

## Scope

This policy outlines how certain tenancy matters are conducted by Pacific Link Housing Limited (PLH) according to legal requirements of the Residential Tenancies Act 2010, the Residential Tenancy Agreement and FACS policies. This policy applies to all tenancies.

## Purpose

The policy is intended to ensure that tenants understand the rules around additional occupants and visitors at PLH properties. Tenants are responsible for ensuring that:

- Members of their household and visitors to their property meet the standards of behaviour required by PLH under the Residential Tenancy Agreement,
- They get approval from PLH before new people join the household or visitors stay more than the periods set out below, and
- If they receive a rent subsidy, the income of all people living in the household is declared to PLH.

## Additional occupant

An additional occupant is a person who we have approved, in writing, to live in the property and have included their income in the rent calculation.

## Visitor

A visitor is a person who temporarily stays at one of our properties. Visitors can stay for up to 28 days or less than 3 days per week. If a tenant wants their visitor to stay longer than 28 days or 3 days or more per week they must ask us for permission for the person to become an additional occupant. On a case by case basis, The Executive Manager, Housing may approve a visitor to stay at a property for more than 28 days. If a person stays longer than 28 days, or 3 days or more per week, without our approval, they are an unauthorised occupant.

## Unauthorised occupant

An unauthorised occupant is a person who has lived in our property for more than 28 days, or 3 days or more per week, and we haven't given them approval to become an additional occupant.

## Additional Occupants – Requesting Approval

Tenants are allocated properties based on their household size and are charged rent based on their household income ie the income of all approved occupants. Because of this, our tenants must request our approval before allowing additional people to live at their property.

When requesting approval for additional occupants, the tenant and additional occupant/s need to be aware that:

- We will not approve a request for an additional occupant if it will result in over occupancy eg when a property has fewer bedrooms than our minimum standard for the household as explained in our Allocations Policy
- Approval will not be granted if the property does not meet the needs of the proposed additional occupant.
- Housing additional occupants is generally not a sufficient reason to be transferred to a larger dwelling.
- If additional occupants are approved, we will reassess the household rent and the additional occupant's income will be included in the new rent assessment.

## Assessing requests for Additional Occupants

When we assess requests for additional occupants, we will consider:

- Relevant policies, guidelines, legislation or leases that relate to the property
- Whether additional occupant/s will result in the property being over occupied
- Whether the dwelling will have a negative impact on the health and wellbeing of the current and/or additional occupants, and
- Whether the approval of additional occupants will create noise, nuisance or other social issues.

If the tenant has rent arrears or tenant debt, we may ask the tenant to enter into a repayment agreement before we assess the application.

If the proposed additional occupant/s owes money to us from a previous tenancy, they must arrange to pay off their debt before the application can be approved. If there has been any evidence of unsatisfactory tenancy it must have been resolved before the application can be approved. Unsatisfactory former tenants are not usually eligible to be housed as additional occupants.

If the proposed additional occupant/s has an existing tenancy with Family and Community Services (FACS) Housing or another community housing provider, this tenancy must be finalised before the application to join another household can be assessed. They must give us evidence to show that the other tenancy has been finalised. We will consider requests for additional occupants that are outside of this policy on a case by case basis, as approved by the Executive Manager, Housing.

If the additional occupant wants housing in their own right, they need to apply for it separately. Additional occupants may apply for Succession of Tenancy if the tenant leaves the home for reasons other than a breakdown in the household relationship, however they must meet Succession of Tenancy eligibility criteria. Refer PLH's Succession of Tenancy Policy.

### **Response to requests for Additional Occupants**

We will send the tenant a letter advising them the outcome of their request within 10 business days, unless further documentation has been requested. The letter will also tell the tenant about their right of appeal if they disagree with our decision.

### **What happens if a request is approved?**

If we approve a tenant's request to have additional occupant/s, we will reassess the rent based on the income of all household members and calculate the new rent payable from the date of occupancy. An additional occupant may be eligible to remain on the NSW Housing Register for a property of their own whilst living with another tenant. If the additional occupant is on the NSW Housing Register for housing and they no longer require a property of their own, we will ask them for approval to remove their name from the NSW Housing Register and document their approval.

### **What happens if a request is declined?**

If we decline a tenant's request to have additional occupants and the additional occupant/s is already living with the tenant, we will formally ask the person/s to move out of the property within 14 days.

### **Unauthorised Occupant Consequences**

Tenants are provided with a rental subsidy calculated on the basis of their household income. Tenants are obliged to tell PLH of any changes in their household make up. If a tenant has

additional occupants living in a dwelling without the permission of PLH, they are breaching the conditions of their subsidised rent and this may be considered rental subsidy fraud.

If we receive reports of unauthorised occupants living at our property, we will investigate the report. If unauthorised occupants are found to be living in our property, we will give the tenant 14 days to either submit a request for the person/s to become an additional occupant or for the person/s to move out of the property. If the unauthorised occupant doesn't leave the property or the tenant doesn't apply for them to be an additional occupant within 14 days, we will cancel the tenant's rent subsidy and market rent will be charged.

We cannot legally intervene if a tenant wants another occupant removed from their dwelling. Tenants who need assistance with removing occupants from their dwellings should contact the Police.

### Visitor Sanction

Tenants may have a person stay as a genuine short term visitor at their property. If a person visits a PLH property for an extended period of time (beyond the guidelines above), the tenant may be asked to provide evidence that the person permanently resides at an alternative address. Otherwise the person may be considered to be an unauthorised occupant and PLH will take the appropriate action outlined above.

PLH can apply a visitor sanction to an individual tenancy if there is evidence that:

- Previous visitors to the tenancy have not met the standard of behaviour required by PLH under the Residential Tenancy Agreement, or
- The tenant or members of their household are not meeting the standard of behaviour required under the Residential Tenancy Agreement, or
- New people have joined the household (including visitors who are staying more than 28 days) and the tenant has not asked for approval from PLH, or
- In the case of tenants who receive a rent subsidy, the income of all people living in the household (including visitors who are staying more than 28 days) is not being declared to PLH.

PLH can apply a visitor sanction to a group of tenancies within a complex, precinct or area if there is a strategy within PLH directed to combating anti-social behaviour in that complex, precinct or area based on:

- Evidence of serious or repeated instances of criminal behaviour or anti-social behaviour that pose a risk to neighbours, PLH staff, others in the community or PLH property and cannot be addressed by applying a visitor sanction to one or more individual tenancies in the complex, precinct or area, or
- Evidence of serious or repeated instances of behaviour that are unacceptable in a PLH managed tenancy and cannot be addressed by applying a visitor sanction to one or more individual tenancies in the complex, precinct or area.

If a visitor sanction is applied to a tenancy or group of tenancies, PLH will tell the tenant in writing:

- That the sanction has been applied
- The reasons why the sanction has been applied when the sanction will be reviewed, and

- That while the sanction applies, they must seek approval from PLH before allowing any visitor to the property to stay more than 3 consecutive days.

PLH will not approve a request for a visitor to stay more than 3 consecutive days if it considers that the visitor will pose a threat to the sustainability of the tenancy or the peace and comfort of the neighbourhood. PLH will advise the tenant in writing of its decision to give or deny permission for the visitor to continue their stay.

When deciding whether or not to apply a visitor sanction, PLH will consider the merits of all information relevant to the management of the tenancy (tenancies) that it has access to including:

- Orders made by the NSW Civil & Administrative Tribunal (NCAT)
- Police Reports;
- Witness incident reports;
- Apprehended Violence Orders;
- Local Government Orders;
- Records collected or created by PLH such as file notes, rent subsidy records, letters or reports provided by other people or organisations, forms and photographs.

### **Squatters**

A squatter lives in a vacant dwelling where no Residential Tenancy Agreement exists. There is no relationship of landlord and tenant between PLH and a squatter, so the NCAT has no jurisdiction in matters involving squatters. The police and the courts handle squatters.

We will contact the local police to remove squatters from dwellings and then secure the property to prevent further entry. If the police do not remove the squatters we may commence action in the Supreme Court.

### **Complaints and Appeals**

If a tenant is not satisfied with a service provided by PLH or does not agree with a decision it has made, they should first discuss their concerns with their Housing Manager. If they are still not satisfied they can ask for a formal review. Refer Complaints and Appeals Policy.

*Craig Brennan*

Craig Brennan, CEO April 2019