

Anti-Social, Destructive, or Dangerous Behaviour Policy

1. Purpose

The purpose of this document is to outline the process for responding to anti-social, destructive, or dangerous behaviour. This policy intends to balance the rights of residents with the rights of neighbours to create positive relationships and build strong communities.

2. Scope

This policy applies to YWCA Australia (YWCA) staff responsible for working with YWCA residents and properties.

This document is a national policy covering YWCA Housing and YWCA National Housing. All references to YWCA Housing include both unless specifically stated otherwise. Where state-based variations exist in policies and procedures, these will be identified in this document.

This policy applies to all forms of housing owned and/or managed by YWCA including community and affordable residential rental properties and rooming houses.

Where other YWCA policies also need to be considered in managing behaviour related issues of tenancy, these are identified in this policy and supporting procedures.

3. Definitions

Breach of duty	Failure to meet a requirement of the applicable legislation that is classed as a duty provision (a provision which has specific legislative requirements and consequences for either the resident or rental provider).
Breach of duty notice	A notice served to a resident or rental provider to inform them that their behaviour has caused them to breach one of more of the duty provisions of the applicable legislation.
Compliance order	A Tribunal order directing the resident or rental provider to comply with the specified provision of the applicable legislation or rental agreement within a specified period.
Notice to Vacate (NTV)	A legal notice to a resident advising that the rental provider wants them to vacate the property by a certain date.
Order of possession	An order granted by the Tribunal giving the rental provider the right to obtain a warrant to regain possession of the property.
Rental agreement	A lease agreement under the applicable legislation, which sets out the rights and duties of the resident/renter/tenant and the rental provider/landlord.
RTA/RTRAA	The Residential Tenancies Act 1997 (Vic), Residential Tenancies Act 1999 (NT), Residential Tenancies & Rooming Accommodation Act 2008 (QLD). The principal legislation governing rental housing in Victoria, Northern Territory, and Queensland respectively.
Resident	For brevity, the term 'resident' refers to renters and tenants of rented premises, and residents of rooming houses.
VCAT/QCAT/NTCAT	State/Territory based Civil and Administrative Tribunal. A legal institution set up to administer several Acts. For residential tenancies, the Tribunal administers the RTA/RTRAA.
Warrant of possession, Order of possession, Termination order.	A legal document issued by the Tribunal authorising the police to proceed with the removal of a resident from a property.

4. Responsibilities

4.1 Leaders –General Manager Housing Operations

- Assisting housing staff to follow this procedure. Ensuring good management of evidence in the tenancy management system.
- Recommending any changes to this procedure.

4.2 People and Culture

- Incorporating this procedure into staff induction and training.
- Ensuring staff are aware of and have access to this procedure.
- Escalating feedback about this procedure to the document owner/writer.

4.3 Employees – Housing staff and Community Housing Officers

- Informing tenants of their rights and responsibilities in accordance with this document.
- Keeping records of the process in the relevant systems.
- Recommending improvements to this policy and procedure.

5. Policy

YWCA aims to enhance the safety and wellbeing of residents and the wider communities we operate in and is proactive in reducing the risk of anti-social, destructive, or dangerous behaviour. This is achieved through quality building design and maintenance, ongoing training and development of employees, increased diversity and social inclusion, community-building strategies, and facilitating access to support for residents with complex needs.

Residents and their neighbours are entitled to quiet enjoyment of their homes, and all people are entitled to be treated with dignity and respect.

In applying this policy YWCA will ensure:

- Terminating an agreement is a measure of last resort.
- Decision making is person-centred, and tenancies are sustained where possible.
- Where tenancies are at risk, intervention will occur as early as possible to attempt to rectify any issues.
- Proper consideration is given to the human rights of residents that may be impacted by decisions around ending a tenancy, in accordance with the Charter of Human Rights and Responsibilities.
- Consistent, fair, and accountable processes are followed, and residents are provided with information about processes that impact their tenancy.
- A commitment to respond to matters that may be family violence related, that is trauma informed and promotes the safety and wellbeing of residents and their families.
- All contractual, legal, and regulatory duties are met.

5.1 What is anti-social, destructive, or dangerous behaviour?

5.1.1 Nuisance or interference with the peace

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

Forms of nuisance can include, but are not limited to:

- Excessively loud noise, or loud noise for an extended period or at inappropriate times.
- Bad odours from uncollected rubbish.
- Abusive, aggressive, intimidating, threatening, or harassing language or behaviour.
- Bullying, vilification, or discrimination.
- Intentional or negligent damage to property.
- Noise or bad odours caused by vehicles.
- Any type of illegal activity.
- Excessive noise from animals or visitors to the premises.

Residents and their visitors are prohibited from using their rented premises in a manner which causes a nuisance or interferes with the reasonable peace, comfort, or privacy of neighbours.

5.1.2 Damage to property

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

Residents or their visitors are prohibited from intentionally or negligently damaging rented premises or associated common areas. This action could result in the termination of the agreement.

Damage is distinct from 'fair wear and tear', which is deterioration caused by the reasonable use of the property and the impact of natural forces.

YWCA will investigate responsibility for damage in accordance with the Resident Related Damage Policy and Family Violence Policy.

5.1.3 Dangerous behaviour and serious acts of violence

Serious acts of violence or behaviour which endangers the safety of neighbours, others on the premises, or the rental provider or rental provider's agent, are in breach of the applicable legislation and are behaviours that warrant an immediate response.

5.1.4 Threats and intimidation

Intimidation refers 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 also include threats of future harm.

Residents have a duty not to threaten or intimidate YWCA or its staff or contractors. This behaviour could lead to a termination of the agreement.

5.1.5 Illegal use

Residents 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 applicable tenancy legislation. Doing so may lead to termination of the agreement.

5.2 How is anti-social, destructive, or dangerous behaviour investigated?

5.2.1 Investigation and substantiation

To ensure procedural fairness, YWCA staff will:

- Notify the resident, either in writing or verbally, of the nature of the alleged breach that may result in a notice or action being taken by YWCA.
- Inform the resident of the information and evidence gathered that will be used in the making of the decision in relation to their tenancy.
- Provide the resident with an opportunity to refute the alleged breach or provide a response to the alleged breach, including reasons why a notice should not be issued and allowing the resident to provide supporting evidence, including any evidence related to family violence.
- Fairly consider any material or information provided by the resident when making a decision.

5.3 What actions are taken if allegations are substantiated?

Where YWCA confirms that a resident has breached their tenancy through behaviour that is anti-social, destructive, or dangerous, all relevant circumstances will be considered to decide the most appropriate response. This includes the safety and quiet enjoyment of neighbours and the community, and the potential impact on any property that may be at risk of damage or being used inappropriately. Considerations include the impact on the resident and their household and everyone's human rights (see Sustaining Tenancies Policy and Ending a Tenancy Policy). Competing interests will be carefully considered before action is taken in response to a substantiated breach.

Possible responses include:

- Issuing the appropriate notice for the breach (e.g. Breach of Duty Notice).
- Applying to tribunal for a compliance or compensation order.
- Issuing the appropriate notice to leave the premises (e.g. Notice to Vacate).
- Issuing an immediate notice to leave.
- Applying to the tribunal for an Order of Possession.

5.3.1 Breach of Duty notices

Where a resident has breached a duty, YWCA may decide to issue a breach of duty notice. The notice is a formal written warning to the resident that their obligations under the applicable legislation have not been met. The notice provides a timeframe for the resident to rectify the breach. If the breach is not fixed within the timeframe, YWCA can apply to the tribunal for a compliance or compensation order.

5.3.2 Successive breaches

Where a resident has breached the same duty provision three times and has been issued with breach of duty notices on the first two occasions, YWCA may issue a Notice to Vacate on the third breach of that duty. Please refer to the Ending a Tenancy Policy for further guidance.

5.3.3 Compensation or compliance order

Where a breach notice has not been complied with, YWCA may make an application to the tribunal for a compensation or compliance order.

A compensation order will require the resident to pay for any costs associated with remedying the breach. A compliance order requires the resident to comply with their duties under the applicable legislation. If the resident fails to comply with the terms of either order, this may be grounds to issue a Notice to Vacate.

5.3.4 Notice to Vacate/Leave

Where there are grounds under the applicable legislation and YWCA has considered the relevant human rights impacts, YWCA may issue a Notice to Vacate or Notice to Leave to a resident. Each notice will specify the grounds for termination of the tenancy agreement and provide a notice period for the resident to vacate the property.

Terminating an agreement is treated as a measure of last resort and may often be avoided by providing early intervention and referring residents to appropriate support services. Refer to the Sustaining Tenancies Policy and Ending a Tenancy Policy for further information.

5.4 Support services

When responding to anti-social, destructive, or dangerous behaviour, YWCA will assess what appropriate support services may assist residents to prevent tenancy breaches, respond to allegations, and provide support to sustain their tenancy.

This may include referrals to:

- Community legal centres.
- Specialist tenancy support and advocacy services.
- Financial counselling services.
- Community based mental health services.
- Disability support services.

A list of relevant services and contact details are available in the Service Directory.

6. Transparency and accessibility

This policy is made available on the YWCA Housing website www.ywcahousing.org.au/policies.

7. Appeals

Staff will inform residents of their right to appeal organisational decisions and to complain about the services of YWCA in accordance with the appeals and complaints process.

8. Record keeping

Staff will maintain all relevant information associated with in the tenancy management system.

Document Data Control

Anti-Social, Destructive, or Dangerous Behaviour Policy				
Responsible Body		Director, Development and Housing		
Accountable Officer		General Manager, Housing Operations		
Supersedes		Antisocial Behaviour Policy		
Associated documents		Sustaining Tenancies Policy Breach of Tenancy Policy Ending a Tenancy Policy		
Legislation		Housing Act 1983 (VIC) Housing Act 2003 (QLD) Housing Regulations 2015 (QLD) Housing Act 1982 (NT) Residential Tenancies Act 1997 (VIC) Residential Tenancies Regulations 2021 (VIC) Residential Tenancies & Rooming Accommodation Act 2008 (QLD) Residential Tenancies Act 1999 (NT) National Affordable Housing Agreement Victorian Charter of Human Rights and Responsibilities Act 2006 Queensland Human Rights Act 2019 National Community Housing Standards Social Service Standards (VIC) Guidelines for registered housing agencies Performance Standards for Registered Housing Agencies. Consumer Charter for Community Managed Housing and Homelessness Services (VIC) National Community Housing Regulatory Code Victorian Community Housing Regulatory Code State based agreements between YWCA and statutory bodies		
Approval and Amendment history				
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May 2022	May 2022	1.0	First version	May 2024
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