

24 August 2023

s9(2)(a)

Thank you for your email dated 18 July 2023 requesting the following information under the Official Information Act 1982 (the Act):

- *How many Section 53B and 55a clause has been issued in the past 12 months and proceeding 3 years*
- *What is the average lead time from first complaint until removal of the tenant on the above two section clauses*
- *How many of the issued clauses have been disputed or gone to court and or not been evicted in the 14 days*

We want Kāinga Ora homes and the communities they are in to be pleasant and enjoyable places to live – and the vast majority are. However, when disruptive behaviour occurs we take it seriously and aim to respond quickly and effectively.

Almost 185,000 people live in Kāinga Ora homes around the country, and the significant majority of them are good neighbours and members of their communities. More than 90 percent of households have not received any complaints over the past 12 months, and around 2.5 percent of households have received more than one complaint in the past year. It's important to keep in mind that the majority of complaints we receive are for minor things car noise, frequency of visitors, or lawns not being mowed..

When problems arise, we work hard to resolve them. Kāinga Ora seeks positive outcomes for both the people living in our homes and their communities. To achieve this, we work closely with our customers, whānau, and other support services where necessary to understand the root causes of behaviour and support a sustainable improvement.

While our first approach is to support a change in behaviour, we have many other tools in our toolbox – including using tools available under the Residential Tenancies Act (RTA), where appropriate.

Kāinga Ora first implemented the RTA tools referred to in your questions in February 2022, so the information has been provided since that date.

I will answer each of your questions in turn.

How many Section 53B and 55a clause has been issued in the past 12 months and proceeding 3 years

In the very small number of situations where sustaining a tenancy is not in the best interest of the customer or the wider community, we can – and do – end tenancies. In these situations we typically offer the customer another Kāinga Ora home, and we find that most customers take the opportunity to make a fresh start without further issues.

If a customer is willing to move, then we can take steps to do this without needing to issue any notices. Over the past 12 months (as at 31 July 2023), 204 households have been relocated by agreement for disruptive behaviour.

If a customer is not willing to relocate, Kāinga Ora can use section 53B of the RTA to end the tenancy and transfer the customer to another Kāinga Ora home. To do this, Kāinga Ora must have a suitable property that meets the tenant's needs to offer them, and must provide at least 90 days' notice.

From February 2022 to 31 July 2023, eight households have been issued notices under section 53B, and all have been successfully relocated.

Where behaviour is serious and/or persistent and meets the definition of anti-social behaviour in the RTA, we can issue a notice under section 55A. Issuing a section 55A notice not only lets Kāinga Ora address the behaviour in our role as landlord, but we typically find it helps customers decide to change their behaviour.

We have seen positive results to date. Since we took up this tool in February 2022, we've found that most customers who have received a first notice have improved their behaviour and that further notices have not been required at this point.

In the very small number of situations where issues with behaviour do not resolve, where there have been three specific and separate incidences within a 90-day period, and three notices have been issued, Kāinga Ora will apply to the Tenancy Tribunal to end the tenancy.

From February 2022 to 31 July 2023, there has been 61 section 55A notices issued across 45 households.

What is the average lead time from first complaint until removal of the tenant on the above two section clauses

The RTA sets out the timeline for action under these sections and in all cases Kāinga Ora adheres to the RTA timelines, which entails issuing three notices within a 90 day period under s55a and a 90-day notice under s53B. The attached appendix has details of these timeframes.

How many of the issued clauses have been disputed or gone to court and or not been evicted in the 14 days

I can advise that no 53B or 55A notices have been disputed in the Tenancy Tribunal. One application has been made to the Tenancy Tribunal for termination under section 55A of the RTA. It's important to keep in mind that these sections of the RTA can result in the termination of a tenancy, which is different to eviction.

Eviction is a specific process involving the Tenancy Tribunal and, if required, the District Court, which only happens if a person refuses to leave the property after a tenancy has ended.

In almost all situations, Kāinga Ora is able to resolve matters or initiate a move for the customer without needing to resort to eviction. Eviction is always a last resort. We aim to avoid evictions and exits into homelessness, and are focused on providing public housing that helps people remain in, or get back to, a state of wellbeing.

Under section 28 of the Act you have the right to seek an investigation and review by the Ombudsman of this response. Contact details for the Ombudsman can be found at www.ombudsman.parliament.nz.

Yours sincerely



Nick Maling
General Manager – National Services

Appendix – Residential Tenancy Act (RTA)

Timelines outlined in RTA for s55A:

The Tribunal must (subject to subsection (3)) make the order if satisfied that—

- (a) on 3 separate occasions within a 90-day period the tenant, or a person in the premises with the tenant's permission (other than the landlord or a person acting on the landlord's behalf or with the landlord's authority), engaged in anti-social behaviour in connection with the tenancy; and
- (b) on each occasion the landlord gave the tenant written notice—
 - (i) describing clearly which specific behaviour was considered to be anti-social and (if known to the landlord) who engaged in it; and
 - (ii) advising the tenant of the date, approximate time, and location of the behaviour; and
 - (iii) stating how many other notices (if any) the landlord has given the tenant under this paragraph in connection with the same tenancy and the same 90-day period; and
 - (iv) advising the tenant of the tenant's right to make an application to the Tribunal challenging the notice (see sections 77(1) and 78(1)(a) regarding the Tribunal); and
- (c) the landlord's application to the Tribunal was made within 28 days after the landlord gave the third notice.

Timelines outlined in RTA for s53B:

(1) The landlord under a periodic tenancy may terminate the tenancy by giving at least 90 days' notice if—

- (a) the tenancy—
 - (i) was granted before 14 April 2014 and is a tenancy of Kāinga Ora housing; or
 - (ii) was granted as a tenancy of social housing to a tenant assessed under the [Public and Community Housing Management Act 1992](#) as eligible to be allocated social housing; but
- (b) following the grant of the tenancy,—
 - (i) the social housing provider is notified under [section 103](#) of that Act that the tenant is no longer eligible for social housing; or
 - (ii) in the case of community housing, the community housing provider ceases to be a registered community housing provider; or
 - (iii) the social housing provider requires the tenant to transfer to different social housing provided by that provider, and the provider considers that—
 - (A) the transfer is necessary or desirable for any reason; and
 - (B) the other housing is appropriate for the tenant's housing needs as most recently assessed (regardless of when that assessment took place).