

ANTISOCIAL BEHAVIOUR MANAGEMENT POLICY

1. PURPOSE

This Policy outlines how Evolve Housing responds to antisocial behaviour effecting properties under our management.

2. SCOPE

This Policy applies to all tenancies managed by Evolve Housing.

3. POLICY STATEMENT

Antisocial behaviour is behaviour, which disturbs the peace, comfort or privacy of other tenants or neighbours, or the surrounding community that results in a breach of the tenancy agreement under the provisions of the *Residential Tenancies Act 2010*.

Evolve Housing residents have the right to the peaceful enjoyment of their property and to live in peace and harmony with their neighbours. Antisocial or illegal behaviour may put the safety of families and neighbours at risk.

Evolve Housing will generally not intervene in a neighbourhood dispute or investigate allegations unless there is an alleged breach of the tenancy agreement. Evolve Housing encourages tenants to resolve neighbourhood problems themselves, or with the assistance of mediation services. Evolve Housing may refer tenants to Community Justice Centres for assistance when appropriate.

3.1 Categories of antisocial behaviour

Types of antisocial behaviour Evolve Housing may need to deal with can include criminal and illegal activities, physical violence, harassment, and other inappropriate actions by tenants, other household occupants and visitors that cause deliberate or reckless damage to an Evolve Housing property or place the safety/wellbeing of others at risk.

It is not the role of Evolve Housing to carry out criminal investigations. Such investigations are the responsibility of the NSW Police.

Evolve Housing describes antisocial behaviour in the following three categories:

- **Severe Illegal Behaviour**
- **Serious Antisocial Behaviour**
- **Minor and Moderate Antisocial Behaviour**

3.1.1 Severe Illegal Behaviour

This 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 which cause significant damage to an Evolve Housing property.

Examples of severe illegal behaviour may include but are not limited to:

- Committing injury towards a neighbour or visitor which constitutes grievous bodily harm;
- The use of the property for the manufacture, sale, cultivation or supply of any prohibited drug;
- The use of the property for storing unlicensed firearms;
- The use of the property for a show cause offence within the meaning of the *Bail Act 2013*;
- Intentionally or recklessly causing serious damage to an Evolve property;
- The use of the property as an illegal brothel;

- The use of the property for the production or distribution of child abuse material;
- The use of the property to facilitate organised car or boat rebirthing; and
- Physical assault or acts of violence against other tenants, neighbours or Evolve Housing staff.

3.1.2 Serious Antisocial Behaviour

This behaviour involves activities which:

- Severely disturb neighbours;
- Place the safety or security of a tenant, other household members, neighbours or Evolve staff at risk; or
- Cause damage to an Evolve Housing property.

These behaviours may also be illegal and may include, but are not limited to:

- Threats, abuse, intimidation or harassment towards neighbours, visitors, Evolve Housing staff or Evolve contractors;
- Victimisation and intimidation towards neighbours or visitors;
- Provoking pets to attack neighbours or visitors;
- Hate 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); and
- Negligent and extensive damage to an Evolve property.

3.1.3 Minor and Moderate Antisocial Behaviour

This behaviour involves activities which disturb the peace, comfort or privacy of other tenants or neighbours.

Such behaviour may include but is not limited to:

- Obscene language towards neighbours and visitors;
- Bullying and harassment towards neighbours and visitors;
- Noise causing nuisance e.g. loud and uncontrolled parties, excessive shouting/screaming or excessive noise from music or television;
- Environmental and common area issues e.g. vandalism, graffiti, abandoning vehicles in the front yard or common areas and refusing to remove them, carrying out noisy vehicle repairs in communal areas;
- Leaving large amounts of rubbish within the home, garden or on common areas;

- Behaviour which limits other tenants' access to common facilities, such as preventing other tenants from accessing common gardens or laundry facilities, and
- Damaging any Evolve Housing property including individual tenant's properties and common areas.

3.2 How Evolve Housing manages antisocial behaviour

Evolve Housing will investigate allegations of antisocial behaviour and where appropriate may facilitate early intervention and referral to support services to minimise the escalation of antisocial behaviour and the need to resolve cases through the NSW Civil and Administrative Tribunal (NCAT).

Evolve Housing aims to support vulnerable tenants and families by addressing any antisocial behaviour which places them at risk. Evolve may seek to refer tenants to support services when a breach of the tenancy agreement has occurred. Any reasonable suspicion that a child or young person is at risk of significant harm, will be reported to Department of Communities and Justice (DCJ).

Evolve Housing staff will exercise discretion and in particular will consider the safety of victims of antisocial behaviour when making decisions on the action to be taken for substantiated incidents. When a substantiated breach of the tenancy agreement has occurred and it relates to antisocial behaviour and it is appropriate to take formal action, Evolve Housing may respond as follows:

3.2.1 Evolve Housing response to severe illegal behaviour

When an incident of severe illegal behaviour occurs, generally NSW Police will conduct the investigation. Upon receiving information concerning the incident, Evolve Housing may conduct its own investigation and consequently, may decide to apply directly to NCAT to seek termination of the tenancy.

3.2.2 Evolve Housing response to serious antisocial behaviour

Upon receiving a report of serious antisocial behaviour Evolve Housing will investigate the matter. At the conclusion of the investigation Evolve may issue a Notice of Termination followed by an application to NCAT seeking an order to terminate the tenancy. In some circumstances Evolve may apply directly to NCAT to seek termination of the tenancy.

3.2.3 Evolve Housing response to minor and moderate antisocial behaviour

Upon receiving a report of minor or moderate antisocial behaviour Evolve Housing will investigate the matter. At the conclusion of the investigation Evolve may issue a warning letter. Depending on the circumstances, Evolve may make an application to NCAT for the issue of a Specific Performance Order (SPO), which requires an action in performance of the Tenancy Agreement, or which restrains any action in breach of the Tenancy Agreement.

A tenancy will be at risk if a tenant repeatedly breaches the terms of their Residential Tenancy Agreement through antisocial behaviour. If after the issuing of a warning letter there are further breaches of the Tenancy Agreement, or there is a breach of an SPO relating to minor or moderate antisocial behaviour, Evolve Housing may issue a Notice of Termination followed by an application to NCAT to seek termination of the tenancy.

3.3 Classifying former Evolve Housing tenants who have a history of antisocial behaviour

Former Evolve Housing tenants may be classified with a tenancy category to record their previous tenancy history. This clearly establishes for the tenant and on Housing Pathways, the level at which the Tenancy Agreement was adhered to by the tenant and their household members during the tenancy.

The categories are:

- **Satisfactory**
- **Less than satisfactory**
- **Unsatisfactory**
- **Ineligible for social housing.**

In accordance with these existing categories, which are in line with categories used by DCJ, former Evolve Housing tenants (and occupants where applicable) with a recorded history of antisocial behaviour will be categorised as follows:

3.3.1 Less than satisfactory former tenants or occupants

Former Evolve tenants or occupants who may be categorised as less than satisfactory include those who:

Had substantiated complaints of antisocial behaviour that fell within the category of minor and moderate or serious antisocial behaviour that resulted in the following action:

- A Notice of Termination being issued for antisocial behaviour

- An order obtained from the NSW Civil and Administrative Tribunal that a tenant had breached their tenancy agreement for antisocial behaviour, such as a Specific Performance Order.

3.3.2 Unsatisfactory former tenants

Former Evolve tenants who may be categorised as unsatisfactory include those who:

Had substantiated complaints of minor and moderate or serious antisocial behaviour and:

- Were evicted, or
- An Order of Possession was being sought but they vacated before the order was obtained, or
- Vacated before an Order of Possession to evict them was enforced.

Former tenants who were evicted or vacated under threat of eviction based on terminations under Section 143 (not eligible to reside in social housing) and Section 148 (the tenant rejected an offer of alternative social housing), or previously under the *Residential Tenancies Act 1987* (Section 63B or 63F), will not have this eviction action included in the former tenant category assessment.

3.3.3 Ineligible former tenants

Former Evolve tenants who may be categorised as ineligible for social housing include those who:

- Were evicted for an extreme breach of their tenancy agreement, or
- An Order of Possession for an extreme breach was being sought for, but they vacated before the order was obtained, or
- Vacated before an Order of Possession for an extreme breach could be enforced.

Extreme breaches may include:

- Severe Illegal antisocial behaviour, such as:
- Committing injury towards a neighbour or visitor which constitutes grievous bodily harm;
- Physical assault or acts of violence against other tenants, neighbours or Evolve Housing staff where there is no grievous bodily harm;
- The use of the property for the manufacture, sale, cultivation or supply of any prohibited drug;
- The use of the property for storing unlicensed firearms.

- Serious antisocial behaviour, resulting in a direct application to NCAT for termination under Section 92 of the *Residential Tenancy Act*, for threats, abuse, intimidation or harassment by the tenant, or a member of their household, toward Evolve Housing staff or their contractors.
- Where the tenant or a member of their household has been convicted of arson or deliberate damage of an Evolve property making it uninhabitable.

Conducting an unauthorised business is an illegal use of the property however it is not an illegal activity unless the business itself is unlawful.

Only the Chief Executive Officer of Evolve can determine whether a former Evolve Housing tenant is ineligible for social housing due to a serious breach of their tenancy.

3.4 Appeals and review of decisions

In dealing with matters regarding anti-social behaviour, Evolve Housing will make decisions about the appropriate action to be taken. Evolve has in place an Appeals Policy which provides information about which decisions can and cannot be appealed, and about the Appeals escalation process.

Making an appeal through this process is not possible where Evolve Housing has made application to NCAT. Those matters are reviewed and decided upon by NCAT.

4. DEFINITIONS

- Occupant – for the purpose of this Policy, a person, in addition to the Tenant, who resides in the Property.
- Residential Tenancy Agreement (or Tenancy Agreement) – a written agreement between a Landlord and a Tenant, which governs the terms on which that Tenant occupies the property described in the Agreement.
- Tenant – a person who signs the Residential Tenancy Agreement with Evolve Housing and who has certain rights and obligations under that Agreement.
- Termination Notice – a Notice to Terminate Tenancy Agreement under the *Residential Tenancies Act 2010*

5. RELATED RESOURCES

- Evolve Housing Appeals Policy
- Evolve Housing Privacy Policy
- Evolve Housing Terminating a Tenancy Policy
- *Residential Tenancies Act 2010 (NSW)*
- www.facs.nsw.gov.au

This Policy is subject to change from time to time at the discretion of Evolve Housing. Any approvals required under this Policy will be granted in accordance with the Evolve Housing Limited Delegations of Authority Policy. Further information on this Policy and other topics, is available on the Evolve Housing website www.evolvehousing.com.au. If you have any specific questions regarding this Policy, please contact Evolve Housing on 1800 693 865 or email your enquiry to myevolve@evolvehousing.com.au.