

Scope

The Tenancy Responsibilities, Disputes and Behaviour Policy outlines tenants' obligations and the way that Pacific Link Housing Limited (PLH) manages neighbour disputes and anti-social or aggressive behaviour. This policy applies to tenants, approved household occupants and visitors as determined by the NSW Residential Tenancies Act 2010 (RTA). The policy also applies to former tenants of PLH, neighbours, property owners and stakeholders who have complaints regarding the behaviour of tenants, occupants and visitors of PLH's portfolio.

Purpose

The purpose of this policy is to provide information on how PLH works to support neighbourhood harmony and positive relationships between neighbours and with our team. It also explains how PLH will respond when a tenant breaches their Residential Tenancy Agreement by interfering with the reasonable peace, comfort or privacy of other tenants or neighbours.

Responsibilities

Under the RTA all tenants have the right to quiet enjoyment of their property and to live in peace and harmony with their neighbours. PLH will take all reasonable steps as a social housing landlord to ensure the quality of tenancy outlined in the RTA is upheld.

Tenants may use their property for any legal, approved purpose that does not breach their Residential Tenancy Agreement including any Special Conditions. Tenants are expected to co-operate if a neighbour asks to reduce noise and be tolerant of the different lifestyles of neighbours. Tenants may not:

- Use their property for an illegal purpose, such as the manufacture, distribution or selling of illegal drugs
- Intentionally damage a PLH or neighbour's property
- Cause a nuisance or interfere with the peace, comfort or privacy of neighbours
- Smoke in enclosed common areas within PLH properties , or
- Allow unapproved occupants to live in the property (refer Occupancy Policy).

PLH is committed to a fair and discrimination free living environment for all tenants and will not tolerate harassment, discrimination or abuse. This includes, but is not limited to, verbal, physical or any other form of harassment, discrimination or threatening behaviour related to race, religion, cultural or sexual orientation. Tenants' obligations include being responsible for their own conduct as well as for the behaviour of other occupants and visitors to their property.

Supporting our Communities

PLH will provide opportunities to promote a positive relationships between neighbours and the ability to resolve issues or problems when they arise. We do this through:

- Making sure all tenants understand their rights and responsibilities from the start of their tenancy
- Organising neighbourhood meetings to discuss any tenancy issues
- Ensuring tenants have access to support services to assist them to meet their tenancy obligations and sustain their tenancies
- Funding outings and events for PLH residents to meet each other and provide feedback to PLH
- Providing information newsletters on tenancy matters

Managing Breaches

PLH will work with tenants to ensure they meet their obligations under their Residential Tenancy Agreement and may use early intervention in order to prevent further escalation of an issue. Where possible, PLH will take preventative steps to maintain tenancies, including providing information and facilitating access to support agencies and advocates.

If PLH finds that a complaint is a breach of the Residential Tenancy Agreement, different action will be taken depending on the type of breach and the seriousness of the breach.

- Minor breaches and antisocial behaviour

In line with the principles of natural justice, for instances of minor breaches including noise, rubbish dumping or inappropriate use of common areas, tenants will be given the opportunity to change and address their behaviour. The tenant will be promptly issued a Notice to Remedy their or a household occupant's behaviour within 14 days. The Notice will remind tenants of their rights and responsibilities under the RTA, the nature and evidence of the complaint made against them and action that may be taken if complaints continue. If the matters set out in the Notice are not remedied within the 14 day period, PLH will take action through the NSW Civil and Administrative Tribunal (NCAT).

- Serious breaches and antisocial behaviour

If a tenant's behaviour seriously or persistently breaches their Residential Tenancy Agreement, PLH will take action through NCAT. This includes instances of violence, assault or other criminal activity. In situations where there is alleged criminal behaviour, PLH will notify NSW Police. Action taken against tenancy breaches through the NCAT may be to seek a specific performance order to cease an action which is a breach of tenancy, or to support a termination of tenancy.

Dispute Resolution Policy

PLH encourages neighbours to resolve issues through friendly discussions between themselves in the first instance. PLH will only address neighbourhood disputes or anti-social behaviour that constitute a breach of a Residential Tenancy Agreement.

Complaints about PLH Tenants

Where a complaint is received in relation to the behaviour of a PLH tenant, PLH will promptly initiate action to investigate any claims. Investigation of reports of such disputes will be conducted promptly, and within 5 business days. Complainants will be asked to lodge their complaint in writing. Where a complainant declines to lodge a complaint in writing, a verbal statement will be taken and he or she will be asked to provide some other evidence of the alleged events eg Police event number. Without such evidence, there may be no further investigation of the matter. In such a case, a file note of the conversation will be made on the tenant's record.

Confidentiality and privacy of the complainant will be protected as well as that of the tenant's circumstances at all times during the time of the dispute.

If the matter under dispute is of an apparently criminal nature, the complainant will be advised to notify the police.

Where a complaint is substantiated as a nuisance or breach of tenancy, PLH will take steps as outlined in the Managing Breaches policy that may include:

1. a discussion will be held with the tenant to remind the tenant of their responsibilities under the Residential Tenancy Agreement. The discussion will be minuted in the tenant's record.

2. identify strategies to resolve the complaint directly between the tenant and complainant
3. identify and recommend any intervention strategies such as mediation,
4. write to tenant informing them of the breach in their Residential Tenancy Agreement and asking for rectification and identifying consequences if the behaviour continues.
5. If relevant, a visitor sanction may be placed on the tenancy (refer Occupancy & Visitor Policy)
6. issue a written warning that action through NCAT will result if the behaviour continues.
7. If the action in breach of lease continues a NCAT hearing will be applied for seeking termination of the tenancy.

Complaints about Neighbours that are not PLH Tenants

Early intervention practices and referral to support services where appropriate can minimise the escalation of disputes between neighbours. PLH will encourage tenants to try and resolve problems with other tenants or neighbours themselves, or with the assistance of mediation services.

PLH will not intervene in a neighbourhood dispute or investigate allegations unless it is a breach of the tenancy agreement. Additionally, it is not the role of PLH to carry out criminal investigations, however, PLH will liaise with NSW Police in cases involving alleged criminal activity.

Where a complaint is received from a tenant about problems with a neighbour, PLH will assist the tenant by providing information to the tenant on methods of dispute resolution, such as:

- Communication with their neighbour
- Intervention by local authorities, including councils and bodies corporate
- Intervention by the police
- Available mediation services, including Community Justice Centres.

PLH will expect the tenant to initiate action after being given information and assistance and will not act as an advocate or third party in such disputes.

Where a tenant of PLH is subject to severe harassment from a neighbour, and none of the above actions resolve the problem, rehousing the tenant will be considered based on evidence requirements for a transfer.

Matters Involving NSW Police

PLH will investigate all alleged breaches of the Residential Tenancy Agreement but can't investigate criminal matters, for example alleged drug dealing, assault, harassment or theft. These matters must be referred by tenants or neighbours to the NSW Police. In any circumstance where a tenant, applicant, household member, visitor or neighbour feels at risk of violence, abuse or harassment from a person, they are encouraged to contact NSW Police. PLH can seek confirmation of any illegal activity or complaints made by tenants to the NSW Police through an application under the NSW Record of Understanding. This information can be submitted as evidence at the NCAT.

Privacy, Confidentiality and Making Anonymous Complaints

Although we are mindful of the need for confidentiality when investigating complaints, in most instances PLH will need to contact the other party involved in a neighbourhood issue or

complaint to gain their perspective and/or to reinforce their tenancy obligations. For the matter to proceed to the NCAT as breach of tenancy, the identity of the complainant and nature of the complaint may be required as part of a brief of evidence. PLH will need to include a written statement of facts provided by the complainant and a willingness to provide verbal evidence supporting the facts presented in a formal hearing.

Where tenants are in fear of their safety and this is supported by evidence, PLH will seek to use a neighbourhood impact statement on behalf of tenants or to have their identity suppressed at the NCAT. Neighbourhood impact statements are statements from a range of individuals about the impact antisocial behaviour has on them. Neighbourhood impact statements may be used or requested in cases where significant, ongoing breaches of tenancy have occurred impacting on multiple tenancies, where there has been limited progress to resolving the issue through mediation or other means.

Documenting a Complaint

Where appropriate, PLH will encourage the tenant or neighbour making the complaint to keep a diary detailing any disturbances or incidents that occur and to provide this information as evidence of any ongoing complaints. The diary needs to be factual, objective and state dates, times and incidents. Ideally the incident diary should be supported by other evidence to take formal action for a breach of tenancy at the NCAT, including witness statements, Police reports or diaries from other neighbours. Caution must be exercised if choosing to use photographs, recordings or video footage as evidence. It is important to do so in a way that respects privacy and does not in itself cause harassment, intimidation or increase hostility. An individual must be advised that they are being filmed or having an audio recording made by informing the person that this will occur. PLH will not permit the installation of cameras or recording equipment on its properties other than in accordance with our CCTV Policy.

Unreasonable Complaints or Behaviour

At times, PLH receives repeat complaints that we believe have been adequately resolved or that no further action is possible or warranted. We understand that people who have a complaint can experience high levels of stress, frustration and anger about their complaint. However, there may be times when people who have a complaint act in ways that are inappropriate and unacceptable, even though we are trying to help them.

There may also be instances where tenants, applicants, approved household occupants, visitors, former tenants or neighbours exhibit unacceptable behaviour in their dealings with us. This behaviour may occur anywhere including in tenants' properties and on or off PLH's premises. It may be face to face, over the phone or by written correspondence. This may include:

- Being aggressive or abusive to our team
- Making unsubstantiated accusations
- Making discriminatory, obscene or offensive remarks or gestures
- Threatening harm or violence
- Flooding our offices with unnecessary and excessive phone calls, emails or visits
- Making inappropriate demands on our time and resources
- Refusing to accept our decisions and recommendations.

When people behave in this way, we consider their behaviour to be unreasonable and this raises issues around health and safety, resources and equity for us, our team, our other customers, or for the person themselves.

At all times, our team will be expected to show respect and courtesy to the person(s), as long as it is safe to do so, explain clearly why PLH will not be taking further action and express empathy for their situation without admission or fault.

Our team must also report any incidents involving unreasonable behaviour that they experience or witness and if the incident impacts the health and/or safety of someone in our team, it must also be reported as a workplace health and safety incident.

The, CEO, or the CEO's delegate, will consult with relevant people in our team to decide whether we will take actions, including:

- assessing a person as high risk and requiring PLH staff and other persons to take particular precautions when dealing with the relevant person. The assessment will be reviewed from time to time and precautions may include the following:
 - Only visiting or engaging with the person when a second staff member (or contractor, real estate agent or support worker) is present.
 - Scheduling appointments in the offices of PLH when other staff are present to observe and corroborate any interaction.
- restrict a person's access to our services or
- cease to communicate further with a complainant
- where the behavior represents a serious breach by a tenant of a Residential Tenancy Agreement, initiate action with NCAT, or
- refer the matter to the NSW Police.

In making the decision, relevant factors will be considered such as whether the behaviour involved anger, or actual or threatened aggression, violence or assault (which is unacceptable in all circumstances), whether any complaint has merit and whether the decision will have an unnecessary impact on the person's welfare, livelihood or dependents.

If we decide not to communicate further to a repeat complainant PLH will send a final letter clearly explaining the outcome of the complaint, the reasons why PLH will take no further action, that in the absence of new information or evidence that can be used and that PLH considers the matter closed and will cease further communication.

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