

Scope

This policy applies to all Pacific Link Housing Limited (PLH) tenants and former tenants.

Purpose

Tenants living in properties owned or managed by PLH are required to pay rent and other tenancy costs, known as non-rent, that include water usage charges, tenant charges for repair of property damage or cleaning at the end of a tenancy and any debt carried over from a former tenancy. The purpose of this Policy is to provide a clear framework for the management and collection of rent and non-rent charges in accordance with the Residential Tenancies Act 2010 (RTA).

Guiding Principles

Early action by tenants is crucial to not fall behind in their rent or non-rent payments. Allowing arrears to occur may mean that tenants accrue debts that they cannot repay, which can lead to action against them through the NSW Civil and Administrative Tribunal (NCAT) and ultimately the possible loss of their housing.

Tenant responsibilities in relation to the costs of their tenancy are to:

- pay rent, non-rent tenant charges (including water charges and cleaning costs) and outstanding debt when it is due in full in accordance with their Residential Tenancy Agreement and the RTA
- keep their rent account two weeks in advance at all times throughout their tenancy
- not have a negative balance on their rent account (known as arrears), or non-rent account (known as debt) at any time, and
- comply with any Payment Plan agreed with PLH.

Failure to meet these responsibilities is a breach of the Residential Tenancy Agreement and will result in PLH taking action that, in serious cases, may result in the tenancy being terminated. Where tenants are having difficulty in making payments, they should immediately contact PLH to discuss their circumstances.

Guiding principles for PLH in managing rent and non-rent arrears/debt are to:

- maintain a fair and consistent approach when dealing with rent and non-rent arrears/debt, thereby not making arbitrary exceptions for some tenants or expecting more of one tenant than would be expected of another
- inform tenants of their legal obligations regarding payment of rent and sending rent statements regularly or on request. Statements are also available on PLH's smartphone app *My Home and Community* at any time
- conduct regular and timely rent reviews
- promptly notify tenants when they go into rent arrears or debt
- adopt an early intervention approach to mitigate arrears risk and work proactively with tenants to assist tenants to sustain their tenancy and prevent homelessness
- refer financial counselling or other support services to assist tenants that are experiencing financial difficulties
- where a tenancy is transferred, carry over and link any outstanding arrears/debt owed on the former tenancy to the new tenancy
- ensure the financial sustainability of PLH through the collection of all monies that are due and payable under the RTA
- comply with the RTA and any other relevant legislation.

Managing Rent Arrears and Debt

PLH will monitor tenant accounts on a weekly basis. When a rent or non-rent account falls into arrears/debt, the tenant will be contacted to try to resolve the issue and to prevent arrears and debts from accumulating into large, unmanageable amounts.

When a tenant is in arrears or a debt is unpaid, depending upon the individual circumstances, and the legislative requirements of the RTA, PLH will take action that may include:

- making a lump sum payment or negotiating an affordable Payment Plan
- obtaining a Specific Performance Order (SPO) for compensation through the NCAT
- issuing a Notice of Termination
- taking action through NCAT to terminate a tenancy where other options have been exhausted and the rent or debt remains unpaid
- applying Housing Pathways' Social Housing Eligibility and Allocations Policy guidelines to former tenants who have tenancy debts.

Issuing Notices

If either:

- rent arrears exceed 14 days
- non-rent arrears exceed 21 days, or
- two payments per an agreed Payment Plan have been missed,

PLH will issue a Notice of Termination to the tenant specifying a date to vacate the property (the Vacant Possession date). A rent statement is provided with the Notice. Notices issued by PLH will allow 7 days for postage in accordance with the RTA. The Notice of Termination will inform the tenant that they are not required to vacate the property if all rent owing is paid or full compliance with a Payment Plan is restored. During the Notice of Termination period, PLH will contact the tenant to explain the NCAT process and the importance of making payment to ensure sustainment of their tenancy.

Application to the NCAT for a Specific Performance Order

If arrears are not paid by the Vacant Possession Date on the Notice of Termination, PLH will apply for a Specific Performance Order (SPO) and request a follow-up hearing date from the NCAT. If a Payment Plan is agreed between the time of the application to the NCAT and the hearing date, PLH will seek to have the Payment Plan formalised in the SPO. Following the NCAT hearing, the NCAT will confirm the SPO terms to PLH and the tenant in writing. If a tenant fails to adhere to SPO terms by not continuing with payments, there may be serious consequences for their tenancy from the NCAT. Throughout this process, PLH will continue to explain the process, discuss with the tenant their circumstances and refer financial counselling or other support services, if appropriate.

Payment Plans

In accordance with the RTA, any tenant who incurs arrears/debt in connection with their current tenancy with PLH or incurred arrears/debt in a previous tenancy with PLH must enter into arrangements to pay the amount owing. If the tenant is unable to clear the arrears or debt in one payment, PLH will agree a Payment Plan with the tenant to clear the amount owing and have the account restored to two weeks rent in advance.

The following terms apply to Payment Plans for rent, non-rent tenant charges and prior tenant debt:

- Maximum repayment period is 3 months, provided the minimum payment is rent plus 2 additional days' rent per week or 4 days per fortnight).

- The first payment in a Payment Plan must be received within 14 days of the commencement date of the Plan.
- Tenants will also be required to provide signed consent allowing PLH to amend their Centrepay deduction in accordance with the Payment Plan.
- Where a tenant's rent account is in advance by more than two weeks, the tenant will be required to sign a form consenting to transfer of the rent in advance to a non-rent debt. Where the tenant does not sign authority to transfer rent in advance to non-rent account, a Notice of Termination will be issued.
- Where a tenant has an existing Payment Plan or SPO with a balance to pay, any new debt added during the payment plan or SPO term will have the maximum 3 month repayment period applied.

PLH will closely monitor payments for compliance with the agreed Payment Plan. If a tenant misses a payment PLH will contact the tenant, request immediate payment and advise that a second missed payment will result in a Notice of Termination being issued or apply for a hearing at NCAT.

Termination of Tenancy and Possession of Property

Where an SPO is breached, PLH will apply for an NCAT hearing for termination of the tenancy. If the NCAT makes an order to terminate the tenancy and possession of the property is given to PLH, the tenant becomes an occupant and pays an occupation fee (calculated as a daily rate) while they remain in the property. If the tenant does not vacate on the date specified on the NCAT order, PLH will take steps to arrange a Sheriff eviction. PLH will no longer negotiate with the tenant if the tenancy is terminated by the NCAT. In compliance with the RTA, PLH will inform the tenant in writing at each stage of the process of their rights and options for advocacy and appeal.

Managing rent arrears and debt of former tenants

When a tenant moves out of a PLH property and the tenancy ends, all payments and charges relating to the property will be calculated and a final account produced. If there is an outstanding debt at the end of the tenancy, PLH will, with the tenant's permission, use any credit balance on a tenant's account or the bond.

Any arrears or debt outstanding at the end of tenancy will be recovered via a money order as applied for at the NCAT hearing in accordance with the End of Tenancy policy. PLH will work with former tenants to ensure that debts are repaid. If the debt remains unpaid, further action may be taken through the Local Court or debt recovery agency to recover the money owed. PLH may record the debt of a former tenant on the NSW Housing Register where we are allowed by law.

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 in relation to water usage charges, 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