

Antisocial or Dangerous Behaviour Policy



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1. Purpose

This policy guides renters and stakeholders such as neighbours and other community members about how WHL respond to antisocial behaviour arising from renters or visitors at WHL properties.

This policy outlines the situations that fall within WHL's ambit and provides guidance for situations that fall beyond WHL's scope as a Community Housing Provider.

2. Statement of commitment

WHL is committed to forming strong communities when allocating and managing multi-dwelling properties and aims to create homes where individuals can live with harmony and tolerance. Where antisocial behaviour arises, WHL is committed to:

- Providing renters and community members with appropriate opportunities and procedures to have their concerns heard
- Taking available action under the RTA that is timely, fair, reasonable and transparent
- Considering the human rights of all parties when assessing antisocial behaviour and taking formal action at VCAT
- Sustaining tenancies wherever possible and only pursuing eviction as a last resort
- Responding to matters that may be family violence related in a way that is trauma informed and MARAM aligned

3. Scope

This policy applies to all renters of WHL properties including in long term community housing, rooming houses or THM properties.

4. Positive neighbourly behaviour

Most renters are good neighbours, but the behaviour of some renters can make life in local communities less enjoyable and unsafe for others. Local communities work best when neighbours:

- Respect each other's rights and privacy;
- Take responsibility for their actions and those of family or friends;
- Respect communal areas and others' rights to use these spaces;
- Are considerate and tolerant of others;
- Keep noise to a minimum, especially late at night. EPA Victoria has a list of prohibited times for different noise types on their website. They also have advice on how to deal with noisy neighbours.

5. Antisocial behaviour

Antisocial behaviour is behaviour that negatively impacts other neighbours and interferes with their ability to enjoy their own property or any common spaces. Antisocial behaviour can range from mild and moderate nuisances to violent and threatening situations.

5.1 Nuisance or interference with the peace

Nuisance is behaviour that substantially and unreasonably impacts the rights of neighbours of the community. Interference with the peace means unreasonably impacting the quiet enjoyment of neighbours.

Examples of this include:

- Excessively loud noise or loud noise for an extended period at inappropriate times
- Bad odours from uncollected rubbish
- Unhygienic enclosures for animals
- Excessive noise from animals or visitors to the property
- Excessively loud noise from visitors entering and exiting the property at inappropriate times

Section 60 of the RTA confers a duty on renters not to cause a nuisance or interfere with the peace, comfort or privacy of their neighbours.

5.2 Damage to property

Damage can mean defacing, marking, removing a fixed object or safety feature or causing it to be broken. Renters have an obligation to notify WHL of any damage to the premises.

Section 61 of the RTA prohibits renters or their visitors from intentionally or negligently damaging rented premises or common areas.

Section 91ZI of the RTA enables WHL to serve a NTV where renters intentionally or recklessly cause serious damage to the premises.

Damage is distinct from 'fair wear and tear' and WHL investigates responsibility for damage in line with the **Renter Damage Policy**.

5.3 Dangerous behaviour and serious acts of violence

S 91ZJ of the RTA enables WHL to issue a NTV where the renter by act or omission endangers the safety of neighbours, the rental provider or their agent, or a contractor or employee of the rental provider or their agent.

Behaviours that cause an ongoing danger under this section of the RTA warrant an immediate response by WHL.

5.4 Threats and intimidation

Intimidation can refer to any act that creates fear of physical or mental harm and can include physical as well as non-physical acts such as yelling, screaming, ridiculing, insulting and hostile physical posturing. It can include threats of future harm.

S 91ZK of the RTA enables WHL to issue a NTV if a renter has threatened or intimidated WHL staff or contractors.

5.5 Illegal use

Renters must not use the rented premises or permit their use by any other person for any purpose that is illegal at common law or under an Act.

S 91ZO of the RTA enables WHL to issue a NTV to a renter if the property is used for an illegal purpose. There must be a connection between the illegal activity and the property. For example, if a property is altered to support illegal drug growth or manufacture.

6. Notifying WHL of antisocial behaviour

WHL may receive reports about renter behaviour from other renters, staff, body corporate, contractors and members of the public, including neighbours who are not WHL renters.

Only where it is safe to do so, WHL encourages neighbours to first speak with each other to try and come to a solution and to resolve the issues. This can be helpful as often people are not aware of their behaviour and the impact it has on their neighbours.

Complainants should keep a record of antisocial behaviour that includes the time and date of the incident and the details of what occurred. This can be used as evidence if legal action is required.

7. Investigation and substantiation

To ensure procedural fairness, WHL staff will:

1. Notify the renter, either in writing or verbally, of the nature of the alleged breach that may result in action taken by WHL
2. Inform the renter of information and evidence gathered that will be used in the making of the decision in relation to their tenancy.
3. Provide the renter with an opportunity to refute the alleged breach or provide a response to the alleged breach, and allow the renter to provide supporting evidence (including evidence related to family violence).
4. Fairly consider any material or information provided by the renter when making a decision

8. Actions available if allegations are substantiated

Where WHL confirms that a renter has breached their tenancy through behaviour that is antisocial, destructive, or dangerous, all relevant circumstances will be considered in deciding the most appropriate response. This includes the safety and quiet enjoyment of neighbours and the community and the impact on any property that might be at risk of damage or being used inappropriately. It also includes the impact on the renter and their household and each individual's human rights (see WHL's Ending Tenancies Policy). Competing interests will be carefully considered before action is taken in response to a substantiated breach.

8.1 Breach of Duty Notice

Where a renter has breached a duty provision of the RTA, WHL may decide to issue a Breach of Duty Notice. This is a formal written warning to the renter that their obligations under the RTA have not been met. A notice provides a timeframe for the renter to rectify any breach. If the breach is not fixed within the timeframe, WHL can apply to VCAT for a Compliance or Compensation Order.

8.2 Successive Breaches

Where a renter has breached the same duty provision three times and has been issued with breach notices on the first two occasions, WHL may issue a NTV on the third breach of that duty. Please see WHL's Ending Tenancies Policy for more information.

8.3 Compensation or Compliance Order

If a Breach of Duty Notice has not been complied with, WHL may make an application to VCAT for a Compensation or Compliance Order.

A Compensation Order will require the renter to pay for any costs associated with remedying the breach. A Compliance Order requires the renter to comply with their duties under the RTA. If the renter fails to comply with the terms of either order, this may be grounds to issue a NTV.

8.4 Notices to Vacate

Where there are grounds under the RTA and WHL has considered the relevant human rights impacts, WHL may issue a NTV to a renter. Each NTV will specify the grounds for termination of the tenancy agreement and provide a notice period for the renter to vacate the property.

Eviction is treated as the option of last resort and may be often avoided by providing early intervention and referring renters to appropriate support services. Please refer to WHL's Ending Tenancies Policy for further guidance.

8.5 Alternative pathways for resolution

Disputes between neighbours may also be referred to the Dispute Settlement Centre Victoria for mediation if they are outside the scope of the RTA.

If nuisance is caused by pets, WHL encourages complainants to contact the local council in the first instance.

If the behaviour is criminal in nature, WHL encourages the witness to contact the police in the first instance.

9. Support services

When responding to antisocial, destructive or dangerous behaviour, staff will assess what appropriate support services may be useful in preventing tenancy breaches, helping renters respond to allegations and providing support to sustain tenancies.

This may include referrals to:

- Community Legal Centres
- Specialist tenancy support and advocacy services
- Financial counselling services
- Community based mental health services or
- Disability support services.

WHL will also extend assistance to any WHL renters who are impacted by antisocial or dangerous behaviour, such as completing referrals for support services.

10. Criminal matters at WHL properties

The police should always be the first point of contact for a renter where there are concerns of a criminal nature at a property or any immediate threats to safety from another person's behaviour. This may occur in the context of assaults, harassment, stalking or sexual harassment perpetrated by one renter against another renter at a property.

Where this occurs, WHL will implement the above actions under the RTA to assist in creating a safe living environment for any impacted renters.

Where any Intervention Orders such as Personal Safety Intervention Orders (PSIOs) or Family Violence Intervention Orders (FVIOs) are issued against renters to protect other renters, WHL will take the following steps:

1. Contact the relevant police station to confirm details about the Intervention Order and ascertain whether the respondent is allowed back on the property
2. Provide police with information to assist in any investigations, including CCTV footage
3. Encourage renters to contact police if the respondent is excluded from the premises but continues to return
4. Commence VCAT proceedings to end a tenancy where the respondent is permanently excluded from the property but will not voluntarily relinquish their tenancy

WHL have limited capacity to intervene in criminal matters that do not directly relate to a renter's obligations under the RTA, but will continue to liaise with police or family violence support services to preserve the safety of the impacted renter.

With the renter's consent, WHL will refer those who have experienced sexual harassment or sexual assault to an appropriate service such as:

- Sexual Assault Crisis Line (1800 806 292)
- Local Victorian Police Sexual Offences and Child Abuse Investigation Team (SOCIT)
- Sexual Assault Services Victoria
- CASA House
- South Eastern CASA

11. Related policies

- Ending Tenancies Policy
- Privacy and Confidentiality Policy
- Family Violence Policy
- Renter Damage Policy
- Pets Policy
- Squatting & Subletting Policy
- Renters Rights and Participation Policy

- Relocations Policy
- Victims of Crime Charter Policy
- Hoarding and Squalor Policy

12. Legislation and standards

This policy implements WHL’s obligations under:

- Residential Tenancies Act 1997 (Vic)
- Housing Act 1983 (Vic)
- Charter of Human Rights and Responsibilities Act 2006 (Vic)
- Performance Standards for Registered Housing Agencies

13. Transparency and accessibility

This policy will be available on WHL’s website at: <https://womenshousing.com.au/>

14. Definitions

Breach of Duty	Failure to meet a requirement of the RTA that is classed as a duty provision
Breach of Duty Notice	A notice served on a renter or rental provider to inform them that they have failed to meet a duty provision and must rectify this
Compliance Order	A VCAT order directing a party to restrain any action in breach of the tenancy agreement or the RTA or require any action in the performance of a tenancy agreement or of duties under the RTA
Intervention Order	An order issued by a Court to protect a person from another person. Often utilised in situations of family violence, stalking, harassment, or sexual assault / harassment.
NTV	Notice to Vacate – a legal notice informing a renter that the rental provider wants them to vacate the property by a certain date
Possession Order	An order granted by VCAT giving the rental provider the right to obtain a warrant to regain possession of the property
Rental Agreement	Lease under the RTA which sets out of the rights and duties of the renters and rental provider
RTA	Residential Tenancies Act 1997 (Vic). The principal legislation governing rental housing in Victoria.
VCAT	Victorian Civil and Administrative Tribunal. A legal institution set up to administer several Acts, included the RTA.
Warrant of Possession	A legal document issued by VCAT authorising the police to evict renters from a property