

C1.24 Antisocial Behaviour Policy

Policy Statement

Antisocial or illegal behaviour puts the safety of tenants at risk and impacts negatively on the local community. Antisocial behaviour is a problem that affects and damages communities.

Antisocial behaviour has a strong link to stigmatisation of people living in public and social housing. It has a significant impact on the quality of life of vulnerable people through fear of crime and the long-term effects of victimisation. It also gives rise to additional costs for a wide range of organisations and individuals including families, schools, NSW Police, non-government organisations, local government, social landlords and businesses.

In October 2015, NSW Parliament passed new laws changing the rights and responsibilities of all social housing tenants. The purpose of these new laws is to introduce a scheme for community housing providers to record strikes against tenants for breaches of social housing tenancy agreements and to seek a termination order based on 3 breaches occurring within 12 months that, taken together, justify termination. A tenant continues to have the opportunity to demonstrate there are exceptional circumstances justifying the order not being made. Neighbourhood impact statements may also be submitted to assist the tribunal to understand the effect a social housing tenancy has had on neighbouring residents and other persons.

CENSW does not tolerate anti-social behaviour and has adopted this three-strike system.

1. Purpose

- 1.1. The aim of this policy is to provide guidance to CENSW and Housing Co-operatives on how to manage antisocial behaviour.
- 1.2. The underlying principle of managing anti-social behaviour is that all tenants have a right to expect justice, fairness, respect, and integrity. In the application of this policy a landlord must:
 - 1.2.1. not discriminate, harass, bully, or intimidate any persons.
 - 1.2.2. be honest, reasonable, and sensitive in dealings with tenants.
- 1.3. CENSW and Co-operatives have a right to expect respect and integrity from its tenants.
- 1.4. Responsibility for complying with this policy will ultimately rest individually with each tenant and landlord.

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- 1.5. Any serious breach of the general principles relating to this policy will constitute grounds for disciplinary action, which may include a strike notice or termination of tenancy.

2. Scope

- 2.1. Applies to all tenancies either directly managed by Common Equity or by a Housing Cooperative.

3. Exceptions

- 3.1. Noise caused by everyday domestic activities would not be classed as antisocial behaviour.
- 3.2. Generally, landlords adopt the position that personal arguments are best resolved by those involved and encourage residents to try to resolve the matter for themselves, unless there is a breach of the tenancy agreement. Personal arguments can be referred to mediation services, such as Community Justice Centres.
- 3.3. There are limited exceptions for especially vulnerable tenants and tenants with children who would face hardship if evicted.

4. Definitions

- 4.1. **CENSW** - Common Equity NSW Ltd
- 4.2. **Landlord** - the person or organisation who grants the right to occupy residential premises under a residential tenancy agreement.
- 4.3. **Housing Co-operative/Co-op - governance** structure where tenants become 'members' of the cooperative and play an active part in running the organisation.
- 4.4. **Tenant** - the person who has the right to occupy residential premises under a residential tenancy agreement.
- 4.5. **The Tribunal** - NSW Civil and Administrative Tribunal (NCAT) hears disputes between social housing tenants and landlords in NSW
- 4.6. **Housing Appeals Committee** - is an independent agency that deals with people who are unhappy with decisions made by social housing providers. Appeals can be made to review first and second strike Notices.
- 4.7. **Agent** - a person who acts on behalf of another person or group
- 4.8. **Allegation letter** - a letter concerning an alleged breach, describing the alleged conduct and date.
- 4.9. **Warning Letter** - if the tenant has not received a strike notice in the previous 12

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months the landlord will issue the tenant with a warning letter which does not count as one of the strike notices.

4.10. Strike notice - letters issued by the landlord to the tenant where the landlord believes the tenant has breached the tenancy agreement, but the breach is not serious enough to terminate the agreement. A strike notice is only an allegation against the tenant.

4.11. Neighbourhood Impact Statement - a summary of statements made by the tenant's neighbours about the effect the tenancy has had on them. While the law requires the landlord and tribunal make efforts not to identify participants, it does not guarantee anonymity.

4.12. Mandatory termination - when a landlord applies to terminate a tenancy for some type of illegal use of the property, damage to the property and injury to a neighbour or landlord representative, the tribunal is required to order termination of the tenancy if it finds that the conduct occurred.

5. Responsibilities

5.1. Cooperative members and directors

- a. Provide resources and oversight of process.
- b. To ensure all tenants are given clear procedures for dealing with antisocial behaviour
- c. To give information about the policy and what action can be taken

5.2. CENSW

5.2.1. Operations Manager

- a. Review and investigate first tier appeals on antisocial behaviour

5.2.2. Manager, Co-op Development Team

- a. Review recommendations for action based on antisocial behaviour including strike notices

5.2.3. Co-op Development Officer

- a. Adhere to the policy and apply the procedure when managing antisocial behaviour
- b. Make recommendations to management on steps to address antisocial behaviour
- c. Identify vulnerable persons and make suitable referrals to support and/or advocacy agencies

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6. What is regarded as antisocial behaviour?

6.1. This may vary according to the degree of tolerance of difference within a community. However, at least in general terms, can include:

- a. Noise
- b. Intimidation through threats or actual violence
- c. Harassment
- d. Verbal abuse
- e. Homophobic behaviour
- f. Abusive or threatening behaviour aimed at causing distress or fear to certain people e.g. neighbours, elderly or disabled people
- g. Hate crime targeted at a person e.g. ethnicity, religion, sexual orientation
- h. Dumping rubbish
- i. Animal nuisance, including dog fouling
- j. Vandalism, property damage and graffiti.

6.2. Antisocial behavior is defined as per the following:

6.2.1. Severe illegal behaviour is behaviour which poses a risk to the safety or security of residents or property and may result in criminal charges and/or conviction, or significant damage to a Co-operative property. Examples of severe illegal behaviour may include but are not limited to:

- a. Committing injury towards a neighbour or visitor which constitutes grievous bodily harm;
- b. The use of the premises for the manufacture, sale, cultivation or supply of any prohibited drug;
- c. The use of the premises for storing unlicensed firearms;
- d. The use of the premises for a show cause offence within the meaning of the Bail Act 2013;
- e. Intentional or reckless damage to a Co-operative property making it uninhabitable;
- f. The use of the premises as an illegal brothel;
- g. The use of the premises for the production or distribution of child abuse material;
- h. The use of the premises to facilitate organised car or boat rebirthing;
- i. Physical assault or acts of violence against other tenants, neighbours or Co-operative members where there is no grievous bodily harm.
- j. The use of the property for running a business without approval

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- 6.2.2. Serious antisocial behaviour involves activities that severely disturb neighbours; place the safety or security of a tenant, other household members, neighbours or Co-operative members at risk; or cause damage to a Co-operative property. These behaviours may also be illegal and may include, but are not limited to:
- a. Aggressive and/or threatening behaviour towards neighbours or visitors (including tradespeople and contractors);
 - b. Victimisation and intimidation towards neighbours or visitors;
 - c. Provoking pets to attack neighbours or visitors;
 - d. Hateful and threatening behaviour that targets members of identified groups because of their perceived differences (e.g. race and ethnicity, gender, age, religion, sexual orientation, mental health or disability);
 - e. Negligent and extensive damage to a property.
- 6.2.3. Moderate antisocial behaviour involves activities which disturb the peace, comfort or privacy of other tenants or neighbours. Such behaviour may include but is not limited to:
- a. Obscene language towards neighbours and visitors;
 - b. Bullying and harassment towards neighbours and visitors;
 - c. Noise causing nuisance e.g. loud and uncontrolled parties, excessive shouting/screaming or excessive noise from music or television;
 - d. Environmental and common area issues e.g. vandalism, graffiti, abandoning vehicles in the front yard and refusing to remove them, carrying out noisy vehicle repairs in communal areas;
 - e. Leaving large amounts of rubbish within the home, garden or on communal areas;
 - f. Behaviour which limits access by other tenants to communal facilities, such as preventing other tenants from accessing communal gardens or laundry facilities, and
 - g. Damaging any Co-operative property including individual tenants' properties and common areas.

7. Procedure

Steps	Description	Further CENSW or Co-op action
Allegation letter	After an allegation has been made, the	CENSW/Co-op will continue to make

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	<p>landlord is to:</p> <ul style="list-style-type: none"> • first send the tenant a letter concerning the alleged breach. • This letter describes the alleged conduct, including dates • It invites the tenant to attend an interview to discuss the allegation. • The tenant should attend or immediately contact to schedule a more suitable meeting time. • A tenant is encouraged to bring an advocate or support person to this interview. 	<p>contact to discuss the allegations. If behaviour continues, it may escalate to a warning letter.</p> <p>Co-ops are encouraged to contact CENSW for support and advice</p> <p>Impact on other tenants/ neighbourhood needs to be well documented- witness statements and declarations are to be collected. LOG FORM is to be used by neighbours/witnesses where appropriate.</p> <p>000 services to be called as required.</p> <p>Police reports to be made as required, event numbers are to be noted and provided to CENSW.</p>
<p>Warning Letter</p>	<p>If a tenant has committed the breach,</p> <ul style="list-style-type: none"> • and the tenant has not received a strike notice in the previous 12 months, • CENSW/Co-op will issue the tenant with a warning. • This does not count as one of the strikes required to seek termination of the tenancy. 	<p>CENSW / Co-op will continue to make contact to discuss the breach and explain the next steps.</p> <p>Co-ops are encouraged to contact CENSW for support and advice</p> <p>LOG FORM- as above, continue to document impact on neighbours and community</p>
<p>One Strike</p>	<p>If a tenant has already received a warning notice in the last 12 months</p> <ul style="list-style-type: none"> • a Strike Notice may be issue. • The letter must describe the conduct, including dates, • explain why the behavior is considered a breach of the tenancy agreement. • Describe the appeal process if the tenant wishes the decision to be reviewed. 	<p>One strike - serious antisocial behaviour breaches may result in:</p> <p>A termination order where proven, where a serious breach has occurred, including:</p> <ul style="list-style-type: none"> Drug manufacture or supply Storing a firearm for which a license or permit is not held Violence involving grievous bodily harm <p>NCAT action to commence immediately.</p> <p>Use of LOG FORM- continue to</p>

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		document impact on neighbours and community
Two or more strikes – minor and moderate antisocial breaches	CENSW or the Co-operative will issue strikes against a tenant for breaches of Residential Tenancy Agreement and seek a termination order based on 2-3 breaches occurring within 12 months (depending on behaviour).	<p>On the second strike the landlord can issue a Termination Notice under Section 87 (see Residential Tenancies Act 2010) without a further strike notices being issued.</p> <p>The Tribunal will then decide if the second strike is valid and whether Termination and vacant possession of the premises will be granted.</p> <p>Use of LOG FORM- continue to document impact on neighbours and community</p>
First Tier Appeal	A first-tier appeal for review of decision must be made to the landlord (decision maker)	<p>The Co-operative or CENSW (as the landlord) reviews the strike notices and determines if the strike stands or is withdrawn.</p> <p>CENSW can support Co-operatives with this process as required.</p> <p>Letter with the outcome of the Appeal to go to the tenant.</p> <p>CENSW- Appeals (directly to CENSW) are logged into the Feedback Register through the Complaints Officer. The Appeal investigation and a formal response will be undertaken by a Manager.</p> <p>The investigation involves a desktop review- including any evidence, and relevant policy, and interviews of witnesses. A Briefing Note is then drafted outlining the process undertaken, outcome of the review and reasons for the decision.</p>
Review of a strike notice	If a Strike is in dispute and CENSW/ Co-operative decides not to withdraw, the tenant may ask for the strike notice to be reviewed by the Housing Appeals	CENSW/ Co-operative will withdraw a strike under the recommendation of the HAC

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	Committee (HAC).	
Other Avenues- for support or advice		Tenant Advocacy Services Community Justice Centre CENSW Tenant Support Program (to link to appropriate support services) Local Council

8. Data Collection

- 8.1.** Common Equity will keep and maintain appropriate records of all antisocial behaviour/incidents received. This includes:
- 8.1.1. information about the antisocial behaviour including logs, witness statements and police event numbers
 - 8.1.2. any action taken to remediate or resolve the matter
 - 8.1.3. the outcome of any action taken
- 8.2.** All records will be kept for the life of the tenancy and then archived appropriately.

9. External references

- 9.1. Privacy Act 2012
- 9.2. Work Health and Safety Act 2011
- 9.3. Residential Tenancies Act 2010
- 9.4. Housing Act 2001
- 9.5. Specific Housing Co-operative Rules of Incorporation and/or Constitution
- 9.6. Specific Housing Co-operative Conflict of Interest Policy
- 9.7. Housing Appeals Committee www.hac.nsw.gov.au

10. Internal Associated Documents

- 10.1. Appeals form
- 10.2. Appeals policy
- 10.3. Antisocial Behaviour Factsheet
- 10.4. Antisocial Behaviour Log Form

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