applied from the Sunday prior to the renter leaving.

When a renter moves out they must provide a statutory declaration or complete Relinquishment of Tenancy form stating that they wish to relinquish their tenancy rights. The outgoing renter should also provide a forwarding address unless there are safety concerns that would arise from providing this information. For example, in the case of renters escaping family violence.

If the departing renter is unwilling to provide the required documentation or the remaining renter does not know their whereabouts, staff can contact Housing Operational Policy to discuss the possible legal pathways available to manage these situations.

Where a renter has not relinquished tenancy rights or a VCAT determination has not been provided, each renter (the remaining renter and the departing renter) remain liable for the weekly payment amount for the tenancy. However, the remaining renter may be eligible for a reduced weekly payment amount under the [Temporary Absence operational guidelines](https://providers.dffh.vic.gov.au/tenancy-management-manual-temporary-absence-operational-guidelines-word)  < https://providers.dffh.vic.gov.au/tenancy-management-manual-temporary-absence-operational-guidelines-word > until the ongoing tenancy issue is resolved.

### 3.3.3 Resident moves out

When a resident moves out of the property, a rebate form can be lodged to update the household records. The renter must provide the following information:

* the former resident’s new address
* the date they moved into the new property and,
* documentation to confirm these details.

**Note:** Supporting documentation to confirm these details can include an initial utility bill or copy of a new lease agreement in the former resident’s name.

Where this information is provided, the rental rebate is adjusted from the date the resident moved out. If the renter is not able to provide this documentation, a statutory declaration confirming the resident’s new address and the date they moved out can also be accepted, however the rebate will only be adjusted from the date the renter informed the department of the change and not from the date the renter claims the resident moved out.

If the renter declares that the resident is not moving out permanently, the resident is not removed from the household and the weekly payment continues to be charged at the same rate as before.

### 3.3.4 Resident moves in

If a renter provides documentation that a new resident has moved into the property permanently and the total household income results in an increase, the resident’s income is included in the rebate assessment from the next FRED.

### 3.3.5 Resident moves out and then returns

Where the renter provides documentation that the resident intended to move out permanently but has subsequently returned, they would be considered a new household member and included in the rebate assessment at the next FRED.

# 4. Assessable and non-assessable household income

When assessing eligibility for a rental rebate, a household’s income is categorised as assessable or non-assessable income types. Assessable incomes are either:

* primary income (assessed at 25 per cent of the benefit or the before tax amount for wages) - income that is determined to be designated for general income support, or
* family-related payments (assessed at 15 per cent) – income that is provided for the care of dependants.

Non-assessable incomes are usually payments that are provided for a specific purpose. Examples of these include pharmaceutical allowance, mobility allowance or caregiver payments to families involved in raising foster children.

Primary incomes include wages, payments in kind, investments, income from self-employment, Centrelink benefits and pensions, overseas pensions and Department of Veterans’ Affairs payments.

Australian residents who are 18 years of age and over are usually eligible for a primary income unless there are circumstances that affect their entitlement such as a partner’s income or a parent receiving family related payments for them.

Family related payments include Child Support payments (maintenance), and Family Tax Benefit payments.

A detailed explanation of assessable income can be found in the [Rent setting and rebate operational guideline: Assessable incomes](https://providers.dffh.vic.gov.au/rent-setting-and-rebate-operational-guidelines) on the Provider’s site < https://providers.dffh.vic.gov.au/rent-setting-and-rebate-operational-guidelines >.

## 4.1 Imputation of income

Homes Victoria expects renters and residents to access all Centrelink benefits and pensions available to them. Where a household member is not accessing a Centrelink benefit or pension they are entitled to receive, their rebate eligibility is assessed as if they were receiving this income. This is called imputation of income.

Where a renter or resident is receiving income from other sources (such as wages or self-employed income) that is less than the statutory payment from Centrelink they would otherwise be eligible to receive, an imputed income equal to this difference is included as imputed income when assessing their rebate entitlement.

An exception applies where clients provide evidence from a statutory authority such as Centrelink or the Department of Veterans’ Affairs that they are not entitled to a payment. For example, the department calculates that they are eligible for a small Newstart payment to supplement their wages however Centrelink confirms in writing that there is no such entitlement.

Where a renter has been requested by Homes Victoria to update household details but does not do this before the FRED the department will not generally impute an income. The rebate will be cancelled until the renter can confirm the household’s income details.

**Note:** In some cases, local office discretion may be applied to impute an income when a renter has not provided information to update their household details before the FRED.

## 4.2 Assessable incomes: treatment of household members

**Renter**

The renter(s) is/are listed on the rental agreement is legally responsible for payment of rent. The renter may apply for a rental rebate.

**Resident**

Members of the household who live at the property and are over 18, but who are not renters, have their assessable income included when applications for a rental rebate are assessed.

**Dependant**

Residents under the age of 18 do not have their income included in rental rebate assessments. These household members are listed in the household but do not affect the weekly payment amount. The family payments received by either the renter or resident for dependants would be included in the calculation of the weekly payment amount.

## 4.3 Assessable incomes: treatment of transitory household members

**Visitors**

The department does not include the income of visitors aged 18 years or over when assessing a household's eligibility for a rebate if:

* the visitor is only staying in the property for less than four weeks and can prove they have permanent accommodation elsewhere or
* the visitor is living in the property for less than three nights per week

There may be circumstances where a visitor is required to stay for longer than four weeks. In these circumstances their income is not assessed. These situations may include:

* the visitor is providing support to an existing household member during illness or pregnancy
* the visitor’s accommodation has been damaged by a natural disaster such as fire or flood
* the visitor is providing care for children, while a parent is temporarily absent
* the visitor is a Homesharer with a valid Homeshare agreement under the Homeshare Program
* the visitor is on a visitor’s visa and is entitled to stay in Australia for longer than 4 weeks.

If these circumstances do not apply, visitors are considered as residents in the household from the expiration of the four week period. A rebate assessment should be completed to include their income in the weekly payment amount calculation. Their income affects the total weekly payment from the FRED following their addition to the household. The commencement date for this increase in income is the Sunday **after** the fourth week that the visitor has lived at the household.

Homes Victoria verifies the following when making a determination regarding a visitor’s status in a household:

* confirmation that the visitor has permanent accommodation elsewhere, as shown on a driver's licence, recent gas, electricity or telephone account in their name
* a statutory declaration by the renter that the visitor is living at the property for less than three nights a week
* temporary entry permits as shown on their passport.

**Friends or relatives staying temporarily**

If a renter is absent from their property, they may arrange for a friend or relative to reside in their property while they are away. Renters must add this person to their rental rebate. The weekly payment amount is calculated on the friend or relative’s assessable income in addition to the existing household income. The absent renter must continue to pay their share of the weekly payment amount unless special circumstances apply. In these cases, the absent renter may be eligible for a reduced weekly payment amount. The department’s [Temporary absence operational guidelines](https://providers.dffh.vic.gov.au/tenancy-management-manual-temporary-absence-operational-guidelines-word) < https://providers.dffh.vic.gov.au/tenancy-management-manual-temporary-absence-operational-guidelines-word > outline the conditions in which this may be applied.

Renters are not permitted to sublet their public housing property at any time.

**Carers**

Carers are considered residents if they live in the property for three or more nights per week. Income of professional carers rostered for regular sleepovers as part of providing care is not included when determining the household’s eligibility for a rental rebate. This is to recognise that they are providing a professional service and are not considered a household member.

**Caring for children in the household when parent temporarily absent**

Where the friend or relative is caring for children at the premises while the children’s parent is temporarily absent from the property, the friend or relative’s income is not included when assessing the household’s rebate entitlement. The absent parent may also be eligible for a reduced weekly payment amount if they satisfy the criteria for a subsidy found in the [Temporary Absence operational guidelines](https://providers.dffh.vic.gov.au/tenancy-management-manual-temporary-absence-operational-guidelines-word) < https://providers.dffh.vic.gov.au/tenancy-management-manual-temporary-absence-operational-guidelines-word >

**Overseas students**

A Centrelink income is imputed for overseas students on student visas residing in public housing properties at the relevant rate they would otherwise be eligible to receive.

Where an overseas student is working, the wages received are included in the rental rebate assessment. Where this income is less than the relevant Centrelink income, the difference is imputed.

Any board and/or lodgings paid by the overseas student to another existing household member are not included as household income and are deducted from the student’s assessable income.

# 5. Rental rebate audits

Senior local office staff (HSO3, VPS4 managers or above) are required to perform regular reviews/audits on rental rebate assessments to ensure renters are charged the correct weekly payment amount in accordance with these operational guidelines. Generally, audits are conducted as follows:

* All Sign up rebate assessments
* 10 per cent of rebate assessments for existing tenancies performed in a week.

The outcome of the audit is recorded in HiiP via the Manage Enquiry screen.

# 6. Rental subsidies

A rental rebate reduces a renter’s weekly payment amount to a fixed amount based on the household’s assessable income and whether the renter is eligible based on the criteria for each subsidy, as outlined below.

Rental subsidies must always have an initial time period with a start and end date (apart from age-related subsidies for renters under 18 or over 100). Some rental subsides can be extended; however, this can only be done following an assessment prior to the end of the subsidy to determine if the circumstances support an extension of the subsidy period.

Rental subsidies are applied in four broad situations:

* property-related circumstances,
* client-related circumstances,
* Homes Victoria discretion
* VCAT ruling or advice from the department’s Legal Services Branch.

Rental subsidies can only be approved under delegation from a VPS5 manager or above`.

## 6.1 Property related subsidies

### Fire/flood damage

The purpose of this subsidy is to minimise the need to relocate renters and to reduce any inconvenience to them while repairs to their property are being undertaken. To be eligible, the following criteria must be met:

* the damage to the property must reduce the use of a major service or area (such as cooking facilities, hot water, bath/shower or the use of a bedroom or lounge)
* the renter chooses to remain in the premises or relocate to a friend’s/relatives dwelling without incurring any expense to the department.

The department determines the magnitude and nature of the maintenance or rectification works required and whether a temporary (or permanent) transfer of the household is necessary. Where a permanent transfer is the preferred option, arrangements with the renter are negotiated by the local office.

If the renter and their household members can remain in the property, the department will negotiate the appropriate rental subsidy amount to reduce the weekly payment up to 100 per cent. Generally, the initial period for the subsidy can be up to six weeks. The subsidy may include service charges where the service that is being charged for has been affected.

### Estate improvement/minor property repair

Where the department is upgrading an occupied dwelling for a limited period of time that may cause inconvenience to the renter, an Estate improvement/minor property repair subsidy may be applied.

To be eligible for this subsidy, the following criteria must be met:

* the nature of the work being undertaken must reduce the use of services (such as cooking facilities, hot water, bath/shower, or the use of a bedroom/s or lounge)
* the upgrade maintenance works to the property are expected to be completed within six weeks
* a community flat or temporary alternative accommodation has not been provided.

In addition to providing a subsidy the department may also be required to hire necessary equipment to reduce any inconvenience to renters.

The department determines the magnitude and nature of the upgrade maintenance works required and a decision is made as to whether a temporary (or permanent) transfer is more appropriate rather than the renter/s remain in the property and a subsidy being applied. If the renter is being transferred, they may be eligible for a property relocation subsidy (see below). In cases where a permanent transfer is the preferred option, the local office will negotiate arrangements with the renter.

If the renter is to remain in the property, the department will negotiate the appropriate rental subsidy amount to reduce the weekly payment up to 100 per cent. The initial period of the subsidy can be up to six weeks. The subsidy may include service charges where the service that is being charged for has been affected.

Where it is necessary to temporarily relocate the renter (to a motel for example), the department would meet the cost of the accommodation while the renter continues to pay their weekly payment amount only. This ensures that the tenancy is not adversely affected by a move that is instigated by the department.

### Renter transfer-relocation

When a renter is paying market rent and is relocated due to a redevelopment or stock management to a property with a higher market rent then the previous tenancy market rent value is charged.

The period of time that this will be for is as follows:

* Where a renter is being relocated permanently, the subsidy will be applied for six months from the date of transfer.
* Where a renter is relocated temporarily, the local office completing the transfer will initially apply the subsidy from a date in the future which reflects when the redevelopment will be near completion. Typically, this will be at 75 per cent completion. When the redevelopment reaches this nominated date, the local office will contact the renter and ask if they wish to return to the property. The renter will have 28 days to respond. The renter transfer/relocation subsidy will continue to apply until the renter responds:
	+ if the renter wishes to return to their original property, the subsidy will cease on the date of return
	+ if the renter now decides to remain at their new property, the subsidy will continue for a further six months from the date that they advise they are not returning.

## 6.2 Client related subsidies

### Sponsored migrant

Residents who are under an assurance of support or sponsorship agreement are ineligible for a statutory payment for a period of time. A subsidy can be applied to reduce that resident’s share of the weekly payment to nil.

The renter must provide for the affected resident a copy of a migrant sponsorship agreement, including the date on which the sponsorship agreement ends. This end date must be entered in HiiP. If there is no date shown, a default two year period from the start of the sponsorship agreement should be entered.

The subsidy is applied by completing a rebate assessment using the SPONS income type to impute an income amount equal to the minimum entitlement of a statutory income for that household member. If there are service charges for the property, these are not waived.

If the sponsored migrant is in receipt of Special Benefit or any other income, a subsidy cannot be applied and this income is included in the rebate assessment and a weekly payment amount share is applied to the resident.

When a sponsorship agreement ends the department assesses sponsored migrant residents in the same way as for other household members. The following documentation must be provided to support the ending of a sponsorship agreement:

* if not previously provided, a copy of migrant sponsorship agreement including the date on which the sponsorship agreement ends
* Centrelink income statement confirming that a Special Benefit is now being paid to the client and evidence of all other incomes including wages.

### Resident on temporary or bridging visa

Where households include residents who are on a temporary or bridging visa who are not receiving a Centrelink income due to their temporary residency status, a subsidy can be applied to reduce that resident’s share of the weekly payment to nil. The end date for the subsidy is the date that the visa expires.

The subsidy is applied by completing a rebate assessment. Staff should impute an income equivalent to the Centrelink income that the resident on a temporary or bridging visa would otherwise be entitled to receive and then applying a subsidy to their share of the household’s weekly payment amount. If there are service charges for the property, these are not waived.

The renter must provide documentation confirming that the resident is not entitled to any Centrelink payments due to their temporary residency status.

If the resident acquires permanent residency, they are entitled to a statutory income. The Centrelink income they would be entitled to receive is imputed and used to assess their share of the weekly payment amount.

### Temporary absence

If a renter or resident is temporarily away from their home as they are being admitted to hospital or travelling overseas, the department continues to assess the rebate entitlement as if they are residing in the property. The weekly payment does not change during their absence as they are not eligible for a subsidy.

If a renter or resident is temporarily away from home for certain special circumstances, a subsidy can be applied to reduce the weekly payment amount after the entitlement to a rebated rent has been assessed. Special circumstances are where the department recognises that there are temporary absences that are beyond the control of the household members of tenancy and support is needed to maintain tenancies in the longer term.

Special circumstances include when a renter or household member:

* is a victim of family violence
* is temporarily residing in a nursing home
* is temporarily residing in psychiatric, physical or drug or alcohol rehabilitation treatment
* is temporarily residing in respite care due to unforeseen circumstances
* is on remand or incarcerated for a period of up to six months in jail.

The renter is required to provide a completed Rebate application and Temporary absence form and submit supporting evidence to confirm their eligibility for a subsidy. Temporarily absent renters retain all tenancy rights and responsibilities, including the rental account and behaviour of any residents or visitors to the property. The period of time that the subsidy is applied for should align with the period of time requested in the temporary absence form.

**Note:** where a sole renter resides alone and is incarcerated, a Rebate application and Temporary absence form are not required. Staff may accept an email from an Intake Assessment and Planning (IAP) worker to confirm the details of the renter’s incarceration to process a subsidy. If IAP workers would like to communicate with the department during the period of temporary absence, they are required to provide a Form of authority - release of information signed by the incarcerated renter so that staff can share information with them and their agency.

When a renter is incarcerated from a joint tenancy (or there are other residents living at a property) a Rebate application and Temporary absence form must be completed to capture the correct household information.

If the renter does not return to the property within the timeframe indicated on their temporary absence form (or email from the IAP worker) or a decision is made to not to extend the period of temporary absence the subsidy will continue to apply until either:

* the renter returns to the property, or
* if the renter does not return within the timelines required (and no other household members reside in the property), possession is obtained after an application is made to the Victorian Civil and Administrative Tribunal (VCAT).

A VPS5 manager or above is able to approve a temporary absence as per the [Temporary Absence Operational Guidelines](https://providers.dffh.vic.gov.au/tenancy-management-manual-temporary-absence-operational-guidelines-word) <https://providers.dffh.vic.gov.au/tenancy-management-manual-temporary-absence-operational-guidelines-word >.

When a renter or a resident is temporarily absent, the household weekly payment amount continues to be assessed on the entire household income. A rebate assessment must be completed prior to applying a subsidy. The subsidy is applied as follows:

* a sole occupant’s weekly payment amount is reduced to $15 per week
* joint occupancy households’ weekly payment amount is adjusted by applying a subsidy that is equal to the weekly payment amount value of the temporarily absent household member.

For example, if the temporarily absent household member’s share of the weekly payment amount tis $100 per week the subsidy will apply for that amount. Service charges for the property are generally not waived.

Where a temporarily absent renter advises the department that they do not wish to return to the property and there are other renter/s or household members remaining, the remaining household members may be eligible for a transfer of tenancy.

The weekly payment is increased from the Sunday following the return of the temporarily absent household member to the property.

### Carer of children (temporarily absent parent)

Where a person (or people) move in to care for children while the parent (renter) has been approved for a subsidy due to being temporarily absent and this person (or people) can demonstrate that their usual place of residence is elsewhere, the person/people caring for the children is added to the household, but their income is excluded when assessing the rebate entitlement.

The following documentation is required:

* documentation confirming that the visitor has permanent accommodation elsewhere, for example, driver's licence, recent gas, electricity or telephone account in their name
* temporary entry permit in their passport, for example, tourist visa (if applicable)
* statutory declaration made by the renter that the visitor(s) is/are living at the property temporarily and for the purpose of looking after the renter’s dependant(s), and confirmation of their permanent place of residence through provision of supporting documentation.

A rebate assessment should be completed prior to applying this subsidy. The share of the weekly payment amount for the absent parent is adjusted to $15 per week according to the temporary absence subsidy above. The carer(s) are not charged a weekly payment amount.

Any service charges for the property are not waived.

The weekly payment amount is increased from the Sunday following the date the absent parent returns to the property. If the carer of the children remains in the property, their subsidy is ended, and their income is assessed and included in the weekly payment amount from the same date (Sunday).

### Deferred rent payable

In some circumstances a 100 per cent reduction in the weekly payment amount may be provided for a renter whose commencement of tenancy has been unavoidably delayed due to special circumstances such as hospitalisation. The period should generally not exceed 14 days. If there are service charges for the property, these are waived.

### Renters under 18 years of age

Renters under 18 years of age can receive a subsidy to reduce their contribution to the weekly payment amount. This is to recognise the support needs of this cohort and assist in sustaining their tenancy. For more information on the assessment criteria to allocate a tenancy to an applicant under 18 years of age, refer to the [Allocations Operational guidelines](https://providers.dffh.vic.gov.au/public-housing-allocations-operational-guidelines) <https://providers.dffh.vic.gov.au/public-housing-allocations-operational-guidelines>.

To apply the subsidy, a rebate assessment is completed based on the actual assessable household income and a subsidy applied to reduce the net rent payable as follows:

* sole tenancy where the person is under 18, the weekly payment is $15 per week,
* joint tenancies where any renter is under 18 years of age, a subsidy reduces the weekly payment of this renter to $15 per week.

Service charges for the property are not waived and are part of the weekly payment amount for the tenancy in both scenarios.

The subsidy ends on the FRED after the date the renter turns 18 years of age.

### 100-year-old renter

Renters who are aged 100 years or older are eligible for a subsidy to reduce their contribution to the weekly payment to nil. These subsidies have no end date. The subsidy is automatically applied when the renter turns 100 and the weekly payment amount is calculated as follows:

* a sole 100-year-old renter receives a full subsidy including services charges to reduce the total weekly payment amount $0 per week
* a joint occupancy comprising a 100-year-old renter, a subsidy is used to remove their contribution to the weekly payment amount.

Persons whose role is a resident in a household and who are 100 years or older are not eligible for this subsidy.

If there are service charges for the property these are waived for sole renters, but not waived for a joint tenancy.

## 6.3 Discretionary subsidy

### Compassionate tenancy

During times of a state or local emergency, such as bushfires, where there is significant loss of housing, or any other special circumstances, Homes Victoria may determine to make a significant reduction in the rent charged to those tenancies. The reduction in weekly payment is managed via a subsidy.

The length of time the subsidy will apply for and the reduction in weekly payment amount is determined according to the situation and local office decision making. However, the subsidy must be applied consistent with the Housing Act 1983 – Approval and delegation instrument.

This subsidy is also used where an administration error in a previous rebate assessment has been discovered and resulted in charging a lower weekly payment over a time period. In this case, the rebate is reassessed as normal, with the increase in weekly payment amount (the correct value) being effective from the FRED following the actual change in income. A subsidy is then applied to reduce the rent for the period of time from the FRED following the actual change in income and the Sunday following the discovery of the error. The net effect will be the correct weekly amount payable being applied from the Sunday following the discovery of the error.

## 6.4 Victorian Civil and Administrative Tribunal (VCAT) or DFFH Legal Services branch ruling decision

VCAT or the department’s Legal Services Branch may determine that the rent for a tenancy should be reduced or a lump sum be paid as compensation. Considering the circumstance, an appropriate adjustment to rent is made via a subsidy.

A rental account may be debited (charged) or credited if a VCAT determination orders the department to adjust a rental charge. For example, a compensation payment to a renter for failure to undertake maintenance repairs, or compensation by way of reducing outstanding rental arrears on an account.

1. Homes Victoria is a public non-financial corporation operating within the Department of Families, Fairness and Housing’s business structure. [↑](#footnote-ref-2)
2. Limited exceptions apply. For example, renters receiving a Department of Veterans Affairs payment, who have stable incomes, may be excluded from the Rent Review process. [↑](#footnote-ref-3)