

Identifying and Responding to Domestic and Family Violence Policy

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Contents

1	Purpose and Applicability	3
2	References	3
2.1	External or Statutory Requirements	3
2.2	Internal Requirements and Forms	3
2.3	Definitions	3
3	Policy Statement	5
4	Supporting Victims	5
4.1	Allowable Absence from Home	6
4.2	Removing a Household Member	6
4.3	Right of Early Termination	6
4.4	Tenancy Re-Instatement	6
4.5	Management Transfers	7
4.6	WHC Ending the Tenancy	7
4.7	Property Damage	7
4.8	Safety Measures	7
5	Working with Perpetrators	8
6	Organisational Capability	8
7	Complaints and Appeals	8

1 Purpose and Applicability

This policy describes how the Women's Housing Company (WHC) identifies and responds to threats and instances of domestic and family violence (DFV).

The policy applies to all WHC staff and contractors, Support Provider partners, applicants, tenants and other household members.

The **Customer Service Charter and Customer Rights and Responsibilities** guide the interactions between the WHC, applicants and tenants.

2 References

2.1 External or Statutory Requirements

This policy complies with the following external legislation or requirements:

- It Stops Here: Standing together to end domestic and family violence
- *NSW Residential Tenancies Act 2010* and Regulation 2010
- *Housing Act 2001*
- *Community Housing Providers (Adoption of National Law) Act 2012*
- *NSW Civil and Administrative Tribunal Act 2013* and Regulation 2013 and Rules 2014

2.2 Internal Requirements and Forms

This policy refers to the following internal documents, which are available on the WHC website:

- Customer Service Charter
- Customer Rights and Responsibilities

2.3 Definitions

Domestic and family violence (DFV) ¹ is a crime. It includes any behaviour, in an intimate or family relationship, which is violent, threatening, coercive or controlling, causing a person to live in fear.

DFV ² can happen to anyone, regardless of social background, disability, age, gender, religion, sexuality or ethnicity, and can happen in any kind of relationship. For WHC tenants, relevant relationships could include:

- Ex-spouse or ex-partner
- Current or new spouse, or partner
- Carer or paid support worker
- Parent, guardian or other family member
- Young person or adult child
- Other people you live with or see often, whether inside or outside the home

¹ NSW Domestic and Family Violence Blueprint for Reform 2016 – 2021, 2016, p1

² 1800 Respect - <https://www.1800respect.org.au/violence-and-abuse/domestic-and-family-violence/>

For the purposes of this policy, the definition of **Family**³ includes people who are related through blood, marriage or de facto partnerships, adoption and fostering relationships, sibling and extended family relationships, the full range of kinship ties in Aboriginal and Torres Strait Islander (ATSI) communities, and lesbian, gay, bisexual, transgender, intersex or queer (LGBTIQ) relationships.

A **Domestic Violence Order** includes various local and interstate domestic violence orders and domestic violence foreign orders made against the Relevant Domestic Violence Offender.

A **Relevant Domestic Violence Offender** is a co-tenant or occupant or former co-tenant or former occupant, or a person with whom the tenant or co-tenant giving a Domestic Violence Termination Notice has, or has had, a domestic relationship.

A person is defined to be in a **circumstance of domestic violence**⁴ if they:

- Were the victim of a domestic violence offence for which a Relevant Domestic Violence Offender has been found guilty during the relevant tenancy, or
- Are protected by an in-force Domestic Violence Order, or
- Are protected against family violence perpetrated by a Relevant Domestic Violence Offender by an in-force injunction granted under the Act, or
- Have been declared by a competent person (defined to mean a medical practitioner) to be a victim of domestic violence perpetrated by a Relevant Domestic Violence Offender during the relevant tenancy.

The following terms are used in this document, with specific meaning:

- “may” is an acceptable action or requirement but not mandatory
- “must” or “shall” or “will” designates a mandatory requirement or action
- “residential tenancy agreement” or “rental lease” or “lease” is the written agreement between the WHC and the tenant with all terms and conditions of the tenancy.

³ It Stops Here, 2014, p7

⁴ NSW Fair Trading - <https://www.fairtrading.nsw.gov.au/housing-and-property/renting/during-a-tenancy/domestic-violence-in-a-rented-property>

3 Policy Statement

The WHC is committed to supporting victims of domestic and family violence (DFV) by:

- Minimising the impact of DFV through our service delivery approach
- Building our skills, capacity and practice to identify and respond to indicators of DFV
- Recognising that DFV can lead to significant trauma for survivors
- Taking DFV seriously and providing a sensitive, confidential and trauma-informed response to anyone approaching us for assistance
- Working with victims to assist them to manage their housing and support situation
- Taking appropriate action that balances the rights and wishes of the victim with the rights of the landlord to protect the safety and wellbeing of other household members and neighbours and to protect the property
- Acknowledging that DFV is a whole of community issue that requires a multi-agency, whole of system response
- Working with support services and other partners to assist victims and deal with perpetrators.

4 Supporting Victims

The safety of women and children affected by DFV is a priority for the WHC.

The NSW Residential Tenancies Act 2010 contains provisions aimed at giving protections to tenants who are victims of DFV and mandatory reporting requirements for children and young people at risk of harm in relation to DFV.

To effectively identify and respond to DFV, our staff will:

- Prioritise the safety and security of tenants and other household members who are victims of DFV, including ensuring that appropriate authorities and/or supports are involved.
- Assist victims of DFV to maintain their housing, where it is safe to do so.
- Enable DFV to be reported to us in different ways, including in person, in writing, over the phone and online.
- Establish a single point of contact to avoid the need for victims to re-tell their situation or history to multiple people.
- Ensure that victims know that they can meet staff in confidence at the WHC offices or at an agreed safe venue. We will also agree to the method of contact that the victim wishes us to use to stay in contact with them.
- Investigate all reports of DFV that we receive, acknowledging that reports of antisocial behaviour may be related to incidents of DFV.
- Report children at risk of harm to the NSW Department of Family and Community Services (FACS).
- Explain the range of alternative housing options available and the implications for their tenancy.
- Work with partner agencies to ensure coordinated services to prioritise the victim's (including children) safety.
- Advise victims of external agencies who can offer further advice and support (e.g. for advice on tenancy issues, legal matters etc.) and make referrals with their consent, on their behalf, if required.

- Encourage victims to engage with DFV support and advocacy services and make referrals with their consent, on their behalf, if required.
- Listen to victims of DFV and include their feedback in service delivery decisions.

4.1 Allowable Absence from Home

The WHC recognises that in some situations it may be necessary for a victim of DFV to immediately leave their property for safety reasons. Under these circumstances, the WHC will allow absences from the property for up to three (3) months. This will allow time for the tenant to review their options and make decisions.

Where a tenant is charged a fee for their alternative accommodation (e.g. refuge or hotel), an application can be made for a rent reduction, known as nominal rent. Refer to the ***WHC Rent Policy***.

4.2 Removing a Household Member

Where the perpetrator is an authorised household member, and they are excluded from the property under an interim, provisional or final Apprehended Violence Order (AVO), under Sections 71 and 72 of the *NSW Residential Tenancies Act 2010*, the tenant, as a victim of DFV, may change the locks and withhold new keys from the perpetrator to prevent them from accessing the property.

The WHC will assist the tenant to change the perpetrator's status to an unauthorised occupant and take appropriate actions to remove them from the property.

Where the perpetrator is not an authorised household member, the WHC will work with the tenant and where required refer them to specialist support and legal services to ensure their safety.

4.3 Right of Early Termination

Where the tenant or a dependent child of the tenant is in a circumstance of domestic violence, and they need to permanently leave the property for safety reasons, the tenant may terminate their lease immediately without penalty.

In this situation, the tenant must give a Domestic Violence Termination Notice to the WHC, in accordance with the *NSW Residential Tenancies Act 2010*. Refer to the ***WHC Ending A Tenancy Policy***.

The tenant, as a victim of DFV, will not be liable to pay any compensation or additional money for early termination, such as break fees, loss of rent, advertising costs, re-letting fees or an occupation fee for abandoned goods.

4.4 Tenancy Re-Instatement

If a tenant is forced to leave their home to ensure their safety by escaping from DFV, and the tenant subsequently chooses to terminate their tenancy, the WHC may re-instate the victim's tenancy at a later date, where possible, so long as they meet the relevant eligibility criteria.

4.5 Management Transfers

Where there is no immediate danger to the person experiencing or reporting DFV, or where the immediate danger has been averted by a temporary move, the WHC may offer a management transfer to an alternative property, where possible. Refer to the ***WHC During A Tenancy Policy***.

4.6 WHC Ending the Tenancy

Where the perpetrator is the tenant and they are excluded from the property under a Final Apprehended Violence Order (AVO), under Section 79 of the *NSW Residential Tenancies Act 2010*, the tenancy may be terminated by Orders of the NSW Civil and Administrative Tribunal (NCAT).

In this situation, if the victim of DFV is an authorised household member, but not a tenant named on the property lease, and they meet the relevant eligibility criteria, the WHC will assist the victim to secure safe housing, which may include crisis or transitional accommodation or succession of the existing tenancy.

4.7 Property Damage

The perpetrator of DFV will be held solely liable for any damage to the property caused by their conduct. Under Section 54 of the *NSW Residential Tenancies Act 2010*, victims of DFV will not be held liable for any damage caused to the property by the perpetrator during the commission of a DFV offence. Other household members who are not the perpetrator will also be exempted from liability for any damage.

4.8 Safety Measures

The [Staying Home Leaving Violence \(SHLV\) program](#) operates in certain locations and aims to prevent homelessness by working with the NSW Police to remove a perpetrator from the home so that the survivor(s) can remain safely where they are. Clients of SHLV are provided with a range of supports such as safety planning, improving home security, assistance in managing finances, support for children and helping survivors throughout the complex legal process.

The WHC is committed to assisting tenants engaged with the SHLV program to stay in their homes whenever possible. We may be able to assist with installation of security upgrades at the property and will work with the tenant and support agencies to determine the allocation of costs for security upgrades.

Before any works can be carried out on a property, written permission must be obtained from the WHC. In some cases, permission may also be required from the owner of the property, which could be the NSW Government or a private landlord.

The WHC will assess applications for security property modifications on a case by case basis, taking into consideration the type, location, condition and leasing arrangements of the property, the costs of upgrade and recommendations arising from the safety planning and assessment from the support service.

Where safety upgrades are deemed not appropriate or not possible, a management transfer may be considered.

5 Working with Perpetrators

The WHC will take appropriate action (where evidence is available) against anyone responsible for DFV.

The appropriate response to the perpetrator will depend on the situation. This may include:

- Contacting the Police and other emergency services if the situation requires an immediate response due to safety.
- Referral to support services who provide assistance for perpetrators to gain support in addressing their issues.

6 Organisational Capability

The WHC has the organisational capability to identify and respond effectively to DFV through our suite of policies and procedures, which regulate our service delivery. We provide regular training to our staff and base our practice in this area on the Toolkit developed by the Community Housing Industry Association NSW – *Strengthening Practice in Responding to Domestic and Family Violence*.

The WHC supports and resources our staff across all aspects of community housing and homelessness service provision to have an understanding of domestic and family violence. Staff utilise a range of tools to understand their internal reporting and support structures. Through understanding our role in identifying indicators of DFV, the WHC continues to develop and enhance our early intervention approach to vulnerable tenancies and victims.

In order to effectively identify and respond to domestic and family violence, we provide training to all staff across all divisions on identifying and responding to DFV.

The WHC utilises a risk assessment process to maintain safety for all staff and contractors. We ensure that all workers and contractors check tenant alert registers before conducting home visits to manage tenants or their visitors who may pose a risk to staff and contractors.

7 Complaints and Appeals

Any person who has a complaint about how the Identifying and Responding to Domestic and Family Violence Policy has been administered, or applicants or tenants who wish to appeal a decision, should refer to the ***Complaints and Appeals Policy***.