

Policy: Disruptive Behaviour Policy (POL-355)

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Approved by Kāinga Ora Board

Owner GM National Services

Author Operational Policy

Purpose

1. This Policy sets out the approach Kāinga Ora – Homes and Communities (Kāinga Ora) takes when working with its customers to prevent and respond to disruptive behaviour.
2. This Policy also supports Kāinga Ora to meet its legal obligations as a social housing landlord and employer.

Background

3. Kāinga Ora provides social housing to a wide range of customers. Most customers live well in their homes, and a proportion of customers face complex and challenging housing and personal needs, including a range of social and health issues.
4. Sometimes these circumstances can affect the customer's behaviour, their tenancy and ability to live well in their communities. Other times, customers, household members or visitors may intentionally choose to behave in ways that can be a persistent nuisance or harmful to their neighbours, community or Kāinga Ora employees and contractors.
5. Kāinga Ora is committed to being a responsible landlord that understands its customers and can provide housing that suits their needs. It is committed to supporting customers to stay and live well in their homes and communities.
6. Kāinga Ora balances these commitments with its legal responsibilities, including its rights and obligations to deal with tenancy issues, including disruptive behaviour, in a timely and effective manner.

Legal Responsibilities

7. The Policy will support Kāinga Ora to act consistently with the following operating principles in Section 14(1) of the Kāinga Ora – Homes and Communities Act 2019 (the Kāinga Ora Act):

- supporting tenants to be well connected to their communities, to lead lives with dignity and the greatest degree of independence possible, and to sustain their tenancies,
 - working with community providers to support tenants and ensure those most in need are supported and housed,
 - being a fair and reasonable landlord, treating tenants and their neighbours with respect, integrity and honesty,
 - assisting communities where it has housing stock to develop and thrive as cohesive and safe places to live.
8. The Residential Tenancies Act 1986 (the RTA) sets out the rights and responsibilities of tenants and of Kāinga Ora as a landlord. It enables Kāinga Ora to terminate tenancies for a number of reasons, including disruptive behaviour and physical assault.
 9. The Health and Safety at Work Act 2015 requires Kāinga Ora, as a person conducting a business or undertaking (PCBU), to:
 - eliminate risks to health and safety so far as is reasonably practicable, and if it is not reasonably practicable to eliminate risks to health and safety, to minimise those risks so far as reasonably practicable,
 - have a primary duty of care to ensure, so far as reasonably practicable, the health and safety of workers¹ while they are at work or carrying out the work.
 10. The Privacy Act 2020 sets out principles for the collection, storage, use and disclosure of personal information to which Kāinga Ora must adhere. See the Kāinga Ora [Policy Guidance: Privacy Act 2020 \(SK-POL-002A\)](#).
 11. As a public body, Kāinga Ora also has a duty to act fairly, reasonably and lawfully. It applies the principles of natural justice when working to resolve issues with its customers.

Scope

12. This Policy and related procedures apply to social housing tenancies managed by Kāinga Ora, and to all Kāinga Ora employees and contractors.
13. This Policy applies to all incidents that meet the definition of disruptive behaviour. If the incident does not meet the definition of disruptive behaviour, this policy will not apply, and a different approach or policy may be followed (for example the Kāinga Ora approach to general tenancy breaches or the [Operational Policy for Damages POL-316](#)).

¹ For clarity, this includes Kāinga Ora employees, contractors, subcontractors and agents.

14. Disruptive behaviour means any behaviour, act or omission done by a customer, a household member(s) or a visitor(s) that:
- unreasonably interferes with neighbours' peace, comfort or privacy, and their right to the quiet enjoyment of their home,
 - reasonably causes alarm, distress, or more than minor nuisance to others,
 - is harassment, or threatening or aggressive in nature,
 - poses a significant health and safety risk to Kāinga Ora employees and contractors. Kāinga Ora considers physical violence, aggression and threatening behaviour as posing significant health and safety risks.
15. Disruptive behaviour does not include behaviour that does not have an impact on others (for example general property non-maintenance, intentional property damage to the customer's own Kāinga Ora home).

Guiding Principles

16. The approach Kāinga Ora takes to preventing and responding to disruptive behaviour is guided by the principles of the Kāinga Ora Tenancy Management Framework (the Framework).
17. The following principles from the Framework are relevant to this Policy:
- is a fair and reasonable landlord,
 - manages and maintains its properties responsibly,
 - ensures its people are healthy, safe and supported at work (so far as is reasonably practicable),
 - seeks to understand its customer and their household's circumstances,
 - supports the customer and their household to take appropriate actions to maintain their tenancy,
 - supports the customer and their household to be well connected to their communities, to lead lives with dignity and the greatest degree of independence possible,
 - contributes to cohesive and safe communities, and the quiet enjoyment of neighbours.
18. Kāinga Ora will work in line with relevant service performance targets.

Prevention

19. Kāinga Ora is committed to preventing incidents of disruptive behaviour in its homes and communities. To achieve this, Kāinga Ora:

- seeks to understand a customer’s needs before placing them in a suitable home (see [Match to a Suitable Home Policy \(POL-354\)](#)), along with any behaviour-related risks they may pose,
- informs all new customers of their responsibilities as tenants,
- supports new customers to settle in and identifies any potential support customers may require,
- supports opportunities for the customer to make connections within the community,
- designs its built environments to promote community safety.

When Kāinga Ora becomes aware of a disruptive behaviour incident

20. It is not the role of Kāinga Ora to proactively monitor customer behaviour. As any other tenant, customers are entitled to the quiet enjoyment of their home without interruption from their landlord.² At the same time, customers have an obligation to not interfere with the quiet enjoyment of their neighbours and other Kāinga Ora customers.³
21. Kāinga Ora is responsible for taking all reasonable steps to ensure none of its customers interfere with the quiet enjoyment of other Kāinga Ora customers.⁴ As a responsible social housing landlord, Kāinga Ora always acts promptly when it becomes aware of disruptive behaviour incidents in its homes.

Receiving a disruptive behaviour incident report

22. When Kāinga Ora receives a report of a disruptive behaviour incident, it acknowledges its receipt. Kāinga Ora maintains contact and engages with those impacted by the disruptive behaviour where possible and safe to do so. Kāinga Ora may also engage with other agencies as appropriate, such as Police and local councils for noise control.
23. Kāinga Ora also assesses the risk of harm to others at this point. Where there is illegal behaviour or danger to life and property, police and emergency services should be involved. The immediate priority is to ensure the safety of Kāinga Ora employees and contractors, and to remove the threat of immediate harm.

Understanding the whole picture

² Section 38 of the RTA.

³ Section 40(2)(c) of the RTA.

⁴ Section 45(1)(e) of the RTA.

24. Where possible and safe to do so, Kāinga Ora establishes the facts about the incident by consulting with parties involved, and aims to develop a fair and balanced view of events.
25. Kāinga Ora applies the principles of natural justice when working to resolve issues with its customers, ensuring customers have access to information concerning their tenancy (where appropriate and in accordance with the Privacy Act 2020) and decision-makers are able to identify and address any bias.
26. Kāinga Ora aims to ensure all parties have the opportunity to be heard, including providing multiple opportunities and different ways for customers to engage. In situations where this may not be possible or safe for Kāinga Ora to do so, and depending on the chosen approach to respond, the Tenancy Tribunal would serve as a forum for customers to be heard (see [Guideline for managing disruptive behaviour \(CT-GDL-021\)](#) for more detail).

Determining a response

27. Kāinga Ora will determine the most appropriate response in a timely manner. Kāinga Ora exercises its judgment when choosing the right approach for responding to disruptive behaviour, taking into consideration the circumstances, seriousness, and persistence of the behaviour. Regardless of the response, Kāinga Ora seeks positive outcomes for both the people living in its homes and their communities.
28. The Tenancy Tribunal applies the usual civil law standards and expectations, including the requirement that the applicant establish their claims “on the balance of probabilities”. This means the Tenancy Tribunal does not need to be certain or very sure about any claim, only that what is claimed is more likely than not.

How Kāinga Ora responds to disruptive behaviour

29. For incidents of disruptive behaviour that are not considered serious, Kāinga Ora follows its standard approach when responding to disruptive behaviour (see [Standard approach for responding to disruptive behaviour](#)).
30. In situations of serious or persistent disruptive behaviour, Kāinga Ora will immediately escalate its response and consider ending the tenancy and not rehousing the customer in another Kāinga Ora home, which may require an application to the Tenancy Tribunal (see [Escalated approach for responding to disruptive behaviour](#) for detailed circumstances and factors to be considered in this decision).

Standard approach for responding to disruptive behaviour

31. When appropriate and safe to do so, Kāinga Ora commits to the following response to disruptive behaviour:
 - clearly communicate the issue and remind the customer of their tenancy obligations,
 - use legislative provisions when they apply, in a timely and appropriate manner,

- engage with the customer to understand their needs and circumstances, and identify options to support them to manage the behaviour.
32. Depending on the circumstances, Kāinga Ora often applies a combination of actions when responding to the incident and addressing the underlying causes of the behaviour.

Clearly communicate the issue and remind the customer of their tenancy obligations

33. Kāinga Ora communicates with the customer about the issue affecting their tenancy and reminds them of their tenancy obligations, including the process we would follow if they continued with the behaviour.
34. This should not be a replacement for taking more formal and appropriate action at the same time and using the legislative provisions available under the RTA.

Use legislative provisions when they apply, in a timely and appropriate manner

35. Kāinga Ora uses legal notices when they apply and as appropriate, to provide the customer with an opportunity to change their behaviour and/or remedy the issue. In certain circumstances, Kāinga Ora may also terminate tenancies to relocate⁵ customers to another Kāinga Ora home as a way to respond to disruptive behaviour.
36. The [Guideline for managing disruptive behaviour \(CT-GDL-021\)](#) provides more detail on the legal provisions available and when to use them.
37. If the disruptive behaviour continues, escalated action may need to be considered (see [Escalated approach – potential ending of a tenancy without rehousing](#)).

Engage with the customer to understand their needs and circumstances, and identify options to support them to manage the behaviour

38. If appropriate and safe to do so, Kāinga Ora will engage with its customers according to the [Engaging with customers to support their wellbeing Policy \(POL-369\)](#) and guided by [Te Whare Tapa Whā](#). Through this engagement, Kāinga Ora may identify any housing or personal needs (including cultural needs) that may impact on the customer's tenancy and be contributing to their behaviour.
39. When incidents of disruptive behaviour relate to actual or suspected family violence, Kāinga Ora takes additional considerations when engaging with the customer alongside its response to disruptive behaviour (see [Family Violence Policy \(CT-POL-101\)](#) for more details).
40. With the customer's consent and according to the [Framework for supporting public housing customers to access social support services \(POL-361\)](#), Kāinga Ora may support them to find and access culturally appropriate support services that can assist them to

⁵ Although relocating a customer would technically require termination of the tenancy, it is not considered part of the Escalated approach as the customer would be moving to another Kāinga Ora home and remain a Kāinga Ora customer.

address their personal needs, which may include mental health or other wellbeing needs.

Escalated approach for responding to disruptive behaviour

41. In cases where the behaviour is serious or persistent, it is appropriate for Kāinga Ora to consider ending the tenancy and not rehousing the customer in another Kāinga Ora home.
42. The circumstances under which Kāinga Ora follows its escalated approach are when:
 - the behaviour poses significant health and safety risks for employees and contractors,
 - the customer has assaulted or seriously threatened to assault their neighbours,
 - reasonable steps have been taken to address the behaviour and have not been successful, and
 - any other incidents of serious or persistent behaviour where Kāinga Ora considers it appropriate to follow its escalated approach.
43. Each of these circumstances are described in the sections below. There may be cases where a combination of these circumstances are present and Kāinga Ora will follow the most appropriate response for the situation.
44. Decision-makers will determine if and when they may require additional advice from relevant subject-matter experts to support them in considering ending a tenancy and assessing the different factors described below. Part of this process involves ensuring natural justice principles have been followed (see [Understanding the whole picture](#)).

The behaviour poses significant health and safety risks for employees and contractors

45. Kāinga Ora is responsible for ensuring the health and safety of employees and contractors, so far as reasonably practicable. Kāinga Ora employees and contractors may work with customers who have high and complex needs, but Kāinga Ora expects its people to be able to go about their work free from physical violence, aggression and threatening behaviour.
46. The [Health Safety and Security Policy \(POL-336\)](#), the [Staying Safe and Secure Guidelines \(SS-GDL-110\)](#) and the [Safe Work Plan and Corporate Care Guideline SS-GDL-007](#) set out requirements relating to personal safety while in the office, the community or engaging with customers.
47. [Manage threats against Kāinga Ora employees \(HS-103\)](#) sets out the approach and process to react against incidents of physical violence and threats against Kāinga Ora employees and contractors. This includes effectively assessing and managing risk and mitigating potential for a situation to reoccur or escalate.

48. Kāinga Ora may consider ending the tenancy and not rehousing the customer in another Kāinga Ora home when:
- the behaviour of the customer poses significant health and safety risks for employees and contractors, or
 - the customer has caused or permitted another person's behaviour to pose significant health and safety risks for employees and contractors.
49. Kāinga Ora considers physical violence, aggression and threatening behaviour as posing significant health and safety risks.
50. In its decision to end the tenancy under these circumstances, Kāinga Ora would consider the following factors:
- whether Kāinga Ora can mitigate the risk of harm so far as reasonably practicable (which may include changing the way the tenancy is managed or relocating the customer), and
 - whether the residual risk of harm is unacceptable for Kāinga Ora to carry.
51. This means that for cases that meet the circumstances described above, if Kāinga Ora considers the residual risk of harm is unacceptable to carry after it has tried to mitigate the risk of harm so far as reasonably practicable, ending the tenancy and not rehousing the customer in another Kāinga Ora home would be the appropriate thing to do.
52. Termination may also be appropriate in cases where residual risk of physical harm may be managed, but a combination of circumstances is present to lead to ending a tenancy (such as the persistency of threatening behaviour and its impact on others).

The customer has assaulted or seriously threatened to assault their neighbours

53. Kāinga Ora may consider ending the tenancy and not rehousing the customer in another Kāinga Ora home when a customer, a household member, or a visitor(s) has assaulted or threatened to assault their neighbour(s).
54. In its decision to end the tenancy under these circumstances, Kāinga Ora would consider the following factors:
- the credibility and seriousness of the threat, and
 - whether the risk of harm cannot be mitigated to an acceptable level of risk or actual harm is likely to persist, and
 - whether the continuation of the tenancy would prevent Kāinga Ora to meet its wider legal obligations as a landlord, such as ensuring the peace, comfort and privacy of neighbouring Kāinga Ora customers.
55. This means that for cases that meet the circumstances described above, if the risk of harm cannot be mitigated or actual harm is likely to persist, and Kāinga Ora is unable to

meet its wider legal obligations as a landlord, ending the tenancy and not rehousing the customer in another Kāinga Ora home would be the appropriate thing to do.

Reasonable steps have been taken to address the behaviour and have not been successful

56. Kāinga Ora may consider ending the tenancy and not rehousing the customer in another Kāinga Ora home when it has taken reasonable steps to address the behaviour (such as following its [Standard approach to disruptive behaviour](#)) and has not been successful, the customer is not taking steps to address the behaviour and the behaviour is ongoing.
57. In its decision to end the tenancy under these circumstances, Kāinga Ora would consider the following factors:
- the persistency of the behaviour and its impact on others, noting that in some cases it is likely Kāinga Ora may have already issued legal notices at this point,
 - the likelihood of a relocation resolving the issue, noting that in some cases Kāinga Ora may have already relocated the customer at this point.
58. This means that for cases that meet the circumstances described above, if the behaviour is persistently impacting on others, and there is no reason to believe a relocation to another Kāinga Ora home would resolve the issue, ending the tenancy and not rehousing the customer in another Kāinga Ora home would be the appropriate thing to do.

Supporting customers and their households to move on from a Kāinga Ora home

59. When Kāinga Ora has decided that ending the tenancy and not rehousing the customer in another Kāinga Ora home would be appropriate, it will assess whether a customer or their household have any vulnerability factors.⁶
60. Kāinga Ora uses the following case-by-case approach to support a customer and their household to move on from a Kāinga Ora home, when it is safe to do so:
- Where we identify a vulnerability factor for a customer or their household, we refer them to an appropriate provider(s). The customer does not have to secure alternative housing before we proceed to end the tenancy.
 - If there is a high risk to life from homelessness (e.g. medically dependent on electricity) we work with the customer, their household, and providers to assist the customer and their household to secure accommodation before ending the tenancy.

⁶ Vulnerability factors include: where there are children or dependents in the household; the customer or household members are elderly, have accessibility needs or a mental illness; there is presence of family violence; the customer or a household member is medically dependent on electricity.

- Where there is no vulnerability factor or the customer is disengaged, at a minimum, we inform a customer of potential accommodation options.

61. The presence of vulnerability factors does not change the decision to end the tenancy and not rehousing the customer in another Kāinga Ora home.

Legislative provisions

62. There are a number of provisions available under the [RTA](#) that enable Kāinga Ora to respond to incidents of disruptive behaviour effectively.

63. Kāinga Ora uses these provisions when they apply, in a timely and appropriate manner. It assesses the right use of each tool based on the evidence required to meet the RTA criteria and the effectiveness of the tool to achieve the desired outcome.

Definitions

64. The following definitions apply when interpreting this Policy:

| Term | Definition |
|------------------------|---|
| Contractor | A person that undertakes a contract to provide labour to perform a service for Kāinga Ora on a short-term temporary basis. This includes maintenance partners, contractors or sub-contractors. |
| Customer | A person who is a tenant of a Kāinga Ora property. |
| Household member | Anyone living at the property with the customer's permission, including family and extended family. |
| PCBU | A person conducting a business or undertaking. Health and Safety at Work Act 2015. |
| Reasonably practicable | That which is, or which was, at a particular time, reasonably able to be done in relation to ensuring health and safety, taking into account and weighing up all relevant matters, including: <ul style="list-style-type: none"> • the likelihood of the hazard or risk occurring • the degree of harm that might result from the hazard or risk • what the person concerned knows, or ought reasonably to know about – the hazard or risk, and ways of eliminating or minimising the risk • the availability and suitability of ways of eliminating or minimising the risk, and • after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk. |

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|---------|--|
| | Under the HSWA, reasonably practicable applies to the duty of care Kāinga Ora (the Person Conducting a Business or Undertaking) has to the health and safety of its workers and others by the management of risks, including its duty to consult and cooperate with other PCBUs. The responsibility of Kāinga Ora to manage risks is limited by what it can influence and control. |
| Visitor | Any person that is at a Kāinga Ora property with the permission of the customer who lives in that property. |

Related legislation, regulation, policies, processes, and guidance documents

65. Relevant legislation and regulations:

- Kāinga Ora – Homes and Communities Act 2019
- Residential Tenancies Act 1986
- Health and Safety at Work Act 2015
- Privacy Act 2020
- New Zealand Bill of Rights Act 1990

66. Relevant policies and frameworks:

- Kāinga Ora Tenancy Management Framework
- POL-356 Sustaining Tenancies - Drug Policy
- POL-357 Sustaining Tenancies - Rent Debt Policy
- POL-361 Framework for supporting public housing customers to access social support services
- POL-369 Policy: Engaging with customers to support their wellbeing
- POL-354 Match to a Suitable Home Policy
- POL-315 Operational Policy for feedback and Complaints
- POL-316 Operational Policy for Damages

67. Relevant processes and guidance:

- SS-GDL-110 Guidance for Staying Safe and Secure
- SS-GDL-007 Guideline Safe Work Plan –SWP
- HS-103 Manage threats against Kāinga Ora employees

- CT-GDL-021 Guideline for managing disruptive behaviour
- CT-GDL-028 Guidelines for recognising and responding to customer need
- CT-GDL-019 Guideline for building relationships with support services and agencies
- CT-PRO-206 Investigate a disruptive behaviour incident and decide on response
- CT-PRO-220 Issue notice to customer for disruptive behaviour
- CT-PRO-350 Issue notice to end tenancy and obtain possession of property
- CT-PRO-300 Manage customer risk register

Review

68. This Policy will be reviewed a year after it becomes effective.

Document control

| Date | Reviewed/Modified by | Comments/Descriptions of changes |
|-------------|--------------------------|--|
| 6 May 2024 | Public Housing Committee | Endorsed the Disruptive Behaviour Policy |
| 28 May 2024 | Kāinga Ora Board | Approved the Disruptive Behaviour Policy, to be effective from 1 July 2024 |

69. Details of previous versions of policies and procedures will be stored in Kāinga Ora document management system (Objective).