



Aboriginal Housing - Family Violence Policy

Introduction

The department recognises that domestic and family violence is a crime that affects a significant proportion of Australian women with Aboriginal women representing a highly vulnerable group. It is widely acknowledged that homelessness due to domestic and family violence is one of many negative and long-lasting consequences for victims and other people who are exposed to it.

This policy supports the principles to *'maximise safety of persons who have experienced family violence, and prevent or reduce to the greatest extent possible, the consequences of family violence'*. As defined in the Restraining Orders Act (1997).

Policy Intent

To outline the housing management response in circumstances where the Direct Managed (DM) or Remote Service Provider (RSP) is aware family violence is occurring or is likely to occur.

This policy applies to all department staff that interact with clients, including any agent or contractor engaged to deliver services on behalf of the department. Clients include applicants for housing assistance and tenants of Aboriginal Housing in town-based and remote communities managed under a Housing Management Agreement (HMA).

Policy Statements

1. Definition of 'family' in a family violence setting.

A reference in this policy to **family** is a reference to *relationships that are based on interpersonal relationships or living arrangements*.

Examples of 'family' include (but are not limited to) the following:

- a. Relatives and family members, connected by blood, marriage or *de-facto* relationships, including past partner relationships;
- b. Relatives through kinship, cultural or religious grounds;
- c. Relationships based on dependency, such as in informal care arrangements between people with disabilities and their caregivers; and
- d. Relationships involving personal or financial commitment such as where two or more people live together. They may be living as friends, housemates, or other cohabitants.

2. Definition of family violence.

A reference in this policy to **family violence** is a reference to:

- *Actual violence, an attempt at violence or a threat of violence, by a person towards a family member of the person; or*
- *any other behaviour by the person that coerces or controls the family member or causes member to be fearful.*



Aboriginal Housing - Family Violence Policy

Examples of behaviour that may constitute family violence include, but is not limited to, the following:

- a. Physical Abuse - e.g. an assault against the family member, damaging or destroying the property of the family member or depriving the liberty of the family member or any other person with whom the member has a family relationship.
- b. Emotional Abuse - e.g. preventing the family member from:
 - seeing their friends or family
 - making or retaining connections to culture
 - distributing or publishing intimate personal images of the family member
 - causing death or injury to an animal that is the pet of the family member.
- c. Economic Abuse – e.g. depriving a person from their access to money, food, clothes or personal items such as car keys.
- d. Verbal Abuse - statements designed to humiliate, degrade, demean, intimidate, or subjugate, including the threat of physical violence.
- e. Stalking or cyber-stalking the family member.
- f. Exposing a child in the family to any of the behaviour set out above.
- g. A person who hires the services of someone to commit family violence on their behalf, is also considered to have committed the family violence.
- h. Attempting or threatening to commit any of the above.

3. Considerations during decision making.

- a. Victim's and children's safety and wellbeing is of primary importance in decision making by the RSP or DM office.
- b. Consultation with the Community Council by RSP or DM staff is recommended to better clarify the tenant's referral for support services.
- c. In communities where Police cannot attend, or for cultural or circumstantial reasons the client is prevented from reporting to Police, Housing management may use discretion in determining tenant liability and substantiating incidents of family violence under the Discretionary Decision-Making Policy. The department acknowledges that some clients may have greater difficulty providing supporting documentation due to cultural reasons, lack of knowledge about support services or lack of available and appropriate support services. In exercising discretionary decision-making, financial authority delegated limits apply.
- d. The importance of protecting pets in a family violence setting is acknowledged.

4. Additional Security for AHS tenants on grounds of family violence.

- a. Tenants who are experiencing, or are at risk of experiencing, family violence may apply for assistance to install additional security fixtures at the premises.



Aboriginal Housing - Family Violence Policy

- b. A tenant has the right to modify, add or alter the prescribed security fixtures at the premises, without prior consent from the Department, if they reasonably believe such actions are necessary to prevent family violence being carried out against them, or members of their household.
- c. When a tenant, at their own cost, modifies, adds or alters the prescribed security fixtures at a rental premise because of family violence, these costs, or a portion of them, may, on application, be reimbursed. Refer to 3c on need for discretion where a Police Report Number (PRN) cannot be obtained.

5. Transferring the tenant on grounds of family violence.

- a. When a tenant demonstrates that they are experiencing, or at risk of experiencing family violence, their application will be assessed ahead of normal applications. The relevant receiving community council is required to be engaged with and approve the application.
- b. When a tenant is approved for a prioritised transfer but terminates their tenancy, or their interest in a tenancy, they may be eligible to retain their transfer listing and the listing date. The Community Council can also assist with clarifying the applicant's current circumstances and need for ongoing housing assistance.

6. Tenants unable to reside in their rental premises on grounds of family violence.

- a. When a rental premise is subject to a joint tenancy and it is demonstrated that a co-tenant cannot occupy the premises because of family violence, rental payments may be re-calculated solely on the income of the remaining co-tenant and householders who continue to reside in the premise.
- b. When it is demonstrated that a rental premise is empty because of family violence, a request to waive rental payments for the period of time the premises is empty, may be authorised. A maximum time period may apply.

7. Joint Tenancies where family violence is present.

- a. Joint tenants have equal rights and responsibilities arising from their tenancy agreement, including the right to occupy the premises.
- b. The Department and its agents or representatives have no legal authority to remove an offender of family violence from a rental premise.
- c. If a co-tenant departs, or is legally prohibited from residing at the premises, a co-tenant continues to be subject to the obligations of the tenancy, and the rights and obligations of the tenancy continue to apply to this tenant, until:
 - the tenancy is terminated,
 - their tenancy interest is terminated or,
 - the tenancy is assigned to the co-tenant resident in the premises.



Aboriginal Housing - Family Violence Policy

8. Joint Tenancies - Termination of Tenancy Interest on Grounds of Family Violence.

- a. A tenant experiencing, or at risk of experiencing, family violence may give a Notice of Termination of Tenancy Interest on Grounds of Family Violence (Form 1D) to terminate their interest in a tenancy if supporting prescribed evidence is provided, such as:
 - a support letter from:
 - i. the Community Council
 - ii. a Support Service or social worker
 - iii. an Environmental Health officer
 - iv. a medical professional or hospital
 - v. a legal service
 - vi. another agency
 - Domestic Violence Order
 - Police Report Number
 - Discretionary decision made by Housing management
- b. Letters of support should contain the following information:
 - The client's name and address
 - The relationship of the person writing the letter of support to the client
 - A brief history of the violence experienced by the client
 - An explanation of how the violence relates to the client's housing needs
 - An examination of other housing options available to the client and why these options are not suitable
- c. A tenant subject to family violence, or where a dependant of the tenant has been subject to family violence, may make an application to a competent court to terminate their, or the offender's, interest in a tenancy.
- d. A tenant who commits family violence, may make an application to a competent court to terminate their interest in a tenancy.

Related Legislation and Policy

- *Housing Act 1980 WA*
- *Residential Tenancies Act 1987 WA*
- *Residential Tenancies Regulations 1989 WA*
- *Restraining Orders Act 1997 WA*
- Housing Management Agreements
- Aboriginal Housing Policy Manual



Aboriginal Housing - Family Violence Policy

Document Control

Aboriginal Housing policies are maintained by Client Services Property and Tenancy Management.

For further information contact:

Procedure Owner: Client Services Property and Tenancy Management

Division: Service Delivery Regional and Remote

Email: ptmbi@housing.wa.gov.au

Date and Version	Description of change	HPE File #	Author	Approved by
19/12/2019 v2.0	Aligned with SD FV Policy; expanded scope and intent; Management discretion for PRN's; Tradesmen where possible; Policy separated from the AH Policy Manual.	2017/04533	Vincent Holdsworth	Candice Evans
v1.0	First published in the AH Policy Manual			