

BREACH OF DUTY BY RENTER PROCEDURE

Procedure number	PPOL010P	Version	v2.0
Drafted by	Program Development Manager	Approved by Board on	15 December 2021
Responsible Person	Program Director	Scheduled review date	15 December 2026

1. RESPONSIBILITIES

- 1.1 Rental Providers are responsible for following these procedures.

2. PROCEDURES

- 2.1 If a rental provider becomes aware of evidence of a breach of duty, the rental provider documents the details of the potential breach and investigates the potential breach:
- a. Discuss the property concerns/allegations with the renter:
 - b. advise the renter of the property concerns/allegations made against them, ensuring not to disclose the identity of the complainant (if applicable and possible)
 - c. give the renter an opportunity to provide their side of the story
 - d. advise the renter of the next steps in the investigation and action that may be taken, including information on where the renter does not remedy the breach.
- 2.2 Where the residential provider's investigation finds that there has been a breach of duty the rental provider issues a Breach of Duty Notice.
- 2.3 Ensure that the notice complies with the timeframes laid out within the Residential Tenancies Act (RTA). Special care should be taken in complying with the timeframes associated with specific breaches. Contact your Co-op Development Coordinator (CDC) for assistance with this process.
- 2.4 Ensure that you fully explain what a Breach of Duty Notice is, the consequences of one being issued and the implications for non-compliance with a notice that has been issued. The Breach of Duty Notice should:
- a. include the relevant section of the Residential Tenancies Act (RTA) that has been breached,
 - b. clearly set out the details of the incident (including date and time etc) and how the renter's actions have breached the section of the Act and impacted on others
 - c. state the proposed remedy, describing what is expected of the renter now and in the future
 - d. serve the notice on the renter by Registered Post
 - e. take postage times into account when setting deadlines for remedying the

breach.

- 2.5 Provide an opportunity for the renter to remedy the situation before taking further action.
- 2.6 If, after the required date, the breach has not be remedied, the residential rental provider makes an application for a Compliance Order with VCAT, either online (if within 90 days of the issuing of the Breach of Duty Notice) or via a hardcopy application form (if over 90 days since the issuing of the notice).
- 2.7 Serve a copy of the application seeking a Compliance Order to the renter by both Registered Post and include a copy of the Breach of Duty Notice(s).
- 2.8 If the renter does not remedy the breach within a reasonable timeframe, prepare a submission to VCAT:
 - a. collate the necessary information, including file notes, complaint documentation and evidence collected
 - b. state the way(s) in which the renter is failing to meet their obligations
 - c. provide a chronology of the action taken, including prior attempts to work with the renter to resolve the matter
 - d. state the order being sought, with clear justification to support it
 - e. state the names of the witnesses who will attend
 - f. include a copy of the Breach of Duty Notice
 - g. submit the application and all attachments to VCAT
 - h. provide a copy of the VCAT application and all attachments to the renter.
- 2.9 During the VCAT hearing:
 - a. give a brief introduction to the matter and state what order is being sought
 - b. present the evidence and question the witnesses.
- 2.10 If at the conclusion of the VCAT hearing, an order is made, explain to the renter what the order means and ensure that they fully understand what is required of them.

3. RELATED DOCUMENTS

- 3.1 Breach of Duty by Renter Program Policy.

3.AUTHORISATION

Approved by	CEHL Board	Date of approval	15 / 12 / 2021
Position	CEHL Chair	Heidi Lee	