

# Tenant Dispute Policy

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## Document Information

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## **1. Purpose**

To provide a tenant disputes policy and procedure that is compliant with the Victorian *Housing Act 1983* and the associated Housing Performance Standards.

This policy aims to offer Women's Housing Ltd (WHL) tenants and clients, and other interested parties an accessible and responsive disputes resolution system that is timely, fair and equitable.

It is also expected that this policy will contribute to continuous improvement in WHL policy and practice.

## **2. Statement of Commitment**

WHL is committed:

- to providing tenants and community members with appropriate opportunities and procedures to have their concerns heard and resolve disputes;
- to facilitating dispute resolution which is fair to all parties
- to producing outcomes which are respected and accepted by all parties

## **3. Scope**

This policy is aimed primarily at WHL tenants, neighbours of WHL tenants and members of the broader community impacted by WHL tenancies.

This policy does not cover:

- Disputes that are outside the jurisdiction of WHL (e.g. a dispute that comes under the jurisdiction of the Residential Tenancy Act and would be dealt with by the Victorian Civil Administrative Tribunal);
- Matters covered by the WHL Complaints & Appeals policy

## **4. Disputes Policy**

Section 67 of the Residential Tenancies Act 1997 (RTA) states "A landlord must take all reasonable steps to ensure that the tenant has quiet enjoyment of the rented premises during the tenancy agreement."

In order to satisfy the requirements of the RTA and meet obligations as a landlord, WHL investigates and attempts to resolve all disputes and other problems that may affect a quiet enjoyment, health and safety of tenants and their neighbours.

### **4.1 Tenancy Disputes**

Tenancy disputes are deemed to be any issue where there is disagreement or conflict relating to a property managed by WHL.

A dispute might involve:

- Unacceptable behaviours by tenants
- Conflict between tenants within a shared household
- A neighbourhood complaint
- Conflict between a tenant and their support agency

## **4.2 Essential Features of the Disputes Resolution Process**

The essential features of the disputes process will be:

- Provision of information to tenants about their rights and obligations under the RTA;
- fair, speedy and effective investigation and resolution of disputes;
- immediate action to provide for the safety of tenants and neighbours where protection from danger is needed;
- provision of or referral to support or mediation services where appropriate;
- maintenance of full and accurate records of disputes.

## **4.3 Managing Tenancy Disputes**

WHL will work with tenants and support agencies to resolve disputes.

While it may be necessary at times for WHL to act within the RTA to manage problematic tenancies, eviction proceedings that might arise from a tenancy disputes will be taken only if all other attempts to manage the situation have been exhausted.

### **4.3.1 Violent Behaviours**

Violent behaviours by tenants or their visitors will not be tolerated

If the dispute involves serious acts of violence by tenants or visitors, either in a WHL property or its neighbourhood, WHL will Request copies of any police reports. Violent behaviour may result in an Immediate Notice to Vacate. This may lead to a tenant being evicted from a property.

Any incident that is of a criminal nature will be reported to the police.

### **4.3.2 Domestic Violence or Relationship Breakdown**

Women who become at risk of domestic violence in WHL properties will be provided with the following accommodation options:

- Remain in the property with safety – e.g. WHL will change the locks and assist with referral to a domestic violence outreach service.
- Move to another WHL property if one is available.
- Move to a refuge.
- Move to other appropriate safe accommodation.

### **4.3.3 Neighbourhood Complaints/Disputes**

WHL will seek to ensure that all neighbouring properties to WHL managed properties can enjoy the quiet enjoyment of their homes.

When responding to neighbourhood complaints, WHL will act within the constraints of the RTA and privacy laws. WHL will advise neighbours of the process involved in managing the complaint within the RTA. Neighbours must be advised that although WHL will try to safeguard their privacy as much as possible, that there will be a need to provide information regarding complaint in RTA notices and if needed attendance at VCAT may be required.

As a part of standard procedure, WHL will:

- Respond to the neighbour in a professional and caring manner;
- Advise the neighbour of the constraints of the RTA legislation under which we are required to operate;
- Advise what WHL can and cannot do to alleviate this problem;
- Request the neighbour put the complaint in writing;
- Advise and discuss the implications if it is necessary to go to VCAT;

- Assure the neighbour that any information provided by them is treated in a confidential manner however if matter is to proceed through VCAT processes their anonymity will not be able to be preserved

WHL will gather information, consult with the tenant, and, depending on the seriousness of the complaint, may conduct a personal interview with the tenant and her support worker. At this interview, WHL will recount the tenant’s responsibilities and explain the consequences of this behaviour continuing.

In some circumstances a property inspection will be necessary to properly investigate the complaint, e.g. when there is alleged property damage. In such cases, WHL will issue the tenant with a Notice to Inspect and subsequently inspect the property

Depending on the nature of the issue, WHL may be required to serve notices upon the tenant and should the tenant not remedy the issue, it may result in the matter being heard at VCAT.

#### **4.3.4 Agents and Advocates**

An agent or advocate may assist a client during the dispute process. This may be a friend, relative, a support worker or any other person. The client will be required to advise WHL in writing that they wish to authorise a person to act on their behalf. The authority will include the advocate’s name, contact number and relationship to the client.

Information about relevant advocacy services is provided to all tenants.

#### **4.3.5 External Mediation**

External mediation may be required to assist in the resolution of a dispute. An external mediator will be utilised by mutual agreement between the disputants.

Upon agreement, a request may be made to the Victorian Dispute Settlement Centre of Victoria which is a free service that provides a trained mediator to assist with dispute resolution.

## **5. Definitions**

<b>Term</b>	<b>Definition</b>
Breach Notice	A legal notice served on a tenant, which notifies them that their behaviour has caused them to breach the Residential Tenancies Act.
Compliance Order	An order of the VCAT directing a party to restrain any action in breach of the tenancy agreement or the Act or require any action in the performance of a tenancy agreement or of duties under the Residential Tenancies Act.
Complaint	Statement of dissatisfaction made by the occupier of a premise regarding the behaviour of an occupier or visitor of a neighbouring premises.
Dangerous Behaviour	Behaviour of a tenant or a tenant’s visitor that by act or omission endangers the safety of occupiers of neighbouring premises.
Dispute	Disagreement between two or more people about the acceptability of behaviour where that behaviour does not involve a tenancy breach under the Residential Tenancies Act.

Term	Definition
Family violence	Family Violence is defined in <i>the Family Violence and Protection Act 2008</i> as violent, threatening or other behaviour by a person that coerces or controls a member of the person's family (the family member), or causes the family member to be fearful.
HEF	The Housing Establishment Fund (HEF) is a grant program provided by homelessness housing and support agencies to assist eligible clients to access and /or to maintain private rental housing, or to access emergency short term accommodation
Malicious Damage	Where deliberate and significant damage has been done to premises.
Mediation	A form of dispute resolution in which an impartial third-party helps communication and negotiations between people in dispute. Parties to the dispute retain control over their dispute and take responsibility for the outcome.
Notice to Vacate	A legal notice served on a tenant as per section 248 & 249 of the Residential Tenancies Act 1997, where a tenant has failed to remedy a breach notices or comply with a compliance order.
Nuisance Behaviour	Behaviour that unreasonably interferes with the peace, comfort or privacy of an occupier in neighbouring premises.

## 6. Reviewing

Policy will be reviewed every two years or when policy or legislative change requires.

## 7. Related Documents

- Housing Registrar Performance Standards 2014
- WHL Complaints and Appeals Policy
- WHL Human Resources Policy
- WHL Information Privacy Policy
- WHL Terminating Tenancies Policy
- WHL Tenant Participation Policy
- WHL Complaints Register

Other supporting resources:

- Sign up package
- Notice of Intention to Breach
- 1<sup>st</sup> Breach letter
- 2<sup>nd</sup> Breach letter
- Neighbour Complaint Pro-Forma
- Neighbour Complaint Letter
- Breach of Owners Corporation Rules

- Complaint Acknowledgement Letter
- Complaint Log for Neighbours
- Compliance Order Letter
- Neighbour Complaint Summary
- Noise Complaint Letter
- NTV Breach
- NTV Danger
- Terminating A Tenancy Form

## **8. Relevant Legislation**

- Residential Tenancies Act 1997
- Charter of Human Rights and Responsibilities 2006
- Housing Act 1983 (including amendments 2007) Commonwealth Privacy (Private Sector) Amendment Act 2000 (Federal Act)
- Information Privacy Act 2000 (Victorian State Act)
- Protected Disclosures Act 2012