Kāinga Ora - Homes and Communities Board

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Business Group:	Finance
Title:	**Review of the Tenancy Management Framework (TMF) and the settings in the Disruptive Behaviour and Rent Debt policies**

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Purpose

1. This paper presents the outcomes from a review of the Tenancy Management Framework (TMF), rent debt and disruptive behaviour policy settings and seek approval for changes to recognise that Kāinga Ora does consider the best interests of children when making termination decisions.

Recommendations

2. It is recommended that the Kāinga Ora – Homes and Communities Board:

   a) **Note** that the Tenancy Management Framework and related policies support Kāinga Ora to meet its obligations in the Letter of Expectations and are delivering the desired changes in tenant behaviour.

   b) **Note** there is sufficient flexibility within the current framework, and the way it is being applied, to allow considerations of hardship in individual cases.

   c) **Agree** to amend the Tenancy Management Framework to recognise that Kāinga Ora does consider the best interests of children when making termination decisions.

   d) **Note** that we will continue to monitor implementation and report back by 30 June 2027 if any changes are needed.

Background and Discussion

3. In May 2024, the Board approved the Tenancy Management Framework (TMF) to replace the Sustaining Tenancies Framework in response to direction received from the Government in the 2024 Letter of Expectations. The TMF has been in effect since 1 July 2024.

4. The TMF is principles-based and governs all aspects of tenancy management. It commits Kāinga Ora to working with the customer early to prevent issues from escalating, using soft and formal tools, and guides us when considering ending tenancies for persistent and/or serious tenancy issues. It balances our legal frameworks and commitments as a landlord. Individual policies were updated in line with the TMF to capture our approach to making decisions on specific issues. This included:

   a) **Disruptive Behaviour policy.** This supports tenants to manage their behaviour and sets out how we will use tools in a timely manner to minimise the impact of disruptive behaviour on others.

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b) **Rent Debt policy.** This includes proactive management (including use of supportive and formal tools) to support tenants to pay their rent and reduce the amount of rent debt tenants owe Kāinga Ora.

5. We have competed a review of the TMF and associated settings, focussing on early indicators of customer behaviour change, and whether there have been any unintended outcomes. We also specifically considered impacts on children, how Kāinga Ora should consider hardship (including the impact of MSD sanctions) and whether tenancies should be terminated for persistent cases of rent debt under 21 days in arrears.

6. The key findings of the review were:

- The TMF is contributing to positive customer outcomes for rent debt and disruptive behaviour (see Attachment 2).
- The new approach has been well received by frontline and this is contributing to operational improvements (see Attachment 2).
- We are meeting the Minister's expectations set out in the March 2024 Interim Letter of Expectations.
- Levels of terminations are consistent with modelling when the framework was adopted.
- There is sufficient flexibility and discretion in the policy settings to factor in individual circumstances, however further work is needed to ensure settings are implemented consistently.
- The TMF could be revised to more explicitly consider the best interests of children when making termination decisions – see section below.
- There are a range of other government policy decisions in the broader policy environment that impact our customers such as to how boarder income is treated (refer attachment 2), or the potential impact of decisions made via the Review of Social Housing.

Impact on Children

7. The TMF currently states that *Kāinga Ora should seek to understand the customer and their household's needs and circumstances* - this includes where there are children in the home. When ending tenancies with children in the home, it requires us to refer customers to an appropriate provider(s). Customers however do not have to secure alternative housing before we end the tenancy and the presence of a child does not change the decision about whether to end the tenancy.

8. In current practice termination decisions are made at an Executive level. When making a decision about whether to proceed to Tribunal to seek a termination, extra scrutiny is applied when there are children in the home. This includes reviewing what actions Kāinga Ora has taken to provide

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support, the impact of the customer's behaviour on child(ren) in the household and other potentially impacted children, as well as the impact a termination would have on children in the household. Consideration is also given to how we would support households to connect with alternative housing options if the tenancy was ended.

9. While the introduction of use of formal tools has resulted in more terminations of customers with children in the household, our review has shown that it has not had a disproportionate impact on this group. Households including children below the age of 18 make up 46% of tenancies, however these households make up only 32.7% of terminations.

10. 9(2)(g)(i) [redacted]

11. 9(2)(g)(i) [redacted]

Consideration of Hardship

12. The TMF directs staff to work with customers to understand their individual circumstances and to assist them to access other support services to resolve issues impacting their ability to meet their tenancy obligations, including paying their rent. When steps to address an issue have not been successful and the customer is not engaging and/or is not taking steps to address the issue, then we will consider ending the tenancy and not rehousing the customer.

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13. Decisions about whether to go to the Tenancy Tribunal to seek a termination are made at an Executive level on a case-by-case basis. When making these decisions a range of factors are considered including what is contributing to the customer's circumstances and behaviour, and what actions we have taken to support the customer to meet their obligations to ensure that decisions are appropriate.

14. **In our view we therefore have the appropriate settings in place to manage hardship at this time and we do not recommend introducing additional provisions into the framework to govern this**. Doing this could mask the impact of government policy changes, risk exacerbating inconsistencies in some practices and lead to different tenant outcomes for similar situations.

Benefit sanctions

15. An MSD benefit sanction is a penalty imposed on a person's benefit by MSD for failing to fulfil their obligations. Staff already support customers to re-engage with MSD and get sanctions lifted, and often achieving within 21 days.

16. **We do not recommend any changes to the framework to address benefit sanctions.** Considering initiatives, such as rent relief or debt forgiveness when MSD impose a sanction, could undermine the intent of the sanction regime, and result in Kāinga Ora carrying the financial impacts of a customer not meeting their obligations to another agency.

Persistent rent debt less than 21 days in arrears

17. Clarification was sought on whether termination should be a tool considered to manage recidivist debtors with debt under 21 days. This would allow regions who have addressed their high value debtors to further reduce rent debt in their area.

18. Although there is provision in the RTA to terminate a tenancy when three rent payments have been missed within 90-days, **we do not recommend using this tool if the customer manages to keep their debt below 21 days**. There is a risk that this would further exacerbate operational inconsistencies, and there are opportunities to drive down debt by focussing on higher value debtors.

Consultation

19. Staff have not consulted with any external agencies or stakeholders as part of this review.

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Operating Principles

20. The Tenancy Management Framework and associated policies support Kāinga Ora to act consistently with the operating principles in Section 14(1) of the Kāinga Ora – Homes and Communities Act 2019.

Risks and Mitigation

21. 9(2)(g)(i) [redacted]

Implications

Legal Implications

22. 9(2)(h) [redacted]

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23 9(2)(h)

24 [redacted]

Financial Implications

25. As a results of proposed changes to the TMF, if Kāinga Ora delays a termination there could be a financial impact (increased arrears) where the tenant is not paying rent.

People and Resource Implications

26. Work will be needed to ensure the TMF is implemented consistently. This will be done within BAU resources.

Customer Impact

27. The proposed change to the TMF to more explicitly consider the impact on children when deciding whether to seek a tenancy termination may reduce the negative impacts of termination for a small number of customers. This may also extend or increase the negative impacts of the behaviour of these customers on other customers and/or the wider community.

Health and Safety Implications

28. Kāinga Ora will need to continue to take a case-by-case approach in termination decisions by considering the health and safety risks to customers, the community, staff and contractors. Kāinga Ora will still need to meet its obligations under the Health and Safety at Work Act.

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Māori Interest Obligations

29. There has been no change in the proportion of terminations where the primary tenant identifies as Māori since introducing the TMF. Households where the primary tenant identifies as Māori are disproportionately represented in terminations, however this representation has not changed since introducing the TMF.

Next Steps

30. If you agree to the proposed changes to the TMF, work will be undertaken to implement these. We will continue to monitor implementation and report back by 30 June 2027 if any changes are needed.

Attachments

31. Attachment 1: Tenancy Management Framework

    Attachment 2: Summary of customer outcomes and operational delivery

    Attachment 3: MSD Process Update –Boarder income when calculating IRR

Signature

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