

DFV SOCIAL HOUSING RESOURCE



Tenants Queensland

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Government



Introduction to this resource

Safe and secure housing is essential for individual wellbeing. But safe and secure housing can be difficult to achieve in situations of domestic and family violence (DFV).

DFV is a key cause of homelessness for women. And, with more than 30% of Queenslanders living in rented accommodation and approximately 5% of Queenslanders living in social housing, service providers need information to support women when DFV affects their tenancy.

This resource is designed to provide tenancy information to DFV service providers and services that support women experiencing DFV. It describes the relevant tenancy law, regulations, social housing policies and procedures that will enhance the capacity of support services to assist women whose tenancy is affected by DFV.

Women who are impacted by DFV may want to start a new tenancy, stay in their current tenancy or leave. This resource provides the information needed to support women in making those choices. It is designed to reduce the barriers women may face when they try to access or sustain their housing, and contribute to their safety and stability. This social housing resource is designed be used in conjunction with Tenants Queensland's [DFV Tenancy Toolkit](#), which provides information about DFV-related issues in general tenancies.

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Purpose

This resource is designed to build the capacity of domestic and family violence and other community services to assist women with DFV-related, social housing tenancy issues. It is designed to be used in conjunction with TQ's DFV Tenancy Toolkit, which discusses DFV-related issues in general tenancies.

Structure of the resource

This resource includes an overview of social housing and separate sections on public housing, Aboriginal and Torres Strait Islander housing, and community housing. For each tenancy type, it covers options for starting, staying and leaving, including relevant laws, regulations, policies and procedures. It also provides relevant information about complaints, disputes, human rights and discrimination.

Tenants Queensland

Tenants Queensland is a specialist community legal service for tenants. Established in 1986, Tenants Queensland aims to assist tenants (and their advocates) to understand their tenancy rights and responsibilities and empower tenants (and advocates) to take action to resolve disputes and maintain secure rental accommodation. Tenants Queensland manages the Queensland Statewide Tenants Advice Referral Service (QSTARS). QSTARS was established in October 2016 and continues to be funded by the Department of Communities, Housing and Digital Economy.

Legal disclaimer

This resource is intended as an information guide for DFV and related sectors, and is not intended to substitute for specific legal advice for an individual tenancy matter.

In the case of ambiguity or inconsistencies between the toolkit and legislation, the legislation prevails.



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Definitions and common terms

Aggrieved	Person experiencing violence. In the DFVP Act, it's used to mean a person for whose benefit a domestic violence order or police protection notice is in force.
CHO/s	Community housing organisation/s Community housing providers
Co-tenant	Where more than one tenant signs a tenancy agreement, they are considered to be co-tenants; they are individually and jointly responsible for meeting the terms of the tenancy contract with the lessor/housing provider.
DCHDE	Department of Communities, Housing and Digital Economy Housing and Homelessness Services (HHS) moved into this Department in November 2020.
Domestic associate	The definition of domestic associate in the RTRA Act comes from s13 the DFVP Act. A domestic associate relationship may be: <ul style="list-style-type: none"> a. a spousal relationship b. an intimate personal relationship c. a family relationship d. an informal care relationship.
Domestic violence	Domestic violence is defined in s8 of the DFVP Act.
DVO	Domestic Violence Protection Order An order from the Magistrates Court to protect the aggrieved from domestic violence.
DFV	Domestic and family violence
DFVP Act	<i>Domestic and Family Violence Protection Act 2012</i>
FRC	Family Responsibilities Commission
HHS	Housing and Homelessness Services is a division within the Department of Communities, Housing and Digital Economy which provides a range of housing assistance and support including: <ul style="list-style-type: none"> • public housing • housing in Aboriginal and Torres Strait Islander local government areas • community housing • private rental market products and services such as RentConnect and bond loans.
HART	Housing Act Review Team deals with reviews of decisions, investigations and compliance under the Housing Act 2003.
Housing Act	<i>Housing Act 2003</i>
HSC	Housing Service Centre, part of local area offices of Housing and Homelessness Services in the Department of Communities, Housing and Digital Economy.



Lessor	The person who gives the right to occupy a residential premises under a residential tenancy agreement. Housing provider
NET	Residential Tenancies Authority form Notice ending tenancy interest (domestic and family violence) (Form 20)
PEV	Person experiencing violence
Perpetrator PUV	Person using violence
PPN	Police Protection Notice Police officers have the power to issue a PPN without attending court. PPNs must be approved by supervising police officers. PPNs require a respondent to be of good behaviour towards the aggrieved and not commit domestic violence against the aggrieved.
QCAT	Queensland Civil and Administrative Tribunal, also known as the Tribunal
QCAT Act	<i>Queensland Civil and Administrative Tribunal Act 2009</i>
QHRC	Queensland Human Rights Commission
QPS	Queensland Police Service
QSTARS	Queensland Statewide Tenant Advice and Referral Service
Respondent	Person who has inflicted DFV. In the DFVP Act, the respondent is a person against whom a domestic violence order or police protection notice is in force.
RTA	Residential Tenancies Authority
RTRA Act	<i>Residential Tenancies and Rooming Accommodation Act 2008</i>
Tenant	The person who is given the right to occupy a residential premises under a residential tenancy agreement
Tribunal	Queensland Civil and Administrative Tribunal, also known as QCAT





SOCIAL HOUSING IN QUEENSLAND





Social housing is intended to provide housing stability and security to vulnerable people who are least able to access and sustain housing through other options. Social housing generally provides better security of tenure and more affordable rent than the private rental market.

The different models of social housing in Queensland include:

1. public housing, provided by the Department of Communities, Housing and Digital Economy (DCHDE); this includes state-owned and managed Aboriginal and Torres Strait Islander housing
2. community housing, which is provided by various community organisations, local councils and co-operatives, mostly with funding provided by DCHDE
3. Aboriginal and Torres Strait Islander housing located in remote and discrete communities and managed in partnership with the trustees of the communities.

Housing and Homelessness Services (HHS)

HHS is part of the Queensland Government, and sits within DCHDE. Some of the main HHS services include social housing and programs to assist people with private rental.

Social housing includes:

- public housing
- housing in Aboriginal and Torres Strait Islander local government areas (linked to an [Aboriginal and Torres Strait Islander Housing Action Plan](#))
- funding for community housing organisations.

For up-to-date information about public housing, go to the [Homes and housing](#) section of the HHS website.

Programs to assist people experiencing DFV with private rental include:

- [Rent Connect](#) services, which are based at Housing Service Centres (HSCs), assist people to apply for accommodation in the private rental market
- financial assistance to get started in private rental, through [Bond Loans and Rental Grants](#)
- [Helping Hand Headlease](#) – designed for people who have barriers accessing the private rental market but who can afford and sustain a private rental. HHS arranges rental accommodation through private rental or through a community housing organisation and subleases to the tenants; at the end of the lease, it may be possible to transfer the lease directly to a tenancy agreement between the lessor and the tenants. Helping Hand Headleases help women and children who are displaced from their homes due to DFV.
- Affordable Housing for Women Experiencing DFV Initiative helps headlease properties for women who have no exit pathway from shelters, often through community housing providers; the client continues to receive support from DFV services.
- [Flexible Assistance Packages](#) of up to \$5,000 per household, for goods and services to maintain or access safe housing (such as removalists, white goods, transport or to improve security)
- Other forms of assistance – see the [Housing Services Finder](#) on the Queensland Government website.

[Applying for public housing](#) ↓

HHS has policies and procedures that guide their decision making. Day-to-day operations – such as allocations, offers of housing, rents and tenancy management – are handled by local [Housing Service Centres](#) (HSCs), which are located in regional centres across Queensland.



HSC managers have some discretion to make decisions within HHS's policies and procedures. This means that responses may differ between HSCs, as housing is not a one-size fits all approach. Different cities, towns and regions have different needs and different service systems, so responses will reflect local conditions and opportunities. HHS is committed to collaborating with agencies to provide responses that are tailored to the needs of people who have experienced DFV.

Throughout this resource, we include references to legislation and HHS policies and procedures. We also provide links to the HHS website for additional information.

Legislation that applies to social housing

Several pieces of legislation apply to social housing:

- The *Residential Tenancies and Rooming Accommodation Act 2008* (RTRA Act) is the main legislation applying to all housing providers. More detail is provided in the next section.
- The *Housing Act 2003* is designed to improve Queenslanders' access to safe, secure, appropriate and affordable housing and help build sustainable communities. More detail is provided below.
- The *Queensland Civil and Administrative Tribunal Act 2009* is about the operation the Queensland Civil and Administrative Tribunal (QCAT or the Tribunal). The Tribunal resolves tenancy disputes and hears applications to terminate tenancies.
- The *Human Rights Act 2019* applies to government and government-funded entities. The Human Rights Act commenced on 1 January 2020 and protects 23 human rights for everyone in Queensland.
- The *Anti-Discrimination Act 1991* addresses different forms of discrimination. One of its purposes is to promote equality of opportunity for everyone by protecting them from unfair discrimination in things like work, education and accommodation.
- The *Acts Interpretation Act 1954* is relevant for time frames for giving notices and other general points.
- The *Aboriginal Land Act 1991* and *Torres Strait Islander Land Act 1991* are relevant for the ownership and use of housing on land set aside for the benefit of Aboriginal or Torres Strait Islander peoples.

All Queensland Government legislation can be accessed on the government [website](#).

The *Residential Tenancies and Rooming Accommodation Act 2008* (RTRA Act)

The [RTRA Act](#) applies to all forms of tenancy, including private rental and social housing. Under the RTRA Act, a residential tenancy agreement gives a person the right to occupy a residential premises.

The RTRA Act covers laws about tenancy agreements, rights and responsibilities, rent records, entry, ending tenancies and dispute resolution. Tenants Queensland's [DFV Tenancy Toolkit](#) includes information about how the RTRA Act applies to DFV situations in general tenancies.

The RTRA Act states that the Act applies to all persons, including the state ([Section 3](#)). This means that the RTRA Act covers social housing.

There are a few exemptions in the RTRA Act for social housing, mainly around rent increases and tenants' ability to transfer or sublet. There are also some extra provisions around ending tenancies in social housing, including:



- when eligibility for housing assistance ceases
- notices to leave for serious breaches
- applying to the Tribunal to terminate the tenancy for damage or injury or due to a tenant's objectionable behaviour (social housing lessors may ask a tenant to sign an acceptable behaviour agreement if they believe the person has engaged or is likely to engage in objectionable behaviour based on history or current tenancy or previous tenancy; social housing lessors can apply to the Tribunal to terminate the tenancy if a tenant breaches this agreement).

For more information about relevant sections of the RTRA Act, see the [Appendix 1 Residential Tenancies and Rooming Accommodation Act](#) 2008 and social housing at the end of this resource.

In October 2021, the Queensland Government passed amendments to the RTRA Act relating to DFV.

Residential Tenancies Authority (RTA)

The [Residential Tenancies Authority \(RTA\)](#) is the Queensland Government statutory authority responsible for providing a range of residential tenancy services in Queensland. The RTA administers the RTRA Act and provides a wide range of tenancy services for all parties to a tenancy agreement, including tenants, residents, lessors, agents and rooming providers.

RTA services include:

- a phone-based tenancy information service
- print and online tenancy information
- approved tenancy forms for general tenancies, rooming accommodation tenancies and moveable dwelling tenancies in caravan parks
- bond management – the RTA holds and manages tenant bond money during the tenancy and administers the refund of rental bonds, assisted refunds team manages bond refunds for people experiencing DFV
- a free tenancy dispute resolution service for disputes covered by the RTRA Act
- policy and education services, including prosecuting offences under the RTRA Act.

The Housing Act 2003

When the [Housing Act](#) was introduced in 2003, it repealed the State Housing Act 1945 and dissolved the Queensland Housing Commission, which provided public housing to a wide range of people.

The Housing Act aims to improve the access to Queenslanders to safe, secure, appropriate, affordable housing and to help build sustainable communities. It does this by:

- providing housing and other housing services
- developing, undertaking and supporting housing programs and initiatives
- supporting and regulating housing entities and services i.e. community housing providers
- registering housing entities i.e. community housing providers
- providing financial assistance, land and other assistance.

There are a number of [guiding principles](#) and it's worth reading Section 6 of the Housing Act.

For information about sections of the Housing Act that are relevant for tenants, see [Appendix 2 Housing Act sections relevant for tenants](#) at the end of this resource.





Applying for social housing

Social housing is a term used to describe all forms of housing funded through the Queensland Government's Department of Communities Housing and Digital Economy. There's a [single application form](#) for anyone applying for:

- public housing
- community housing
- housing in Aboriginal and Torres Strait Islander local government areas.

Social housing is designed to provide stable housing for vulnerable people who can't access and sustain housing through private rental. Social housing has eligibility criteria, and HSCs can provide advice about what documents are needed to demonstrate eligibility. Applicants may need to show:

1. Australian citizenship and residency status
2. Queensland residency
3. property ownership (exceptions apply in DFV situations)
4. liquid assets limit
5. independent income
6. household income
7. wellbeing
8. community connection (Aboriginal and Torres Strait Islander housing only).

Applicants will be listed for both public and community housing when they apply for housing assistance.

Social housing applicants need to demonstrate that they need housing because their current housing does not meet their needs and because they experience multiple and complex factors which mean they are unable to access and sustain stable housing.

Reasons for needing to move include:

- being homeless or at risk of homelessness
- unsuitable location of current housing
- physical amenity of current housing does not meet household needs
- unaffordable rent in current housing.

Complex wellbeing factors that make it difficult for people to access stable housing include:

- employment or income issues – such as long-term unemployment, being unable to work but having high living expenses, or being employed but within the relevant income eligibility limits
- a long-term, serious medical issue or disability
- current homelessness, risk of homelessness or a history of being homeless within the last three years
- being evicted from a tenancy two or more times in the last three years
- multiple unsuccessful private rental applications
- no appropriate housing in the private rental market.

More information about [eligibility requirements](#) is available at the HHS website.



If the applicant is eligible for social housing, their names will be placed on the housing register. The HSC adds people to the housing register based on:

- date the application is approved
- preferred locations
- type of housing (e.g. apartment, house) and number of bedrooms the person is eligible for.

Supporting clients with social housing applications

Support agencies can assist their clients' social housing applications by linking clients with the local HSC, advocating for clients, assisting with documentation to show housing need, writing letters of support and guiding clients through the system. Relevant documentation can help to show the need for housing – such as the tenant being issued with a Notice to Leave and being at risk of homelessness, a DVO that shows the tenant is unsafe in their current property, mental health reports and child protection reports.

You can use HHS's [support statement](#) form to provide information about the client's housing needs.

For information about the [housing register](#), see the HHS website.

If a client has a previous debt with Housing and Homelessness Services

If a client has a debt with HHS from a previous tenancy, they may not be approved for other HHS services – including a bond loan or an application for social housing.

If a client with an outstanding debt applies for social housing, HHS may ask them to agree to repay the debt. HHS may approve the client's social housing application and ask them to sign a deed of repayment when they sign the tenancy agreement.

If the outstanding debt is for a bond loan that involved more than one tenant on the agreement, HHS can apportion the debt and require the client to pay only their part of the bond loan.

It's always worth asking HHS to review an outstanding debt, as it may be possible to have the debt reviewed or cancelled. For more information, see the section on [debt review process](#) in this resource.



Waiting for social housing

Approved social housing applicants are added to the housing register and usually need to wait for housing to become available. HHS can't predict when this will happen.

The waiting list is affected by:

- the number of properties in the area where the applicant wants to live
- the number of properties that become available (due to people moving out)
- the client's circumstances and suitability for any available property
- the number of people with similar housing needs who are already on the housing register
- the number of people on the housing register who have a higher level of need.

While an applicant is [waiting for housing](#), they should keep in touch with HHS and keep their contact details up to date.

While an applicant is waiting for social housing, their local HSC will work to identify other housing options, such as accessing private rental through Rent Connect. Most HSCs offer Rent Connect when they complete housing assistance assessments or interviews.

Decisions about social housing

HHS will decide whether the applicant is eligible for social housing, the suitable housing type, and the location. If the applicant is not satisfied with any of these decisions, they can ask for a [review](#) of the decision.

Being offered social housing

When suitable housing becomes available, the HSC will contact the applicant with an offer to inspect the premises and accept the [offer of housing](#). The applicant may be offered a place in public housing, community housing or, where appropriate, for Aboriginal and Torres Strait Islander housing.





PUBLIC HOUSING





Public housing is a type of social housing that is owned and managed by the Department of Communities, Housing and Digital Economy (DCHDE) and administered through Housing and Homelessness Services (HHS). Public housing is managed through local Housing Service Centres (HSCs).

One of the main features of public housing is that the rent is based on 25% of the total assessable income of the household. More information about [rent calculations](#) is included on HHS's website.

Public housing and domestic and family violence

The [Queensland Housing and Homelessness Action Plan](#) 2021–2025 commits to assisting women experiencing domestic and family violence and their children with immediate access to safe and secure housing with appropriate supports in place.

Housing and Homelessness Services will:

- consider the safety, protection and confidentiality of women and children
- support referrals to relevant services
- facilitate access to support services
- assess each situation individually and recognise that each person's experience of DFV is unique.

Some people are particularly vulnerable, and may require specific responses from HHS, including:

- people who identify as LGBTIQ+
- Aboriginal and Torres Strait Islander women
- culturally and linguistically diverse women, including migrant and refugee communities
- women with a disability
- women experiencing mental illness
- older women
- women who are pregnant or have young children
- women in rural, remote and regional communities
- young women.

HHS states that they will work closely with tenants and support services to try and resolve any issues that emerge during a social housing tenancy and will work to sustain the person's tenancy. They offer [help for public housing tenants experiencing DFV](#) in line with the amendments to the Residential Tenancies and Rooming Accommodation Act 2008 in October 2021.

Queensland Government Domestic and Family Violence Prevention Strategy

The Queensland Government's [Domestic and Family Violence Prevention Strategy 2016-2026](#) and Action Plans includes HHS in strategies for integrated services and responses based on the [Not Now, Not Ever: Putting an end to domestic and family violence report](#).

A core component of the government's response to DFV includes high-risk teams, with officers from multiple agencies taking a role in keeping victims safe and holding perpetrators to account. The teams include officers from police, health, corrections, housing and domestic violence services,



who collaborate to provide integrated, culturally appropriate safety responses for victims and their children who are at high risk of serious harm or even death.

High-risk teams use a common risk assessment and safety management framework. They currently operate in:

- Logan/Beenleigh
- Mount Isa/Gulf
- Cherbourg
- Moreton Bay (Brisbane)
- Ipswich
- Cairns
- Mackay
- Moreton Bay (Caboolture).

For more information about [Service Integration and High Risk Teams](#) see the Department of Justice and Attorney-General's website.



Applying for public housing

Details about how to apply for public housing in Queensland are covered in [Applying for social housing](#). There's a single application form used to apply for public housing, community housing, and housing in Aboriginal and Torres Strait Islander local government areas. The application process is handled by the local HSC.



Starting a tenancy in public housing

When a suitable property becomes available, the applicant will be invited to inspect the property and accept the [offer of housing](#).

Once the applicant accepts the offer of housing, they will attend a meeting at the HSC to sign the state tenancy agreement. The tenancy agreement is a legal contract between HHS and the tenant/s. It includes details such as the address of the premises, the amount of rent, and how and when the rent is to be paid.

The tenant can organise [how to pay rent](#). Rent can be deducted from Centrelink payments or tenants can pay it themselves via direct debit from a bank account, BPay or payment at the local Post Office.

The tenant will need to complete an [Entry Condition Report](#) and return it to the HSC (who represent the lessor) within 3 business days after moving in. It's important that tenants carefully check the condition of the premises and mark any issues with the premises on this report.

For more information, see [Starting Your Tenancy](#) on the HHS website.





Staying in public housing

Tenants living in public housing have rights and responsibilities under the RTRA Act, see [Appendix 3](#) for sections of the RTRA Act that relate to DFV. As the lessor, HHS also has rights and responsibilities under the Act.

In addition to these rights and responsibilities, HHS has its own policies, procedures, forms and paperwork to deal with any issues that arise [during a tenancy](#) including maintenance and security.

Any [tenancy disputes](#) can be dealt with under the RTRA Act.

If a tenant feels HHS has not treated them fairly about any issue with their tenancy, they can use HHS's [complaints process](#).

Maintenance and repairs

Under the RTRA Act ([s185](#)), HHS is responsible for maintaining properties. HHS has the same responsibilities as any other lessor. The property must:

- be fit to live in
- be in good repair
- comply with health and safety laws.

HHS will arrange any maintenance that's needed because of fair wear and tear and emergency maintenance where the fault or damage is a risk to people's safety or a risk of property damage.

The tenant is obliged (under the RTRA Act [s188](#)) to:

- keep the premises and inclusions clean
- not maliciously damage the premises or inclusions or allow someone else to maliciously damage them
- leave the premises and inclusions (when they move out) in the same condition as when they moved in, fair wear and tear excepted.
- a tenant who has experienced DFV is not responsible for damage caused by DFV

The tenant must notify HHS about any damage or routine repairs as soon as practicable (this is described in [s217](#) of the RTRA Act) however they are not obliged to inform the lessor about damage caused by DFV. HHS has its own [maintenance request procedure](#), but the tenant can also use the RTA Form 11 Notice to Remedy Breach.

NOTE about Helping Hand Headleases: From the tenant's perspective, their lessor HHS. However, for headleased properties, the owner of the property remains responsible for maintenance and repairs. The tenant should notify HHS about any issues with maintenance, repairs, security, locks and keys, installing security and damage. It's a good idea to use the RTA Form 11 Notice to Remedy Breach. HHS will contact the agent or owner about this issue. This can take more time.



Locks and keys

[Return to Staying in Aboriginal and Torres Strait Islander Housing](#) ↓

At the start of the tenancy, HHS will provide the tenant with a [set of keys](#) for the property.

HHS does not provide multiple sets of keys and doesn't keep keys themselves. They recommend that tenants get their own spare keys cut.

At the end of the tenancy, the tenant needs to return all their keys for the property. HHS may charge the tenant for changing the locks if the tenant does not return the keys.

For a tenant experiencing DFV there are a couple of options if the tenant wants to change the locks.

1. Ask the local HSC. Each HSC has some discretion and, where the issue involves DFV and the safety and protection of women and children is compromised, it is worth asking HHS change the locks and not charge the tenant for the cost.
2. The tenant can change the locks without getting permission. [The RTRA Act s211\(2\)](#) states that:

the tenant may also change a lock at the premises if the tenant—

believes the change is necessary to protect the tenant or another occupant of the premises from domestic violence; and

- c. engages a locksmith or other qualified tradesperson to change the lock

For public housing tenants, this would mean giving HHS the new keys at the end of the tenancy, not when the locks are changed. However, the tenant can inform HHS that about changing the locks.

Security

[Return to Staying in Aboriginal and Torres Strait Islander Housing](#) ↓

All lessors, including HHS, must supply and maintain the locks necessary to ensure the premises are reasonably secure (this is described in s210 of the RTRA Act). In public housing properties, external doors and windows will have locks and security screens (except when there are fire-rated doors).

Security concerns

If the tenant is worried about security, they may want to install security devices such as cameras, sensor lights, alarms or other security features to ensure their safety. To do this, the tenant will need to get the written agreement from HHS (this is described in [s207–s209](#) of the RTRA Act).

To get permission for extra security, the tenant can:

- write to HHS requesting the installation of extra security
- outline the reason for needing security and provide some evidence (such as a DVO or letter of support from a support service)
- detail the security they want to install
- provide a plan for removing the equipment when they move out or seek agreement from HHS to leave the security as a fixture (this will be considered a non-standard item under [s185 subsection 4 of the RTRA Act](#)).



Tenants may be able to get some financial assistance for additional security from DFV services or recover costs of changing locks and security through Victims of Crime applications.

If HHS unreasonably refuses a request to add security features, the tenant can use the [RTRA tenancy dispute](#) process and seek an agreement about the installing security.

Temporary absence

A tenant may want to leave their home for a period of time – for a variety of reasons, including holidays. In DFV situations, a tenant may need to leave their home for safety reasons.

HHS policies state that public housing tenants can be absent from the property for up to 8 weeks at a time within a 12 month period without informing HHS.

However, while absent, the tenant needs to:

- continue paying rent
- keep the electricity connected
- arrange for someone to check on the property.

If a tenant is absent from their home due to DFV, it's a good idea to contact HHS and inform them about it, even if the tenant expects to be absent for less than 8 weeks. HHS may confirm that the tenant is staying in a DFV shelter or some other safe place. The tenant can seek a rent review and get an agreement to pay a reduced or minimum rent while they are staying in the safe place.

If a tenant needs to be away for more than 8 weeks, they need to seek approval from HHS and show they have a good reason. They also need to inform HHS about who is looking after the property and whether someone else is living there. The tenant is responsible for the behaviour of anyone who lives in the property, and that person's income will need to be assessed for the rent.

Reasons why the tenant may need to be absent include:

- experiencing DFV or child safety issues
- family, kinship or cultural responsibilities
- health and wellbeing (such as medical treatment)
- work, study and training
- travel for significant life events.

To apply for temporary absence, the tenant should complete HHS's online form. For information about temporary absence see the HHS website.




When the violent person leaves and the person experiencing violence wants to stay

Sometimes a tenant may feel safe to stay in the premises if they're confident they won't experience further violence. This option may be suitable in situations where there is a DVO with an Ouster Order. The tenant may feel more confident to stay if they have support from a DFV support service and a safety plan in place. For more information, contact [DVConnect](#) or a [local DFV Service](#).

There are options available when tenants who have experienced violence want to stay in their public housing home. It may be possible to have the tenancy agreement changed into their name. It's worth discussing the situation with the local HSC.

Change of tenancy

[Return to Staying in Aboriginal and Torres Strait Islander Housing](#) 

If a tenant who has experienced DFV wants to stay in public housing, they can change the tenants listed on the agreement.

If there is DFV and one co-tenant leaves the home, or if the Court issues an Ouster Order and the person using violence is restricted from going to the premises, the remaining tenant can request a change of tenancy. Co-tenants are all listed on the tenancy agreement.

If there is DFV and the person who remains in the home is not listed on the tenancy agreement but is an approved occupant, they can request a change of tenancy. Approved occupants are approved to live in the public housing home but are not listed on the tenancy agreement. If the person using violence is listed as the sole tenant, but has left the property or there is an Ouster Order restricting them from going to the premises, the person remaining in the home can request a change of tenancy.


HHS needs to be notified of the change within 28 days. HHS has a process for notifying all tenants about changes to the tenancy. If HHS approves the change of tenancy, the tenant will need to sign a new tenancy agreement. For more information, see [Changes to your household](#) on HHS's website.

To apply for a change of tenancy, the applicant will need to:

- complete the [Change of Tenancy Request Form](#)
- attach evidence to support the request (such as a DVO, letters of support from services, police report numbers and any other relevant information)
- attach evidence of all household income and assets
- send the application and supporting documentation to the HSC.

It's most likely that HHS will approve the change of tenancy. If there are any problems with the change, the tenant can use HHS's complaints process or apply to the Tribunal to be recognised as a tenant.



[Return to Staying in Aboriginal and Torres Strait Islander Housing](#) 

Applying to the Tribunal to be recognised as a tenant

A domestic associate who is a co-tenant can apply to the Tribunal under [s245](#) (Injury to a Domestic Associate) of the RTRA Act, for an order recognising them as a tenant because another tenant committed DFV against them.

If they apply to the Magistrates Court for a Domestic Violence Order, they can also apply under the [RTRA Act \(s245\)](#) to be recognised as a tenant. The Magistrate may decide to hear both matters together.

To apply for an order [under s245](#), the applicant will need to provide evidence of being a domestic associate. The definition of a domestic associate in the RTRA Act comes from the DVF Protection Act 2012, and applies to:

- an intimate personal relationship
- a family relationship
- an informal care relationship.

When deciding the application, the Tribunal must take into account whether:

- a protection order has been applied for
- a protection order was made or is still in force
- any condition in a protection order prohibits the tenant from entering or remaining on the premises.

If an applicant does not have a protection order, they may be able to provide the Tribunal with other relevant evidence of DFV (such as a letter or affidavit from a support worker, solicitor or health practitioner).

For an application under this section, the Tribunal must allow the lessor (HHS) an opportunity to be heard. The domestic associate must name the lessor (local HHS office) as a respondent on their application, along with any other tenants or co-tenants, including the person using violence.

Occupant can apply to the tribunal to be recognised as a tenant

If an occupant experiencing DFV wants to stay in the premises, they can apply to the Tribunal to be recognised as a tenant. This is described in [s246](#) of the RTRA Act, which applies in public housing, other social housing and private rental.

To apply to the tribunal, the occupant will need to provide evidence of being a domestic associate as described in the DFV Protection Act 2012 and evidence of the domestic violence such as a protection order or other relevant evidence.

The application must include the lessor (HHS) and the tenant or co-tenants.



Transferring to a new property

[Return to Staying in Aboriginal and Torres Strait Islander Housing](#) ↓

Sometimes a tenant who is experiencing or has experienced DFV will want to remain in social housing, but will need to move to a different location unknown to the person using violence. In this situation, they can apply to HHS for a [transfer](#).

HHS has a [Transfer Application Form](#) where the tenant can outline the reason for their transfer request and why the location is unsuitable. The transfer form is similar to the original application form.

The tenant will need to show they still meet eligibility criteria for social housing. It's helpful to provide extra evidence to support the reasons for the transfer, such as:

- copies of a DVO and Ouster Orders
- medical or psychologist reports
- police reports and records of call outs
- support letters from DFV services.
- [Support Statement](#) from health professional or support worker

Evidence about the risk facing the applicant and any children will assist with the transfer application. It's also important to let HHS know about any child safety concerns.

The local HSC has discretion in dealing with these cases and should be sensitive to the tenant's needs. They can consider a request for transfer in situations where a tenant has not reported DFV to police, but they will require some evidence. They may want evidence from support services.

In transfer situations, it may take some time for HHS to locate a suitable property. In DFV situations, the tenant may be prioritised on the housing register.

If the HHS does not accept the transfer application, the tenant can follow up with HHS's complaints process.

Damage and debts

[Return to Staying in Aboriginal and Torres Strait Islander Housing](#) ↓

The RTRA Act states the rights and responsibilities of tenants in relation to damage:

- the tenant must not use the premises for an illegal purpose, cause a nuisance by the use of the premises, or interfere with the peace, comfort or privacy of a neighbour ([s184](#))
- the tenant must not maliciously damage or **allow** someone else to maliciously damage the premises ([s188](#))
- however the tenant is not responsible for compensating the lessor for damage to the premises or inclusions as a result of DFV experienced by the tenant ([s188\(5\)](#))

In situations where there is damage to the premises or inclusions, it is really important to get evidence that the damage was caused by DFV. If possible, this should include police reports, statements and photographs.



The RTRA Act also states

- if premises are damaged and need repair, the tenant should notify the lessor/agent as soon as practicable ([s217](#))
- however this does not apply to a tenant for damage caused by an act of domestic violence experienced by the tenant ([217\(5\)](#))

If there is damage to the premises or inclusions caused by DFV and it is safe to do so, the tenant can inform HHS about it.

It is helpful to provide evidence that the damage was caused by DFV (such as a police report number or a letter of support from a DFV service). This evidence can prevent a debt for maintenance.

If a public housing tenant has been referred to a high-risk team, the police are likely to inform HHS about the situation and HHS will arrange repairs.

If HHS raises a debt in the tenant's name and the tenant has experienced DFV and doesn't agree they are responsible for paying the debt, the tenant can use HHS's [debt review process](#).

If HHS seeks to terminate the tenancy

In some situations, HHS may seek to terminate a tenancy – for example, if neighbours have been disturbed or the tenant has rent arrears. HHS will follow the procedures described in the RTRA Act to end the tenancy.

In this situation, the tenant has a right to dispute the HHS's termination of the tenancy and can apply to the Tribunal for the tenancy to continue. QSTARS can provide support in preparing for Tribunal hearings. Tenants can contact QSTARS for advice on 1300 744 263.

Rent arrears

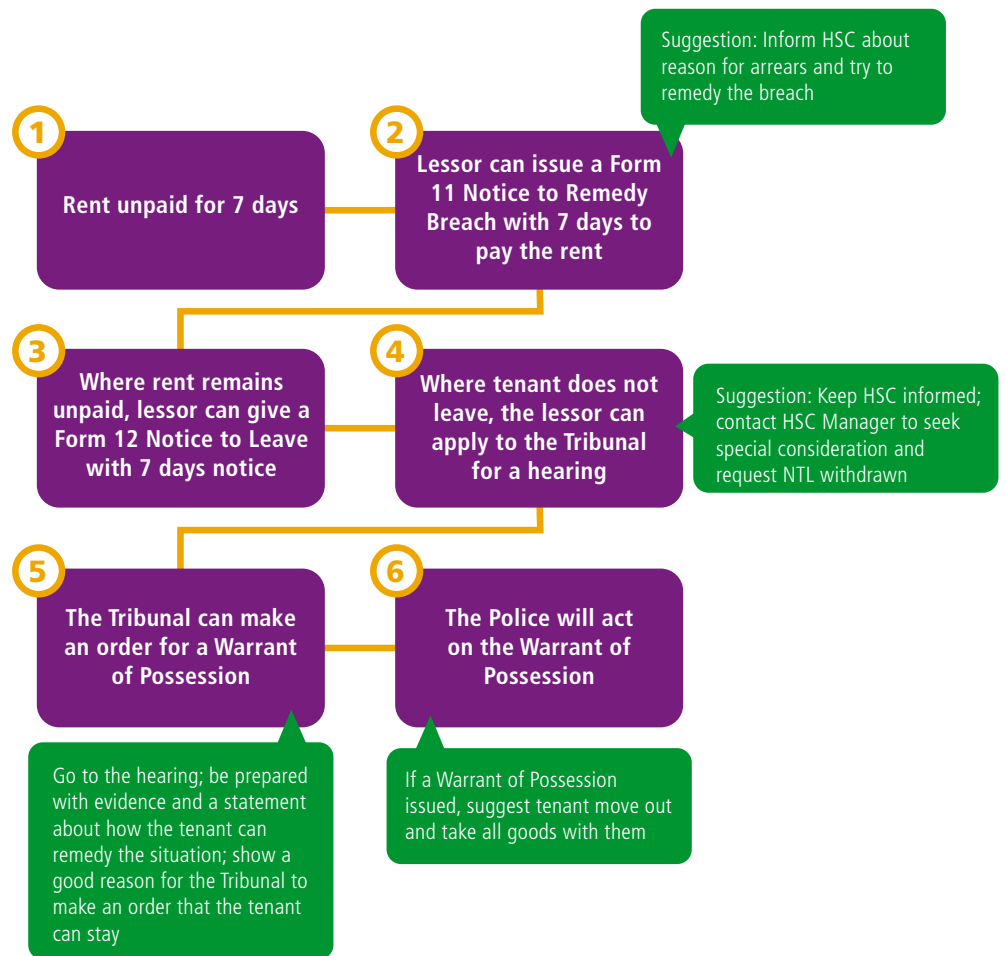
Rent arrears can arise due to DFV and it's useful to understand the process and how to prevent eviction. This diagram provides details of the worst case scenario for a tenant and gives suggestions for actions a public housing tenant can take.

If the tenant wants to remain in the premises, it's a good idea for them to inform HHS about the situation that has led to the rent arrears. They can seek special consideration from HHS about the rent arrears and make a rent repayment plan.

If HHS proceeds with the Tribunal hearing, the tenant will need to attend the hearing, bring evidence and be prepared to negotiate a rent repayment plan. The Tribunal Member can adjourn the hearing so the tenant and HHS can enter into a repayment agreement. [QSTARS](#) can provide support with preparing for Tribunal hearings. Tenants can contact QSTARS for advice on 1300 744 263.

Please see the flow chat on the next page for more information.





Serious breach of the agreement

[Return to Staying in Aboriginal and Torres Strait Islander Housing](#) ↓

If HHS believes the public housing tenant, an occupant or a guest of the tenant has breached the agreement in a serious way, they can issue a Notice to Leave giving 7 days for the tenant to move out (this is described in s290A of the RTRA Act).

A serious breach is defined as a situation where the HHS believes a tenant, occupant or guest has used the premises or somewhere nearby for an illegal purpose, has intentionally or recklessly destroyed or seriously damaged the premises, has endangered a person, or has interfered with the peace, comfort or privacy of another person.

For a serious breach, HHS does not need to issue a Notice to Remedy Breach. They can simply issue a Notice to Leave for a serious breach of the agreement.


If a tenant receives a Notice to Leave and does not leave by the end of the 7 day notice period, HHS can apply to the Tribunal for a Warrant of Possession. If this happens, the tenant will receive a notice of hearing from the Tribunal. If they want to stay in the property, they should attend the hearing and provide good evidence about the situation. While each situation will be different, the tenant would be advised to contact [QSTARS](#) for advice on 1300 744 263.



Useful evidence could include:

- a DVO
- police reports
- proof of the whereabouts of the person who caused damage, endangered people or used the premises for an illegal purpose
- the tenant's positive rental history
- statements/affidavits about incidents of serious breach
- letters of support from neighbours
- letters of support from support services who will continue to work with the tenant to prevent any further serious breaches.

Objectionable behaviour

[Return to Staying in Aboriginal and Torres Strait Islander Housing](#) 

If HHS believes there has been objectionable behaviour at the property, they make an urgent application to the Tribunal to terminate the tenancy (this is described in [s297A](#) of the RTRA Act).

For a objectionable behaviour, HHS does not need to issue a Notice to Remedy Breach or a Notice to Leave. They can apply directly to the tribunal to terminate the tenancy.

Objectional behaviour means that the tenant, an occupant, a guest of the tenant or a person the tenant has allowed on the premises has:

- harassed, intimidated or verbally abused someone (such as a HHS representative or a person living nearby)
- caused serious nuisance to someone living nearby
- endangered a person at the premises
- interfered with the peace, comfort or privacy of a person nearby.

The Tribunal may issue a termination order (under [s345A](#) of the RTRA Act) if:

- HHS has evidence to prove the case
- the behaviour justifies terminating the agreement.

The Tribunal may consider:

- frequent recurrences
- seriousness of harassment, intimidation or verbal abuse
- seriousness of intentional or reckless endangerment
- seriousness of interference with a person's reasonable peace, comfort or privacy
- serious adverse effects on neighbours
- evidence regarding the tenancy history
- HHS's responsibility to other tenants
- the needs of people waiting for housing assistance.

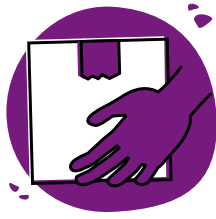
If HHS seeks to terminate the tenancy for objectionable behaviour, the tenant will receive a notice of hearing from the Tribunal. If the tenant wants to stay in the property, it's best if they attend the hearing and provide good evidence about the situation. While each situation will be different, the tenant would be advised to contact QSTARS for advice on 1300 744 263.



In this situation, useful evidence could include:

- a DVO
- police reports
- proof of the whereabouts of person causing the objectionable behaviour
- the tenant's positive rental history
- statements/affidavits about incidents of objectionable behaviour
- letters of support from neighbours
- letters of support from support services who will continue to work with the tenant to prevent any incidents.






Leaving public housing

Leaving a public housing tenancy in due to DFV



There are several options for tenants who want to leave due to DFV

[Return to Staying in Aboriginal and Torres Strait Islander Housing](#) 

1. Public housing tenants are generally on periodic (month-to-month) agreements according to RTRA Act and can give 2 weeks' notice using a [Notice of Intention to Leave Form 13](#) without grounds. The tenant is required to pay rent up to the end of the notice period and hand over vacant possession of the property. This means they need to return the keys and remove all their personal things. They are required to leave the premises in the same condition as when they moved in, fair wear and tear excepted.
2. In situations involving DFV, HHS will accept a Notice of Intention to Leave with less than 2 weeks' notice so the tenant does not face any additional financial burden. A tenant needs to negotiate this with HHS.
3. The RTRA Act ([s308A](#)) states that tenants the right to leave if they no longer feel safe to occupy the premises because of DFV. They can give 7 days' notice using the Notice ending tenancy interest (domestic and family violence) Form 20 (NET) and provide supporting evidence of DFV.

Abandoning the premises

If a tenant flees, stops paying rent, does not return the keys, leaves personal goods at the premises or does not clean, HHS may decide the tenant has abandoned the premises. If this happens, HHS will terminate the tenancy following the process outlined in RTRA Act ([s355 - s357](#)). This includes issuing an [Abandonment termination notice Form 15](#) with 7 days' notice, then reclaiming possession of the premises.

[Return to Applying for social housing](#) 
[Return to Damage in public housing](#) 

HHS is aware that women experiencing DFV often need to flee. Sometimes women may leave damage, unpaid rent and personal goods. The RTRA Act [s308G](#) states that where a tenant ends the tenancy by giving a NET, they are not responsible for costs for relating to goods left on the premises.

A tenant may not have an opportunity to clean and complete an exit condition report and may end up with a debt with HHS for rent arrears and or maintenance charges. In these circumstances, it's important to speak with the local HCS and seek a debt review.

Debt review

If a tenant has an outstanding debt with HHS, this may prevent them from getting other housing services (such as a bond loan or a new application for social housing).

HHS has discretion about applying debts to the tenant and will assess each case individually. HHS will consider waiving the debt if a tenant is escaping from or experiencing DFV. HHS will also consider the impact of the debt on the family who has experienced DFV.

It's important to inform HHS about DFV, particularly if there is a risk the tenant could have a debt.

All co-tenants on a tenancy agreement have joint and several liability. This means if there is a debt to HHS from a previous tenancy, all tenants listed on the agreement are responsible for the debt. Each individual could be held liable for the whole debt.



If a tenant wants to ask HHS to waive the debt due to DFV or if they believe the debt is incorrect, they can request a review of the debt and show supporting evidence. It's always worth seeking a review of the debt.

As part of a debt review, the tenant should:

- contact the local HSC to get details of the debt
- write to HHS requesting a review of the debt (or alternatively speak to HHS and verbally request a debt review); HHS has a [Debt Review Request Form](#) that the tenant can use
- explain the family circumstances at the time of the debt
- explain any relevant circumstances, such as DFV, and provide evidence to back this up – such as a DVO, police report number, statement from the person who experienced violence about why they are not responsible and letters of support from relevant services
- note ongoing financial hardship that will affect the tenant's ability to repay the debt (including their ability to support their family)
- provide a summary of income and expenses, with evidence to support this – such as income statements, budget, extra expenses the tenant is responsible for and evidence of financial hardship (including the effect on children)
- discuss any other special circumstances.

HHS should review the debt within 28 days. After the review, HHS will inform the tenant whether:

- the debt has been waived due to the DFV
- HHS has apportioned debt between co-tenants – which means the debt for this person is reduced
- the debt was incorrect
- the debt remains.

If the tenant does have a debt, they can make a repayment plan. It's best to work out a plan the tenant is likely to keep, which still allows the tenant to afford essentials.

If the tenant is not satisfied with the outcome of the debt review process, they can complain to the Queensland Ombudsman, see [page 43](#).





ABORIGINAL AND TORRES STRAIT ISLANDER HOUSING





Background

Impacts of Past Government

The social and economic impact of invasion and control of Aboriginal and Torres Strait Islander peoples has accumulated across generations. It is important to understand the control of past Government policies and how this has impacted on Aboriginal and Torres Strait Islander people today.

Lived History

Many Aboriginal and Torres Strait Islander people are alive today who lived through this tragic history.

Aboriginal and Torres Strait Islander people were only granted full rights to vote in 1962 for Federal elections and in 1965 for Queensland State elections. Aboriginal and Torres Strait Islander people were not counted in the Australian census until 1967.

Inter-generational Trauma

Inter-generational Trauma is when our shared past continues to impact on Aboriginal and Torres Strait Islander people today. The impacts of the trauma transfers from the generation of survivors to the further generations. Many generations of Aboriginal and Torres Strait Islander people remain affected by traumatic events and impacted by the legacy of past policy.

When someone is traumatised by a difficult event, their life can be turned upside down by emotional 'wounds'. If they are unable to heal this can affect their children and grandchildren and so on.

Aboriginal and Torres Strait Islander people have strong family memories of government control over people's affairs, including matters of housing. It is therefore very important to respect community decision making and undertake appropriate and meaningful consultation.

Be aware that some of the social issues which remote Aboriginal and Torres Strait Islander communities are dealing with today have come about as a result of the legacy of this past mistreatment.





Current housing framework

Queensland Aboriginal and Torres Strait Islander Housing Action Plan

The Queensland Government developed the [Aboriginal and Torres Strait Islander Housing Action Plan 2019-2023](#) in consultation with Aboriginal and Torres Strait Islander communities, local governments and community housing organisations. The action plan focuses on place-based, person-centred responses and creating a strong and diverse housing sector. The government recognises the importance of community decision making in responding to housing needs.

The action plan is designed to provide support for Aboriginal and Torres Strait Islander people who are:

- at risk of or experiencing homelessness
- residing in social housing and private rental
- seeking home ownership.

The housing plan will deliver improved housing outcomes for people in urban, regional, remote and discrete communities. It promotes home ownership in Aboriginal and Torres Strait Islander communities.

In May 2021, the Queensland Government launched the peak housing body, Aboriginal and Torres Strait Islander Housing Queensland. The peak body began working collaboratively with Indigenous community housing organisations and Aboriginal and Torres Strait Islander local governments across the state, in collaboration with HHS, to strengthen the community housing sector for Aboriginal and Torres Strait Islander people.

Aboriginal and Torres Strait Islander DFV strategy and housing

The Queensland Government DFV Prevention Strategy has a specific framework for DFV and Aboriginal and Torres Strait Islander people. The [Queensland's Framework for Action – Reshaping our approach to Aboriginal and Torres Strait Islander DFV](#) developed through consultations with Aboriginal and Torres Strait Islander people, research and data. HHS recognises Aboriginal and Torres Strait Islander women as a particular group requiring specific responses to DFV.

Housing is a component of reform in the DFV Framework and ties in with the Housing Action Plan: -

Implementing the forthcoming Aboriginal and Torres Strait Islander Housing Action Plan, with a focus on early intervention and housing access including for more vulnerable groups including Aboriginal and Torres Strait Islander Queenslanders facing domestic and family violence issues.¹

Types of social housing for Aboriginal and Torres Strait Islander people

Many Aboriginal and Torres Strait Islander people are home owners or rent in the private rental market. However, there are a number of social housing programs for Aboriginal and Torres Strait Islander people.

1. Housing in remote Aboriginal and Torres Strait Islander communities where tenancies are managed by either HHS or the local council. There are different models in each community. For information, see [Housing in remote Aboriginal and Torres Strait Islander communities](#) on HHS's website. HHS considers culture and kinship when managing tenancies in Aboriginal and Torres Strait Islander communities.

¹This information comes from Queensland's Framework for Action (downloaded 17 May 2021).



2. Aboriginal and Torres Strait Islander Housing Program – housing in regional and metropolitan areas designated for Aboriginal and Torres Strait Islander people and managed as part of public housing. Tenancies are identified as Aboriginal and Torres Strait Islander tenancies on the basis that at least one household member identifies as being of Aboriginal and/or Torres Strait Islander descent. For more information, see the [public housing](#) section of this resource.
3. Community housing managed by Indigenous community housing organisations, including co-operatives who are registered with the National Regulatory System for Community Housing (NRSCH) and transitional housing. For more information, see the [community housing](#) section of this resource. Indigenous community housing organisations and co-operatives may require prospective and current tenants to be members of the organisation.
4. Independent Indigenous community housing organisations which house tenants according to their own criteria, policies and procedures. Tenants need to be members of the housing organisation.

All tenancies are covered by the RTRA Act.

2



Note: Aboriginal hostels are not discussed in this resource. They are set up under Australian Government legislation to provide accommodation for Aboriginal and Torres Strait Islander people who need to be away from home for a range of reasons, mostly for short stays. Aboriginal hostels are not covered by RTRA Act. For information about Aboriginal hostels check [AHL website](#).

Workers often need to use a range of tools to advocate for women experiencing violence with tenancy issues in all of these social housing programs described above, including:-

- the Aboriginal and Torres Strait Islander Housing Action Plan
- Queensland's Framework for Action – Reshaping our approach to Aboriginal and Torres Strait Islander DFV
- HHS policies and procedures or community housing policies and procedures
- the RTRA Act
- the Human Rights Act





Housing in remote Aboriginal and Torres Strait Islander communities

Discrete communities — historical context

Most discrete communities in Queensland are former missions established on land gazetted as reserves for the use of Aboriginal and Torres Strait Islander peoples during the late 1800s. Missions were run under the *Aboriginals Protection and Restriction of the Sale of Opium Act 1897*. This Act allowed for the forced removal of Aboriginal peoples from their lands and gave designated 'Aboriginal Protectors' control over most aspects of daily life. This included the administration of employment, wages and bank accounts.

Most historical accounts of missions suggest they were underfunded and overcrowded. Indigenous cultural activities and languages were actively discouraged, and men, women and children were often housed in separate dormitories. The history and extent to which Indigenous culture and self-determination were impacted appears to have varied considerably from community to community.

In 1966, Aboriginal councils were established by regulation and communities received limited government powers. An Aboriginal Advisory Council and an Island Advisory Council, composed of chairs from the Aboriginal and Island councils, were established by the *Aborigines Act 1971* to advise the responsible Minister on matters relating to Aboriginal and Islander affairs. In 1982, the *Land Act (Aboriginal and Islander Land Grants) Amendment Act 1982* was passed, enabling government to grant land in trust to Aboriginal and Torres Strait Islander peoples. This allowed reserves held by the state to be transferred to Aboriginal and Torres Strait Islander councils under a Deed of Grant in Trust. In 2009, the *Local Government Act 2009* transitioned the Aboriginal and Torres Strait Islander councils into local government authorities.³

HHS working in Aboriginal and Torres Strait Islander communities

Throughout Queensland, there are 16 Aboriginal and Torres Strait Islander local governments who are responsible for 34 remote and discrete communities.

HHS has guidelines for staff working in Aboriginal and Torres Strait Islander communities, including that housing officers should develop an understanding of culture and the importance of empowering communities, and officers should recognise that each community is different. Officers are encouraged to understand the cultural protocols, customs and history of the community they're working in. HHS works with the community council, Elders and other community organisations to build relationships that support a person-centred response to the needs of residents.

³Sources: *Queensland Productivity Commission, 2016; Local Government Act 2009 (QLD)*.





Starting a tenancy in Aboriginal and Torres Strait Islander local government area housing

A person can apply for housing in an Aboriginal and Torres Strait Islander community using HHS's [Housing Assistance Application](#) form.

To be eligible for the housing, people must:

- be of Aboriginal and/or Torres Strait Islander descent or be the carer of Aboriginal and/or Torres Strait Islander children
- have permission to live in the community, with a demonstrated connection with the community and permission from the council
- be an Australian citizen or permanent resident
- be a Queensland resident
- have an independent income.

More information about [eligibility and applying for housing in an Aboriginal and Torres Strait Islander LGA](#) is included on HHS's website.

People who apply for Aboriginal and Torres Strait Islander local government housing will have an interview with HHS or the council housing office to check:

- their eligibility and level of housing need
- the area where they want to live
- how many bedrooms are needed
- any other specific housing needs (such as disability).

Applicants need documentation to show ALL of the above, plus letters of support relating to the tenant's situation will assist in advocating for their housing need.

There is a waiting list for housing. The applicant's level of housing need is generally used to decide who is offered housing first. HHS will talk with the relevant council before making offers of housing.

When a property becomes available, HHS will contact the applicant. It's important that applicants keep HHS updated with any changes to their contact details and any changes to their housing needs. HHS will consider medical, employment, education and cultural reasons if the tenant refuses a particular property.

For more information about [being offered housing](#) in a remote Aboriginal and Torres Strait Islander community, see HHS's website.





Staying in housing in a remote Aboriginal or Torres Strait Islander community

Housing in remote Aboriginal and Torres Strait Islander communities operates under many of the same policies and procedures that apply to public housing. This section provides information about DFV and Aboriginal and Torres Strait Islander tenancies and tenancies in remote Aboriginal and Torres Strait Islander communities and links to public housing section.

Maintenance

The lessor is responsible for ensuring the premises are fit to live in, in good repair and not in breach of health or safety requirements ([described in the RTRA Act s185](#)). Information and contact details for [maintenance for housing in remote Aboriginal and Torres Strait Islander communities](#) are available on HHS's website.

See the public housing section of this resource for information about [locks and keys](#) and [security](#).

Issues with maintenance, locks and keys and security can be dealt with as [general tenancy disputes](#) under RTRA Act or by making a complaint to the local HHS office.

For example, a tenant can request maintenance. A tenant who has experienced violence can change the locks or ask HHS to change the locks and provide new keys.

Rent

Tenants can organise to have their rent deducted from their Centrelink payments through EasyPay. They can also pay their rent via payroll deduction, direct debit from a bank account or EFTPOS. Rent can come under income management through the [Family Responsibilities Commission](#).

Late rent payments follow the same process as for public housing tenants, but HHS provides longer notice periods in Aboriginal and Torres Strait Islander communities. If the rent is unpaid for 14 days, HHS will issue a Notice to Remedy Breach giving 16 days to pay the arrears or make a rent repayment plan.

If the rent remains unpaid when the Notice to Remedy Breach expires, HHS will issue a Notice to Leave with 18 days' notice.

If the tenant remains in the property but does not pay the rent or set up a rent payment plan, HHS can apply to the Tribunal for a termination order and Warrant of Possession. A Warrant of Possession means the police can ensure the tenant is removed from the property.

The Tribunal sits within Magistrates Court. In remote communities, the Tribunal will be part of the Circuit Courts, which may hear matters fortnightly or monthly in some regions.

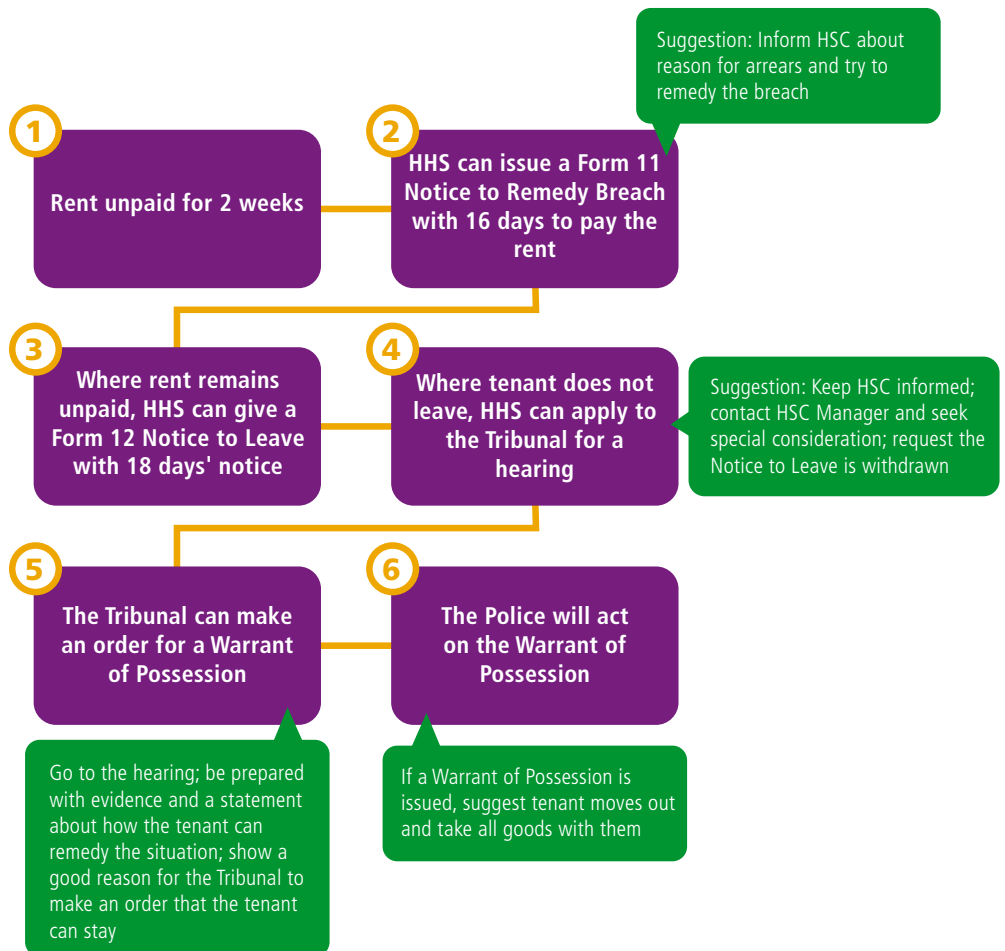
HSC staff will provide support and link tenants with financial support services and engage other culturally appropriate strategies. Tenants can contact [QSTARS](#) for advice



Rent arrears process in remote Aboriginal and Torres Strait Islander Communities

Rent arrears can arise due to DFV and it's useful to understand the process and how to prevent eviction. The diagram below shows the worst case scenario for a tenant and gives suggestions for actions to prevent eviction.

NOTE: These [Rent arrears](#) timeframes are outlined on HHS's website.



If the tenants want to remain in the premises, it's best if they inform HHS about the situation that led to the rent arrears. They can seek special consideration from HHS about the rent arrears and make a rent repayment plan.

In remote Aboriginal and Torres Strait Islander communities, the Tribunal is part of the Magistrates Court Circuit which hears matters fortnightly or monthly in some locations. It may, therefore, take up to 3 months for this process to proceed.

If HHS proceeds with a hearing at the Tribunal, the tenant needs to attend the hearing, bring evidence and be prepared to negotiate a rent repayment plan. The Tribunal Member may adjourn the hearing so the tenant and HHS can enter into a repayment agreement.

Family Responsibilities Commission

[The Family Responsibilities Commission](#) operates in five Aboriginal communities in Cape York – Doomadgee, Aurukun, Coen, Hope Vale and Mossman Gorge. The Family Responsibilities Commission is a statutory body designed to support welfare reform and support community members to restore socially responsible standards of behaviour, local authority and wellbeing. Commissioners are local people who meet with clients, direct them to support services and/or place them on conditional income management orders.

One of the mechanisms used by the Family Responsibilities Commission is income management. The commission is notified about any school absences, child safety notices, court offences and DVOs. In addition, HHS must notify the commission if there is a Notice to Remedy Breach that is not remedied. HHS can attend commission conferences and request information about the outcome of commission conferences in relation to rent arrears. If a tenant is placed on income management orders, the rent and any arrears can be paid directly from Centrelink.

The Department of Social Services describes income management in Cape York and Doomadgee as

Income Management will not reduce the total amount of payments from Centrelink. Income Management will only change the way they receive their payments. The money managed by Centrelink will be used to pay for basic essentials, such as food, clothes, rent, electricity, medicine and basic household goods. The money cannot be spent on alcohol, tobacco, pornography or gambling. Centrelink will talk to customers to work out the things that will be paid for out of their income managed money. People living in these communities can also voluntarily apply to the FRC to have their payments income managed.⁴

Temporary absence

A tenant who experiences DFV and lives in a remote community may want to leave their home for safety reasons and stay with family elsewhere or stay in a women's shelter.

HHS policies state that tenants can be absent for up to 8 weeks without the approval of HHS. However, the tenant needs to continue to pay the rent, arrange for someone to check on the property, keep the electricity connected and inform the tenancy manager. The tenancy manager will need to approve absences of more than 8 weeks.

For information about [going away from your home](#), see HHS's website. Tenants can use the online form [Tell us if you'll be away](#) to inform HHS about their absence.

If a tenant is absent from their home due to DFV, it's a good idea to contact HHS and inform them about it, even if the tenant expects to be absent for less than 8 weeks. It's helpful to inform HHS that the tenant is staying in a DFV shelter or some other safe place and to request a rent review and get an agreement to pay a reduced or minimum rent while they are staying in the safe place.

*For example, a woman moves into a shelter with her children.
She can inform HHS that she is not at the property temporarily and request a rent reduction.*

Change of tenancy

If someone moves out and the people who are living in the property change, the names of tenants on the tenancy agreement can be changed.

⁴ [Income Management for Cape York Welfare Reform and Doomadgee](#) downloaded January 2022



In DFV situations, it sometimes happens that the person who experienced violence wants to stay living at the property while the person using violence moves out.

If the person who stays at the property was a co-tenant or an approved occupant, they can request a change of tenancy. For more information about this, see [Change of tenancy](#) in the public housing section of this resource.

If the person who stays at the property is a domestic associate of the tenant, there is an option to apply to the Tribunal to be recognised as a tenant. For more information, see the section [Recognised as a tenant](#) in the public housing section of this resource. The same policies and procedures apply for Aboriginal and Torres Strait Islander housing.

For example, a couple are both on the lease for the property. Police are called because of DFV, they issue a Police Protection Notice, restricting the person using violence from going near the woman or the property. The police make an application for a domestic violence order and when the matter is heard in the Magistrates Court, it includes an ouster order restricting the person using violence from going near the property. The person experiencing violence can fill in this Change of tenancy form so that they are the only tenant on the lease.

Transfers

If a tenant wants to move, they can apply to transfer to a new property.

For example, a woman moves to a shelter outside to the community. She does not feel safe to return to the community and therefore does not want to keep her name on the lease. However, she does still need social housing. She can apply to transfer to a property in a different location. The shelter worker can assist in getting documents together and a support statement.

For more information, see [Applying for a transfer](#) in the public housing section of this resource. The same policies and procedures apply for Aboriginal and Torres Strait Islander housing.

Damages

The Residential Tenancies and Rooming Accommodation Act 2008 [s188](#) states that the tenant is not responsible for compensating the lessor for damage to the premises or inclusions as a result of DFV experienced by the tenant. It is helpful to provide evidence that the damage was caused by domestic violence. Police report numbers are good evidence; statements from witnesses and photographs can also be used.

For example, a tenant who has experienced violence, can inform the housing manager of damage caused by DFV. They can provide HHS with the police report number or other evidence. The tenant can request that this damage is fixed.

For more information, see [Damages](#) in the public housing section of this resource.



What if HHS seeks to end the tenancy and the tenant wants to stay?

Sometimes HHS will seek to end a tenancy – perhaps because there have been issues that have disturbed the neighbourhood or because the tenant has rent arrears or other [breaches](#). HHS will follow RTRA Act procedures to end a tenancy, and the tenant has a right to dispute and appear in the Tribunal with evidence to support their case. See sections on [Serious breach](#) and [Objectionable behaviour](#) in Public Housing.

For example, a woman's ex-partner came to the property, even though there was an DVO prohibiting him from approaching the tenant. There were times the woman thought it would be less disruptive if she let him stay for a little while and there were times when he caused a lot of noise and threatened neighbours. HHS applied to the tribunal to terminate her tenancy because of Objectionable behaviour. She received a notice of hearing and felt that it was unfair because the last time this happened, she called the police, and he is now charged with breaking the DVO. He has not returned to the property. She can present this evidence at the tribunal hearing and argue that this behaviour is not ongoing.

Employment and Education Housing (EEH)

Aboriginal and Torres Strait Islander tenants from discrete communities may be eligible for housing support to relocate to regional centres for employment, education or training. When people are enrolled in education, training or have a full-time job, HHS can arrange affordable housing and support.

The program is available in Cairns, Townsville, Gladstone, Rockhampton and Toowoomba. Generally, the housing is managed by registered community housing providers and the EEH process refers eligible people to the community housing organisation. For more information, check [Housing support for employment and education](#) on the HHS website.

Tenancy reviews

HHS regularly reviews tenancies to ensure ongoing eligibility.

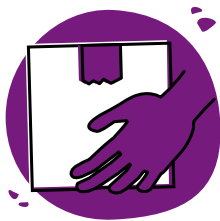
Some properties, such as big houses with 5 bedrooms or properties that are wheelchair accessible, are considered reviewable properties. Tenants may be transferred to smaller properties or more appropriate properties, and may be asked to leave if their circumstances change and they are no longer eligible for housing. For example, tenants may be asked to leave if their income increases to over \$80,000 a year.

Tenants can seek to have HHS decisions reviewed if there are cultural reasons or connections to particular properties. For example, kinship reasons such extended family arrangements, connection to place because a particular location has significant connection to a family, or intergenerational connection to particular properties may be reasons for the decision to be reviewed. HHS will also consider other mitigating circumstances, such as difficulty finding another suitable or affordable property or evidence that public housing is the only viable option for the household.

If the tenant's income increases to over \$80,000 a year and HHS agrees the tenant can stay in the property, the tenant may be required to pay market rent.

If a household member is deceased and a tenant's eligibility for the property changes, HHS will consider and care for bereaved tenants and take into account any cultural beliefs before considering a housing transfer.





Leaving Aboriginal and Torres Strait Islander housing

The same processes apply for leaving Aboriginal and Torres Strait Islander housing and public housing. For more information, see the section on [Leaving public housing](#) in this resource.





COMPLAINTS, REVIEWS AND APPEALS

[Return to staying in public housing](#) ↑

[Return to change of tenancy](#) ↑

[Return to transfers](#) ↑

The information in this section applies to tenants in public housing and Aboriginal and Torres Strait Islander housing.

HHS has a complaints process and a process for reviewing or appealing a decision. HHS's policies and procedures are in addition to the RTRA dispute resolution processes set out in the RTRA Act. The processes described in the Act also apply.



Housing and Homelessness Services complaints process

A tenant can use the [HHS complaints](#) process if they are not satisfied with the way a HHS officer has treated them and believes HHS decision is inconsistent with its policies and procedures. The complaints process is generally relevant for complaints made during and after a tenancy.

[Return to human rights section](#) ↓

[Return to community housing](#)

[bond refunds](#) ↓

Complaints can be made about tenancies in public housing and Aboriginal and Torres Strait Islander housing provided by HHS.

STEP 1

Complain to the HSC – either in writing (by letter or email), by phone or in person.

It's best if the tenant sets out the complaint by identifying the issue, noting any relevant HHS policies and procedures, and providing evidence or describing specific examples. The tenant can also describe the impact the situation is having on them and their family and the outcome they want to achieve by making the complaint. The tenant should keep copies of the complaint (or notes about what they say during phone calls).

If the tenant does not feel their complaint is resolved, they can move on to Step 2.

STEP 2

Ask for an internal review, where a different housing officer will investigate and provide a written response. The internal review can be requested in writing, by phone or in person.

If the tenant does not feel their complaint is resolved, they can move on to Step 3 or follow up with a human rights complaint if the problem relates to human rights.

STEP 3

Seek an external review by the Queensland Ombudsman, who will investigate the complaint and consider the HHS policies and procedures. The Ombudsman can make recommendations to HHS about resolving the complaint.

Review a HHS decision

The same review and appeals process applies for all social housing applications and for transfers in public housing, Aboriginal and Torres Strait Islander housing and community housing.

The *Housing Act 2003* sets out that decisions that can be reviewed, which confirm:

- a person's eligibility for social housing
- the type of social housing to be provided
- the location where housing will be provided.



To seek a review of a HHS decision, the tenant/applicant needs to lodge an [Application for review](#) form (available at the HHS website) within 28 days of the decision being made. It's really important to provide as much detail as possible on the application form, provide supporting evidence and describe the desired outcome.

The Housing Act Review Team (HART) within HHS deals with reviewing decisions. HART is a separate business unit from the HSCs where decisions about social housing services are made. The review steps include:

- The Housing Act Review Team will register the application and give it a review reference number.
- HART will notify the applicant to confirm they received the application (within 3 days of receiving it).
- A staff member from the HSC that made the original decision (but not the person who made the decision) will reconsider the decision and provide a recommendation and reasons for the recommendation.
- HART will consider the application based on:
 - Ø the information in the application
 - Ø the recommendation from the HSC that made the original decision
 - Ø HHS policies and procedures, and how they apply to individual circumstances.
- HART will send a formal letter about the outcome, usually within 28 days of receiving the application.
- If the tenant is dissatisfied with the outcome of the review, they can contact the Queensland Ombudsman.

More information about [reviewing decisions](#) is available at the HHS website.

Office of the Queensland Ombudsman

The Housing Act Review Team coordinates and responds to complaints referred by the Queensland Ombudsman, except for matters directly referred to the Director-General.

Investigations, monitoring and compliance of customer obligations under the *Housing Act 2003*

If a HSC believes a customer knowingly provides false or misleading information that may have influenced decisions about their eligibility, HSC will refer the matter to the Housing Act Review Team.

HHS has powers under the *Housing Act 2003* to monitor and enforce customer compliance of their obligations to receive housing or continue to receive a housing. These powers give HHS the ability to use government resources and take action when a breach occurs. Authorised officers within the Housing Act Review Team have the power to investigate suspected breaches for example, where a tenant has provided false information about their income.





Queensland Ombudsman

The Queensland Ombudsman investigates complaints about state government departments and agencies, local governments and public universities.

The Ombudsman has powers to obtain answers and access documents. However, in most situations government departments cooperate and investigations are completed informally.

Detailed information about [Queensland Ombudsman complaints](#) is available at their website.

For complaints about HHS, the Ombudsman has access to HHS policies, procedures and other documents.

If the Ombudsman decides to investigate the complaint, they will consider:

- the impact of the decision
- whether the decision is lawful, fair and reasonable
- the outcome you want
- whether the investigation leads to a positive outcome or an improvement in HHS's procedures.

When referring a complaint to the Ombudsman, it's important to describe the impact, gather as much information possible about why the decision is unfair and unreasonable, clearly state the desired outcome, and include any other relevant information. More information about [making a complaint to Ombudsman](#) is available at their website.

If a person refers a complaint to the Ombudsman, the Ombudsman's office will keep them informed about the process. The Ombudsman will handle the complaint fairly and in a timely way. They will provide advice if they cannot deal with the complaint. They will provide explanations and recommendations to fix the complaint and will work with the person and HHS to reach an outcome.

Investigations by the Ombudsman can take up to three months.

The Queensland Ombudsman's website includes [case studies](#) that show positive outcomes for some HHS complaints relating to DFV.






COMMUNITY HOUSING



The Queensland Government funds organisations and local government to provide community housing. There are many community housing providers across Queensland. Community housing providers are local and aim to respond to the housing needs of their community. Community housing is designed for people with particular needs (such as people with low incomes or people with additional needs).

[Return to Staying in Aboriginal and Torres Strait Islander Housing](#) 

When people apply for social housing and their application for housing is approved, they become eligible for community housing.

Like all lessors, community housing providers need to comply with a range of legislation, including but not limited to:

- *Residential Tenancies and Rooming Accommodation Act 2008*
- *Housing Act 2003*
- *Queensland Civil and Administrative Tribunal Act 2009*
- *Human Rights Act 2019*
- *Anti-Discrimination Act 1991*
- *Acts Interpretation Act 1954.*

Community housing registration

One of the main purposes of *The Housing Act 2003* is to provide a system for supporting and regulating housing providers and services, including:

- registering housing providers
- providing financial assistance, land and other assistance
- regulating how they provide housing services using the assistance they receive.

In order to receive funding, community housing organisations in Queensland are required to be registered under the [National Regulatory System for Community Housing](#) (NRSCH).

Local governments that provide housing are required to register under the [State Regulatory System for Local Councils](#) to receive funding from Queensland Housing. Most of the councils providing housing are either regional councils or Aboriginal and Torres Strait Islander local governments, and are also registered under the Queensland State Regulatory Code (QSRC).

Registration under both the NRSCH and the QSRC systems means that community housing providers need to comply with standards that cover:

- tenant and housing services
- housing assets
- community engagement
- governance
- probity
- management
- financial viability.



NRSCH tiers

The NRSCH National Register of Community Housing Providers includes three tiers, based on the number of properties and the complexity of the provider's business activities.

- Tier 1: Large providers with the capacity to purchase and acquire property and build new housing, who manage social and affordable housing (for example, Brisbane Housing Company and Churches of Christ Housing).
- Tier 2: Mid-sized housing providers, typically with moderately complex assets and tenancy management activities (for example, BRIC Housing in Brisbane, Yumba-Meta Ltd in Townsville).
- Tier 3: Smaller housing providers, typically involved in small-scale tenancy management activities. There are many Tier 3 housing providers throughout Queensland, including Aboriginal and Torres Strait Islander companies and co-operatives in remote, regional and urban areas (for example, Winnam Aboriginal and Torres Strait Islanders Corporation, Maryborough Aboriginal Corporation for Housing and Cultural Development, Girudala Community Co-operative Society Limited, Cooktown Community Housing Association Incorporated).

To search the register of [community housing providers](#), go to the NRSCH website.

Differences between public and community housing

There are some differences between public housing and community housing.

Rents are calculated differently:

- Public housing rents are based on 25% of the total household assessable income.
- In community housing, tenants pay rent calculated in one of two ways (and usually pay whichever amount is lower):
 - Ø a percentage of the assessable household income (25% - 28%) plus the Commonwealth Rent Assistance the household is entitled to
 - Ø a percentage of the property's market rent (that is, the rent charged for a similar property in the private rental market 75% - 80%).
- In community housing, tenants generally pay a bond and may be eligible for a bond loan and rental grant from HHS.
- Tenancy management practices used by community housing organisations may vary – each organisation develops its own policies and procedures that need to comply with the national/state regulatory code as well as with [HHS policies and guidelines](#).
- Community housing emphasises tenant and community engagement.

Information about the [National Regulatory Code for tenants](#) is available on the NRSCH website.



Indigenous community housing

In May 2021, [Aboriginal and Torres Strait Islander Housing Queensland](#) was established as the peak body for Indigenous housing providers in Queensland. Its role includes building the capacity of housing providers, providing advocacy for organisations, and developing partnerships with government and the private sector to improve Aboriginal and Torres Strait Islander housing.

In order to continue to receive funding from the Queensland Government, Aboriginal and Torres Strait Islander housing organisations need to register under the NRSCH. This peak body assists member organisations by providing guides, model policies and procedures, information and advice.

Types of community housing

There are three different types of community housing, designed to suit tenants with different needs: short-term housing, transitional housing and long-term housing.

1. **Short-term housing** offers crisis accommodation for people who are homeless, in crisis, at risk of homelessness or need support to transition to independent living (such as youth housing).

Transitional housing includes:

- Ø Community Rent Scheme – where a community housing organisation rents privately owned properties (either through real estate agents or property owners) then manages the properties and provides support to tenants to help them transition into long-term housing (either in social housing or private rental).
- Ø Community-Managed Studio Units – these properties may have some shared facilities and communal spaces. In some cases, they may be furnished. Tenants are generally offered short-term leases and the community housing organisation helps them stabilise their circumstances and move to long-term housing (either in social housing or private rental).
- Ø Same House Different Landlord – these are public housing properties for people who need some support to establish and maintain their tenancy. Support usually lasts for 6 months, then the tenancy is transferred to public housing and the tenant does not need to move.

2. **Long-term community housing provides** appropriate, affordable, community-managed rental housing to people in the greatest need. Tenants stay in the housing for as long as they need it. Tenants are offered longer-term tenancies and their rent is at least 25% of their household assessable income. Each housing provider will have a different housing program. Long-term community housing is for tenants on low or moderate incomes and tenants with special needs. In most cases, community housing organisations have properties for rent at less than normal market rent.

3. **National Rental Affordability Scheme (NRAS)** - In 2008, the Australian Government introduced the [National Rental Affordability Scheme](#) to encourage investment in housing for people on low and moderate incomes. Investors, who are mainly property developers, not-for-profit organisations and community housing providers, receive government incentive payments for 10 years while renting properties at below-market rents, mostly 75% - 80% of the market rent. The scheme is being phased out and will cease in 2026.



Community housing and DFV

When people apply for social housing, they are assessed on their housing and wellbeing needs. People who have experienced DFV are supported by community housing providers and are encouraged to apply for community housing. Part of the regulatory code for community housing states that providers should facilitate access to support for social housing applicants and tenants with complex needs.

Under the regulatory code, community housing organisations need to provide information to tenants about their policies and procedures. Many give the tenant a booklet at the start of their tenancy, with information about their organisation; it's aims and purpose.

A community housing tenant experiencing DFV should expect to be treated with respect by their community housing provider. They should be able to discuss their situation with the housing manager and receive support and assistance.

[A Toolkit for Community Housing Providers](#) is available on the QShelter website to assist community housing organisations to support their tenants experiencing DFV to sustain their tenancies and prevent homelessness.





Starting a tenancy in community housing

Applying for social housing

The process for applying for crisis, transitional and long-term community housing is the same as applying for public housing. All are covered by the same application form and the applications are managed as one social housing system. For more information, see [applying for social housing](#) in this resource.

The HHS and community housing organisations (CHOs) let each other know about eligible tenancies and vacancies.

Applying for National Rental Affordability Scheme (NRAS) and affordable housing

To apply for NRAS and affordable housing, a person needs to meet eligibility requirements for residency. They must not own a property and have limited savings and income.

To apply for NRAS, a person needs to [register for NRAS](#) with the Queensland Government. Once approved, they will be given an NRAS Registration Number. Most NRAS properties are advertised on [realestate.com](#). When they apply for an NRAS tenancy, the applicant will need to provide their registration number along with the tenancy application.

Some community housing organisations have application forms on their websites -

- [Brisbane Housing Company](#)
- [Common Ground](#)
- [Churches of Christ](#)

Signing up for community housing

Once the tenancy application is approved, the HHS or community housing organisation will contact the tenant when a property matching their needs becomes available.

Community housing organisations receive a list of prospective tenants from HHS when they notify them of vacancies. The housing managers show properties to several prospective tenants and interview them to ensure the tenant is a suitable match for the property, before making an [offer of housing](#).

Moving in

Before the tenant moves in, the community housing organisation will arrange an appointment where the tenant can sign the tenancy agreement, organise the bond and set up a method for paying the rent. The rent can be deducted from Centrelink payments or paid by another method that suits the tenant.

Community housing tenants may be eligible for a [bond loan and rental grant](#) through HHS.



The community housing organisation will provide the tenant with a copy of their policies and procedures, so that tenants have information about how and who to contact for repairs, complaints or other issues (including DFV).

The tenant will need to complete an Entry Condition Report and return it to the CHO within 3 business days after moving in. It's important to carefully check the condition of the premises and record any defects. The tenant can use the Entry Condition Report to note any areas that are not clean or in good repair. The tenant needs to keep a copy of this report as it can be used to provide evidence about the condition of the property when the tenancy started, if required at a later date.





Staying in a community housing tenancy

Community housing organisations should provide support, referrals and assistance to tenants experiencing DFV. The tenancy is covered under the RTRA Act see [Appendix 3](#) for sections of the RTRA that relate to DFV.

Security

The lessor must supply and maintain the locks necessary to ensure the premises are reasonably secure ([described in the RTRA Act s210](#)).

Locks and keys

When the tenants move in, the community housing provider will give them keys to the premises.

If the tenants lose their keys or locks themselves out, they may need to replace the keys or arrange to change the locks, and cover the cost themselves. If the locks are changed, the tenant will need to inform the housing provider about the change of locks and give them a copy of the keys.

In a DFV situation, the tenant can change the locks without getting permission. The [RTRA Act s211\(2\)](#) states that:

the tenant may also change a lock at the premises if the tenant—

- a. believes the change is necessary to protect the tenant or another occupant of the premises from domestic violence; and
- b. engages a locksmith or other qualified tradesperson to change the lock

In community housing, this means the tenant can change the locks if they're experiencing DFV and will need to give a set of keys to the community housing organisation. Each community housing organisation has its own policies and procedures about things like security, and a tenant can ask the housing manager if they will arrange to change the locks to protect the tenant and occupants.

If the tenant changes a lock due to DFV and gives the housing provider a new key, [s211\(4\)](#) states that

the lessor must not give a key for the changed lock to any person other than the tenant without the tenant's agreement or a reasonable excuse

This is designed to protect the tenant and give them the option of knowing who will enter the premises.

At the end of the tenancy, the tenant is required to hand back the keys to the housing provider.

Security concerns

A specialist DFV service can help tenants with safety planning and risk assessment. If the tenant needs to install security such as cameras, sensor lights, alarms or other security features to ensure



their safety, they will need to get the written agreement of the lessor (the community housing provider) (this is described in [207–s209](#) of the RTRA Act).

The tenant can:

- write to the community housing organisation requesting that security is installed
- outline the reason and provide some evidence (such as a DVO or letter of support from a DFV or other support service)
- detail the security they would like to install
- make a plan for removing the equipment when they move out or get agreement from the organisation to leave the security as a fixture.

Tenants may be able to get some financial assistance from Domestic Violence services or recover costs of changing locks and security through Victims of Crime applications.

If the community housing organisation unreasonably refuses a request to add security features, the tenant can use the [RTA's tenancy dispute](#) process and seek an agreement about installing security.

Temporary absence

If a tenant experiences DFV, they can expect support from their housing manager and the community housing organisation.

Tenants have a right to be away from their homes for a reasonable purpose and for fair periods. DFV or child safety issues are fair and reasonable circumstances to be away from home for a temporary absence.

Tenants should inform the housing manager about their absence. However, they do not need approval for absences up to 8 weeks.

If the tenant will be away for more than 8 weeks and up to 5 months in one year, they need to get the approval from the community housing organisation. If the tenant continues to pay the rent and arranges for the premises to be checked, there should be no problem. Where a tenant is absent from the property for more than 5 months the housing provider is likely to re-assess their need for housing and the tenant can be given a notice to leave.

For information about what to do if the tenant experiences problems with a temporary absence, see the section on the [tenancy disputes](#) in this resource.



Change of tenants

If the DFV person using violence leaves or there is an Ouster Order that they can't return to the premises, the remaining co-tenant or occupant can request that the tenancy is transferred to them. This can happen even if an occupant is not named on the lease.

To have the lease transferred to their name, the tenant will need to show their ongoing eligibility for social housing, and the community housing organisation has discretion to agree to the transfer.

If the tenancy is transferred, the community housing rent policy will be applied. Rent will be reassessed based on the income of the tenants on the new lease.

The [QShelter DFV Toolkit](#) for community housing organisations recommends that housing providers take a risk management approach and consider the safety of the individual, the people nearby, the needs of the victim and the supports available for the person experiencing violence.

Applying to the Tribunal to be recognised as the tenant

When a co-tenant experiencing violence wants to stay at the property, [s245](#) of the RTRA Act applies to social housing as well as to private rental. An occupant can make an application to the tribunal under [s246](#).

A domestic associate (of a tenant or co-tenant) may apply to the Tribunal under s245 (Injury to a Domestic Associate) of the RTRA Act for an order recognising the domestic associate as a tenant or co-tenant because the tenant committed an act of domestic violence against the domestic associate.

If a person applies to the Magistrates Court for a Domestic Violence Order, they can also put in an application under the RTRA Act s245. It is the discretion of the Magistrate to hear both matters together.

If the person applies for an order under s245, they will need to provide evidence that they are a domestic associate.

The definition of domestic associate in the RTRA Act comes from the DVFP Act and applies to:

- an intimate personal relationship
- a family relationship
- an informal care relationship.

When deciding the application, the Tribunal must take into account:

- whether a protection order has been applied for
- if an application for a protection order was made, whether an order was made or is still in force
- if a protection order was made, whether a condition of the order prohibits the tenant from entering or remaining on the premises.

If an applicant has not applied for a protection order, they may be able to provide the Tribunal with other relevant evidence of DFV, such as a letter or affidavit from a support worker, solicitor or health practitioner.



For an application under this section, the Tribunal must allow the lessor (in this situation the community housing provider) an opportunity to be heard. This means the domestic associate must name the lessor on the application as a respondent, along with any other tenants or co-tenants, including the person using violence.

Occupant can apply to the tribunal to be recognised as a tenant

If an occupant experiencing DFV wants to stay in the premises, they can apply to the Tribunal to be recognised as a tenant. This is described in [s246](#) of the RTRA Act, which applies to social housing and private rental.

To apply to the tribunal, the occupant will need to provide evidence of being a domestic associate as described in the DFV Protection Act 2012 and evidence of the domestic violence such as a protection order or other relevant evidence.

The application must include the community housing provider and the tenant or co-tenants.

Transfers

Tenants who experience DFV can talk with their housing manager to request a transfer if there is a risk to their safety and/or that of their family. The tenant can provide evidence of DFV that indicates a very high need for a transfer – such as a DVO, a report from a doctor or a report from a DFV service. The housing provider can assist by:

- finding a suitable and safe property within their own portfolio
- arranging a transfer for the tenant to another community housing organisation (which could be crisis or transitional housing where support workers could assist with long-term housing)
- applying for a transfer to HHS for public housing (transfers to public housing may take longer as the tenant will be listed on the housing register)
- referring the tenant to Rent Connect, who can set up a bond loan or rental grant and assist with applications for the private rental market or headlease.

Tenants can request help with moving costs. The community housing organisation may have funds to assist with this or may help the tenant to seek assistance from another services. The community housing organisation is not obliged to contribute to moving costs.

Damages and debts

Tenants in community housing have the same rights and responsibilities as any tenancy covered by RTRA Act.

The RTRA Act states the rights and responsibilities of tenants in relation to damage:

- the tenant must not use the premises for an illegal purpose, cause a nuisance by the use of the premises, or interfere with the peace, comfort or privacy of a neighbour (s184)
- the tenant must not maliciously damage or **allow** someone else to maliciously damage the premises ([s188](#))
- however the tenant is not responsible for compensating the lessor for damage to the premises or inclusions as a result of DFV experienced by the tenant ([s188\(5\)](#))

In situations where there is damage to the premises or inclusions, it is really important to get evidence that the damage was caused by DFV. If possible, this should include police reports, statements and photographs.



The RTRA Act also states

- if premises are damaged and need repair, the tenant should notify the lessor/agent as soon as practicable ([s217](#))
- however this does not apply to a tenant for damage caused by an act of domestic violence experienced by the tenant

If there is damage to the premises or inclusions caused by DFV and it is safe to do so, the tenant can inform the community housing provider about it.

If the premises has been damaged through DFV, there are a few questions to explore:

- Whose name is on the lease?
- Who caused the damage?
- Is the person who caused the damage a tenant or co-tenant?
- Was the person who caused the damage allowed on the premises?
- Did the police attend the premises?
- Is there a charge of wilful damage?

If the tenant or co-tenant named on the lease is the victim of DFV, they can inform the housing manager and not admit liability for the damage. If police have been called, they generally record evidence of the DFV. The tenant can refer the housing manager to the police and provide the QPS report number.

It is important to get evidence of the damage caused by DFV, including police reports, if possible, statements and photos.

The Queensland Government's *Not Now Not Ever* [DFVP Strategy](#) to end DFV includes elements to hold perpetrators to account for their actions.

Where there is a charge of wilful damage, the community housing organisation can claim compensation from the person who caused the damage.

What if the tenant wants to stay and the community housing organisation wants to terminate the tenancy?

The community housing organisation may seek to terminate a tenancy – for example if neighbours have been disturbed or the tenant has rent arrears.

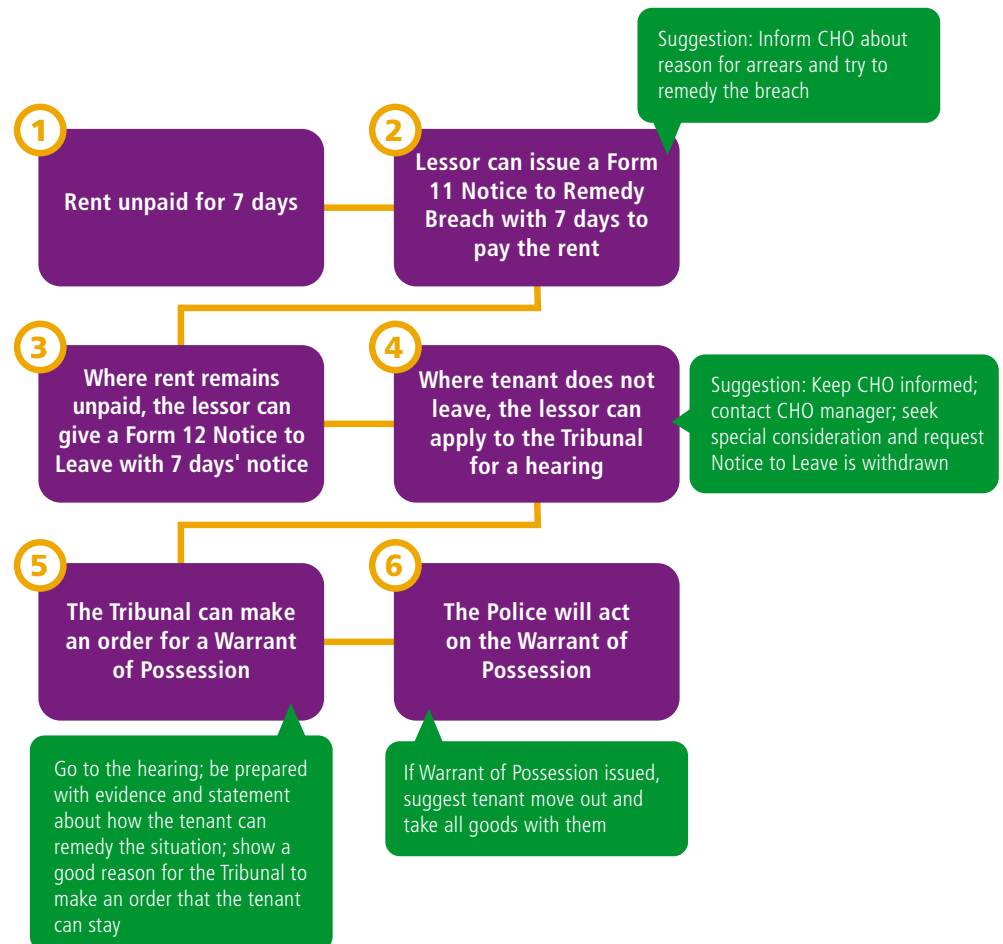
The community housing organisation will follow the procedures described in the RTRA Act to end the tenancy. The tenant has a right to dispute the issue and appear in the Tribunal with evidence to support their case.

[QSTARS](#) can provide support with preparation for Tribunal hearings. Tenants can contact 1300 744 263 for advice.



Rent arrears

Rent arrears can arise due to DFV and it's useful to understand the process and how to prevent eviction. The diagram below shows the worst case scenario for a tenant and gives suggestions for actions to prevent eviction.



If the tenant wants to stay in the property, it's a good idea for them to inform the community housing organisation about the situation that has led to their rent arrears. They can seek to set up a rent repayment plan. If the tenant is linked with a DFV service, they may be able to get assistance with the rent.

If the community housing organisation proceeds with the Tribunal hearing, the tenant needs to attend the hearing, bring evidence and be prepared to negotiate a rent repayment plan. The Tribunal Member may adjourn the hearing so the tenant and community housing organisation can enter into a repayment agreement.

[QSTARS](#) can provide support with preparation for Tribunal hearings. Tenants can contact 1300 744 263 for advice.

Serious breach

Under [s290A](#) of the RTRA Act, the community housing organisation can give a tenant a Notice to Leave with 7 days' notice for a serious breach. A serious breach is defined as a situation where the lessor believes the tenant, an occupant, a guest of the tenant or a person allowed on the premises by the tenant has used the premises or nearby for an illegal purpose, has intentionally or recklessly destroyed or caused serious damage to the premises, has endangered another person in the premises or nearby, or has interfered significantly with the peace, comfort or privacy of another tenant.

Note that there is no requirement to issue a Notice to Remedy Breach for a serious breach. The community housing organisation can simply issue a Notice to Leave.

If a tenant does not leave by the end of the 7 day notice period, the community housing organisation can apply to the Tribunal for a Warrant of Possession. If this happens, the tenant will receive a notice of hearing at the Tribunal. If they want to stay, it is advisable to attend the hearing and provide good evidence about the situation. Each situation is different, and the tenant would be advised to contact [QSTARS](#) on 1300 744 263 for advice.

Relevant evidence could include:

- DVO
- police reports
- proof of the whereabouts of person who caused the damage, endangered people or used the premises for an illegal purpose
- the tenant's positive rental history
- statements/affidavits about incidents of serious breach
- letters of support from neighbours
- letters of support from support services who will continue to engage with the tenant to prevent any further serious breaches.

Objectionable behaviour

If the community housing organisation believes there has been objectionable behaviour, they can make an urgent application to the Tribunal to terminate the tenancy (described in [s297A](#) of the RTRA Act).

An application under this section can happen because the tenant (or an occupant, a guest of the tenant or a person allowed on the premises by the tenant) has harassed, intimidated or verbally abused the community housing organisation representative or a person living nearby, caused serious nuisance to people living nearby, endangered a person at the premises, or interfered with the peace, comfort or privacy of a person nearby.

Under [s345A](#) of the RTRA Act, the Tribunal may make termination order based on:

- the community housing organisation's evidence to prove the case
- whether the behaviour justifies terminating the agreement
- frequent recurrences
- the seriousness of the harassment, intimidation or verbal abuse
- the seriousness of intentional or reckless endangerment
- the seriousness of interference with a person's reasonable peace, comfort or privacy
- serious adverse effects on neighbours
- evidence regarding tenancy history.

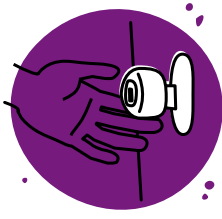


In this situation, the tenant will receive a notice of hearing from the Tribunal. If they want to stay in the property, it is advisable for them to attend the hearing and provide good evidence about the situation. Each situation is different and tenants are advised to contact QSTARS on 1300 744 263 for advice.

In this situation, relevant evidence could include:

- DVO
- police reports
- proof of whereabouts of the person causing objectionable behaviour
- tenant's positive rental history
- statements/affidavits about incidents of objectionable behaviour
- letters of support from neighbours
- letters of support from support services who will continue to engage with the tenant to prevent any future incidents.





Leaving a community housing tenancy

Various options are available if the tenant decides to end their tenancy in community housing. If the tenant decides to leave, it's a good idea to contact the community housing organisation and talk to them about it. The housing organisation is likely to be understanding and allow any tenant experiencing DFV to leave with little notice.

- If the community housing tenant is on a periodic agreement, they can issue a Notice of Intention to Leave giving 2 weeks' notice, pay the rent up to the end of the notice period and hand over vacant possession on the day the agreement ends. Handing over vacant possession means returning the keys and fulfilling their obligations to leave the premises in the same condition (fair wear and tear excepted). Check the tenancy agreement to confirm whether the tenant is on a periodic or fixed term agreement.
- The RTRA Act gives tenants the right to leave if they no longer feel safe to occupy the premises because of DFV. They can give 7 days' notice using the [Notice ending tenancy interest \(domestic and family violence\) Form 20](#) (NET) and provide supporting evidence of DFV.
- If the tenant flees, stops paying rent, does not return the keys, perhaps leaves goods on the premises, and does not clean, the community housing organisation may decide the tenant has abandoned the premises. The housing organisation will terminate the tenancy following the process described in the RTRA Act by issuing an Abandonment Termination Notice with 7 days' notice, then reclaiming possession of the premises.
- It's possible for the community housing organisation and the tenant to agree for the tenant to leave. They can write a mutual termination agreement, which is then signed by all parties to the tenancy agreement.

Tenant's obligations at the end of the tenancy

The general obligations of tenants at the end of a tenancy apply to tenants leaving community housing (described in [s188](#) of the RTRA Act). Tenants need to take all their goods with them, leave the place clean and in a similar condition to the start of the tenancy, and return all keys.

It's a good idea for tenants to collect evidence to show they have met their obligations, such as photographs, cleaning receipts and a copy of the completed Exit Condition Report. This evidence becomes important if there is dispute over the bond refund.

Damages

If the property has been damaged during the tenancy, the housing organisation may ask the tenant to pay for the damage to be repaired. However, a tenant who has experienced DFV is not responsible for the damage and should not need to pay for repairs [s188\(5\)](#) and is not obliged to report damage caused by DFV [s217\(5\)](#).

It may be that at the end of the tenancy, this is where the housing provider discovers DFV damage.



The tenant can provide evidence such as

- Police report numbers
- Domestic violence protection orders or temporary protection order
- Police protection notice
- Witness statements
- Support letters from a DFV service, verifying the situation
- Anything else

Applying for the bond refund

Bonds collected by community housing organisations are held by the Residential Tenancies Authority (just like bonds in private rentals).

If the tenant has terminated the tenancy due to DFV by giving a Notice ending tenancy interest (domestic and family violence) Form 20, they can apply for the bond refund using [Bond refund for persons experiencing domestic and family violence \(Form 4a\)](#). The tenant can email this form to assistedrefund@rta.qld.gov.au. The RTA deals with DFV bond refunds on a case by case basis, preserving confidentiality; co-tenants are not notified about a claim on the bond. The housing provider will have an opportunity to dispute the bond claim.

If there is a bond loan that is still outstanding, the tenant needs to contact HHS bond loans team. Where there are co-tenants on the bond loan, it is advisable to provide the bond loans team with details of repayments paid by the person experiencing violence. If there are concerns about the way HHS are dealing with releasing the bond refund, put in a complaint using the [HHS complaints process](#).

If there is a bond dispute at the end of the tenancy which is heard in the tribunal, [s136D](#) states that the tribunal order should not penalise a tenant for damage due to DFV that they have experienced.

Debts

If the tenancy has resulted in a debt to the community housing organisation, this may affect the tenant making requests for further assistance from that particular organisation. Some community housing organisations are members of a tenancy database and may list tenants with debts. Being listed on a tenancy database may affect the tenant's future applications to real estate agents. Tenancy database listings can be disputed. If the listing is as a result of DFV, it can be considered unjust under the circumstances. For more information, see [Domestic and family violence and tenancy databases Fact Sheet](#).

Complaints

Each community housing organisation will have its own internal complaints process, which tenants can use if they want to complain about a process or decision.

For more information, see the [NRSCH complaint factsheet](#).

Human rights






Community housing organisations that receive government funding are considered to be government entities and are therefore covered by the Human Rights Act. For more information, see the section on [Human rights](#) in this resource.





TENANCY DISPUTES



- [Return to staying in public housing](#) 
- [Return to security in public housing](#) 
- [Return to Aboriginal and Torres Strait Islander housing](#) 
- [Return to community housing](#) 
- [Return to community housing temporary absence](#) 

This information about tenancy disputes applies to all form of social housing, including public housing, Aboriginal or Torres Strait Islander housing, and community housing as well as private rentals.

If a social housing tenant has a dispute with their housing provider, the dispute can be dealt with under the RTRA Act, just like disputes with any other lessor.

For non-urgent applications, the disputes process involves applying to the Residential Tenancies Authority (RTA) for conciliation. If the matter is not resolved through conciliation, the tenant can apply to the Tribunal (the Queensland Civil and Administrative Tribunal, QCAT).

For urgent applications, tenants can apply directly to the Tribunal.

RTA dispute resolution for non-urgent applications

Non-urgent tenancy disputes include disputes about things like breach notices, repairs, entry, locks and keys, adding fixtures (e.g. security), making changes to the premises and repairs.

For non-urgent disputes, the first step involves using the [RTA's Dispute Resolution Service](#), which provides a free telephone conciliation service to help parties resolve a tenancy dispute. The RTA's conciliator remains impartial and helps the parties to communicate and reach a voluntary agreement.

To apply to the RTA for conciliation, parties must complete a [Dispute Resolution Request – RTA Form 16](#) and lodge it with the RTA. For all non-urgent disputes, parties must complete this step and attempt to resolve their dispute before they can apply to the Tribunal for a hearing.

When applying to the RTA Dispute Resolution Service, the parties can indicate on the Form 16 if they need an interpreter or need assistance with reading or writing.

The RTA usually provides dispute resolution over the phone, either through a series of calls to each party, or as a telephone conference with all parties on the phone at the same time. The RTA conciliator will aim to facilitate communication to assist parties to negotiate an agreement. Conciliators cannot make decisions or force people to make an agreement.

Sometimes the parties are unable to resolve their dispute through conciliation, or the RTA may consider the matter is not suitable for conciliation (for example, if the parties are not willing to participate or exchange information). In this situation, the RTA will issue a Notice of Unresolved Dispute with a conciliation number. The person who receives the notice then has the option to apply to the Tribunal for a hearing and a final decision.

Tribunal hearings

Urgent matters can go direct to the Tribunal without needing to first seek resolution through the RTA Dispute Resolution Service. However, the parties can still use the RTA Dispute Resolution Service if they wish.

Urgent tenancy matters are defined under [s415](#) of the RTRA Act. They include applications to the Tribunal to terminate a tenancy, be recognised as a tenant due to DFV, remove a tenancy database listing, seek an order about emergency repairs, or seek an order about repairs affecting tenant health and safety.



In public housing, HHS needs to apply to the Tribunal under the RTRA Act, just like any other lessor. HHS could apply to the Tribunal to terminate the tenancy for a number of reasons, including rent arrears, damage or injury to the lessor or a neighbour, objectionable behaviour, serious breach or failure to leave.

Community housing organisations similarly need to apply to the Tribunal to terminate a tenancy.

If a lessor applies to the Tribunal, the tenant will receive a notice of hearing. We strongly recommend that the tenant attends the hearing and takes with them any evidence to assist with their case. For information about how to [preparing for a hearing](#) see TQ's DFV Tenancy Toolkit about DFV in general tenancies.

What is the Tribunal (QCAT)?

The [Queensland Civil and Administrative Tribunal \(QCAT\)](#) is an independent tribunal that can hear a range of minor civil matters, including residential tenancy disputes. The Tribunal aims to provide an accessible, inexpensive process for parties seeking a final decision to resolve a tenancy dispute.

Tribunal matters are usually heard in the local Magistrates Court closest to the rental premises or at the QCAT central registry in Queen Street, Brisbane.

In Tribunal hearings, parties represent themselves. But parties can take a support person or advocate to the hearing with them. Parties can also apply to attend by telephone, or seek permission to have someone represent them where they have a good reason.

The QCAT website provides information about the Tribunal hearing process for residential tenancy matters, and includes links to relevant forms including [Form 2 Application for a Minor Civil Dispute – Residential Tenancy Dispute](#).

TQ's DFV Tenancy Toolkit about DFV issues relevant to general tenancies has more detail on [QCAT](#) and the TQ website has resources and videos on [going to the Tribunal](#).

Tenants can seek advice from the TQ statewide advice service on 1300 744 263.

Local [QSTARS](#) tenancy advice workers may be able to assist with Tribunal hearings.

Helpdesk support for DFV workers is available by phone on (07) 3708 4833 or by email at dfvproject@tenantsqld.org.au.

The Queensland Human Rights Commission (QHRC) manages complaints and provides information and resources about human rights and anti-discrimination laws. There are no costs for the QHRC complaint services.

The [Queensland Human Rights Commission](#) (QHRC) manages complaints and provides information and resources about human rights and anti-discrimination laws. There are no costs for the QHRC complaint services.

Human rights

The [Human Rights Act](#) commenced in Queensland on 1 January 2020. The Act means that government departments and funded non-government organisations must act in a way that is compatible with human rights.





HUMAN RIGHTS AND DISCRIMINATION



HHS and community housing organisations need to comply with Queensland’s human rights legislation. The Human Rights Act covers 23 specific human rights drawn from international laws.

The main objects of the Human Rights Act are to:

- protect and promote human rights
- help build a culture in the Queensland public sector that respects and promotes human rights
- help promote a dialogue about the nature, meaning and scope of human rights.

[Return to community housing](#) 

If a person believes that a government department, funded organisation or any government entity has treated them unfairly, they can make a complaint to the QHRC. The information in this section applies to all social housing in Queensland, including public housing, Aboriginal and Torres Strait Islander housing and community housing organisations funded by the government.

Right to recognition and equality before the law

Everyone has a right to enjoy their human rights without discrimination.

Right to property

People’s property should not be taken from them unlawfully. (Note that this applies to a tenant’s goods and property).

Right to privacy and reputation

Everyone has the right to keep their life private. (Note that housing providers should not share personal information unless they have consent (except when required by law, such as in child safety issues)). This could also apply to entries and inspections in rental properties, which should be conducted under the Rules of Entry in the RTRA Act.

Right to protection of families and children

Families and children are entitled to protection and children have added protection according to their best interests. Note that housing providers should consider the rights and protection of children when terminating a tenancy, and consider the impact termination will have on the children. Housing providers can try to sustain a tenancy by working with other agencies and with the tenants. If tenancy is terminated, housing providers should offer support to find alternative housing and contact Child Safety.

Cultural rights

People have general rights to enjoy their culture, declare and practise their religion, and use their languages. Note that one of the ways housing providers can support cultural rights is to organise interpreters for people to use their preferred language.

Cultural rights – Aboriginal and Torres Strait Islander peoples

Cultural rights include the right to practise beliefs, teachings and languages, to protect and develop kinship ties, and to maintain relationships with the lands, seas and waterways. Note that housing providers need to respect these rights.

Right to liberty and security of person

Everyone has the right to freedom, safety and security to ensure the physical safety of people who are in danger of physical harm. Note that this could apply to social housing allocations or housing transfers (for example, where there is DFV and a tenant is in fear of an ex-partner or another person).



Human rights complaints

If a tenant is concerned about a human rights issue in their tenancy, they need to first complain to their housing provider. Tenants in public housing should follow the [HHS complaints](#) process described earlier in this resource. Tenants in community housing should follow their particular organisation's complaints process.

The tenant needs to complain to their housing provider before making a complaint to the QHRC.

In most situations, the tenant can complain to the QHRC 45 business days after they submitted their original complaint to the housing provider. The complaint to QHRC should be made within 1 year of incident occurring. The tenant may be able to complain earlier than 45 days after the original complaint if there's a good reason to justify it (for more information, see the QHRC factsheet about [human rights complaints](#)).

QHRC generally holds conciliation conferences to resolve complaints. They will put agreements in writing or document the outcome for all parties.

Discrimination complaints

The [Anti-Discrimination Act 1991](#) states that unfair discrimination, sexual harassment, vilification and victimisation are unlawful. It is unlawful to discriminate based on a personal attribute, including gender, race, religion, age, parental status, impairment, gender identity, family responsibilities and sexuality. This applies to work, accommodation, education and providing goods and services.

In situations where a tenant believes they have experienced discrimination, they can make a complaint directly to the QHRC, without first complaining to their housing provider. For information about the [discrimination complaints process](#), see the QHRC website.

The QHRC provides conciliation for discrimination complaints, and agreements are binding on all parties.

If the matter is not resolved through conciliation, the person who made the complaint can apply to the Tribunal (QCAT) [for an Anti-Discrimination hearing](#).

Report racism

Anyone who has experienced or witnessed a racist incident can report it to the QHRC. QHRC accepts informal and anonymous [complaints about racism](#).





APPENDIX 1





Residential Tenancies and Rooming Accommodation Act 2008 and social housing

This appendix summarises exemptions under the RTRA Act when the state is the lessor and other sections relevant to social housing.

Section number & name	Description and comment
3 Act binds all persons	<p>This Act binds all persons including the state but some provisions do not apply to the state.</p> <p>The state cannot be prosecuted for an offence under the Act.</p>
38, 39 & 41 Headleases for employee housing, affordable housing agreements and approved supported accommodation	<p>A headlease is an agreement between the owner of the property and another body (e.g. the state, a council, a community organisation, or a corporation) where that body is then subletting the premises to a tenant (employee or person with entitlement to affordable housing or supported accommodation).</p> <p>The agreement between the owner and the body is a headlease and is not covered by the Act.</p> <p>The agreement between the body and the tenant is covered by the Act (but for agreements involving approved supported accommodation, only if the tenancy has been longer than 13 weeks).</p>
41(2-4) Approved supported accommodation	<p>The Act applies to tenancies in approved supported accommodation if the tenant has occupied the premises for a continuous period of more than 13 weeks. If the tenant has been there for longer than 13 weeks, the application of the Act begins the day after the 13 continuous weeks.</p> <p>In this context "approved supported accommodation" means accommodation provided under an agreement between the Commonwealth and the state under the Crisis Accommodation Program (CAP) or the Supported Accommodation Assistance Program (SAAP) (see Schedule 2 Dictionary).</p>
44 (h & i) Rooming accommodation agreements to which Act does not apply	<p>The Act does not apply to rooming accommodation agreements under the Supported Accommodation Assistance Program (SAAP) or related to Aboriginal Hostels Limited.</p>
53 Contracting out prohibited	<p>An agreement or arrangement is void if it excludes, changes or restricts the application/operation of a provision of the Act about the terms of a residential tenancy agreement.</p> <p>While this section applies to all residential tenancies, it may be particularly relevant to social housing tenants who are often unsure whether the policies and procedures of their lessor outweigh their rights under tenancy law.</p>



54 Inconsistency	<p>If a provision of the Act is inconsistent with a term of a residential tenancy agreement or a standard term is inconsistent with a special term of a residential tenancy agreement, the Act/standard term prevails.</p> <p>While this section applies to all residential tenancies, it may be particularly relevant to social housing tenants who are often unsure whether the policies and procedures of their lessor outweigh their rights under tenancy law.</p>
71(11) Tenant may apply to the Tribunal about significant change in subsequent agreement	This section does not apply to a rent increase if the lessor is the state.
91 & 93 Rent increases and minimum period before rent can be increased	<p>The requirement of notice, minimum notice periods and minimum periods before a tenant's rent can be increased do not apply to public housing tenancies.</p> <p>Public housing has its own rent policies; rent is based on the income of the household. Rent is reviewed regularly and increases/decreases accordingly when the household's income increases/decreases.</p> <p>Community housing providers who are not the state are not exempt from this section and are therefore required to give a notice of rent increase – 2 months notice for a periodic agreement or during a fixed term agreement.</p> <p>No notice is required when signing a new fixed term agreement.</p>
92 Tenant's application to the Tribunal about rent increase	<p>A public housing tenant cannot apply to the Tribunal about an excessive rent increase if the lessor is the state.</p> <p>Community housing providers who are not the state are not exempt from this section.</p>
93 Minimum period before rent can be increased	The following are exempt from the requirement for 6 months between rent increases: public housing and housing where the state is the lessor and tenant is employee or officer of the state.
116 & 117 Duty to pay rental bond instalments under residential tenancy agreement	<p>A lessor who receives financial or other assistance from the state to supply rented accommodation to the tenant (i.e. a community housing provider) only has to pay bond instalments to the RTA within 10 days after they have received the last instalment from the tenant.</p> <p>If the agreement ends before the final instalment has been paid to the lessor by the tenant, the lessor must pay all the instalments received so far to the RTA within 10 days of the end of the agreement.</p> <p>Note: This section is only relevant if the community housing tenant is paying their bond in instalments.</p>
163 Outgoings other than service charges	If the state owns the premises and the tenant is not required to pay rent and the tenant is an organisation receiving financial assistance from the state to supply rented accommodation to people, the organisation may be required to pay rates, taxes, charges or levies for the premises.



<p>184 Tenant's use of the premises</p>	<p>The tenant must not:</p> <ul style="list-style-type: none"> - use the premises for an illegal purpose - cause a nuisance by the use of the premises - interfere with the reasonable peace, comfort or privacy of a neighbour of the tenant. <p>While this section applies to all tenants, it can be a particular issue for public housing tenants who all have the same lessor and have the option of making a complaint or issuing a Notice to Remedy Breach to HHHS, their lessor, about a neighbour.</p>
<p>185(4) Lessor's obligations generally</p>	<p>The state as lessor is not obliged to maintain non-standard items specified in the tenancy agreement, which are not necessary to make the premises fit to live in and not a health or safety risk. Non-standard items are fixtures that were not attached by the lessor and inclusions. So, for example, where tenants or previous tenants attach fixtures themselves (such as floor coverings, fans or air conditioners), HHS is not obliged to repair these if all the circumstances above are met.</p> <p>It is particularly useful to remember that Dept of Housing is obliged to maintain fixtures if they are not specified in the tenancy agreement.</p> <p>Also, this exemption does not apply to community housing providers, even if they receive funding from the state.</p>
<p>193(3) Notice of entry</p>	<p>The lessor may enter without notice to do routine repairs, check smoke alarms or electrical safety switches if giving notice is not practicable because of the remoteness of premises and the shortage of suitably qualified tradesperson.</p> <p>While this section applies to all tenants, it can be a particular issue for social housing tenants in remote areas.</p>
<p>237 Tenant's action subject to lessor's unqualified discretion</p>	<p>This section applies to public and community housing. The tenant may transfer or sublet the premises only if the lessor agrees in writing at the unqualified discretion of the lessor.</p>
<p>243 End of tenant's occupation</p>	<p>If the tenant dies or leaves public housing, other occupants may not apply to the Tribunal to become tenant if the lessor is the state. However, HHS has its own succession of tenancy policy which public housing occupants can utilise in such a situation.</p>
<p>277(7)&(8) Sole tenant dies</p>	<p>While this section applies to all tenants, it is a new section and may affect social housing tenants.</p> <p>A tenant's personal representative or the lessor can give 2 weeks' notice to end the agreement due to the tenant's death. If no notice is given, the tenant agreement ends 1 month after the tenant's death.</p>



<p>289 Notice to leave if tenant's entitlement to supported accommodation ends</p>	<p>If the tenant ceases to be eligible for housing assistance, the tenancy can be terminated on these grounds.</p> <p>In this context, "approved supported accommodation" means accommodation provided under an agreement between the Commonwealth and the state under the Crisis Accommodation Program (CAP) or the Supported Accommodation Assistance Program (SAAP) (see Schedule 2 Dictionary).</p> <p>s329(2)(h) – the tenancy can be terminated with 4 weeks' notice to leave.</p>
<p>290 Notice to leave if tenant's entitlement under affordable housing scheme ends</p>	<p>If the tenant ceases to be eligible for housing assistance, the tenancy can be terminated on these grounds.</p> <p>In this context, "affordable housing scheme" includes the National Rental Affordability Scheme (NRAS) or a scheme/program under which any level of government or a non-profit corporation provides accommodation assistance. It excludes approved supported accommodation (see Schedule 2 Dictionary).</p> <p>s329(2)(i) – the tenancy can be terminated with 1 month notice to leave.</p>
<p>290A Notice to leave because of serious breach</p>	<p>Applies to HHS housing only.</p> <p>The lessor may give a Notice to Leave if the tenant, occupant, guest or someone allowed by the tenant uses premises or adjacent areas including common areas:</p> <ul style="list-style-type: none"> - for an illegal activity whether or not been convicted or found guilty of an offence - intentionally or recklessly destroys or seriously damages part of premises - endangers another person in nearby premises - interferes significantly with the reasonable peace, comfort or privacy of other tenants. <p>Note: there is no requirement to issue a Notice to Remedy Breach for serious breach. The lessor can just issue a Notice to Leave for serious breach.</p>
<p>296A Application for termination for damage or injury in public or community housing</p>	<p>Applies to HHS housing only.</p> <p>Applies to tenant, occupant, guest or person allowed on the premises by tenant who causes serious damage to the premises or injury to lessor, agent, someone allowed on premises or person occupying or allowed on nearby premises.</p>
<p>297 Application for termination for tenant's objectionable behaviour</p>	<p>This section does not apply to public housing.</p>



297A Application for termination for objectionable behaviour in public or community housing	<p>Applies to HHS housing only.</p> <p>The lessor may apply to the Tribunal for a termination order because the tenant, occupant, guest, or person allowed by the tenant:</p> <ul style="list-style-type: none"> has harassed, intimidated or verbally abused the lessor, agent, a person occupying or allowed on premises nearby - is causing or has caused serious nuisance to persons in nearby premises - has intentionally or recklessly endangered another person at the premises - has interfered with the reasonable peace, comfort or privacy of a person in nearby premises.
340 Failure to leave	The lessor can apply to the Tribunal for termination order because the tenant has failed to leave on a Notice to Leave due to: 340 (1)(b) (viii) end of housing assistance or (ix) serious breach.
345 Objectionable behaviour other than in public or community housing	Public housing is exempt from this.
345A Objectionable behaviour in public or community housing	<p>Applies to public housing only.</p> <p>The Tribunal may make termination order, considering these circumstances:</p> <ul style="list-style-type: none"> - lessor has established the grounds - the behaviour justifies terminating the agreement - frequent recurrences - seriousness of harassment, intimidation, or verbal abuse - seriousness of intentional or reckless endangerment - seriousness of interference with a person's reasonable peace, comfort or privacy - serious adverse effects on neighbours - evidence regarding tenancy history - HHS's responsibility to other tenants - needs of person waiting housing assistance.
349 How the Tribunal must deal with public or community housing tenant	The Tribunal must not refuse to terminate merely because the tenant is a public or community housing tenant.
415 Meaning of urgent application	<p>Urgent application for to the Tribunal for a termination order for:</p> <p>415(1)</p> <p>(h) failure to enter into acceptable behaviour agreement or</p> <p>(i) serious or persistent breach of acceptable behaviour agreement.</p>
527A Definitions relating to particular leases by the state and community housing providers	<p>Antisocial behaviour includes making excessive noise, dumping cars or excessive rubbish, vandalism and defacing property.</p> <p>Community housing provider tenancy agreement is the existing state tenancy agreement where a community housing provider has become the replacement lessor.</p> <p>Community housing service – that is, not public housing.</p> <p>Public housing – social housing provided by the state.</p> <p>Social housing service – public and community housing, not NRAS.</p>



527B What is a community housing provider	<p>A community housing provider for a particular tenancy where the entity has received or is receiving funding under the Housing Act to provide a community housing service for that particular tenancy and is providing the housing service.</p> <p>It is possible that community housing organisations provide housing that is not funded under the Housing Act.</p>
527D Acceptable behaviour agreements for tenants	<p>HHS and community housing lessors may require the tenant to make a written acceptable behaviour agreement relating to their premises and adjoining premises including common areas where the lessor is of the opinion that the person has engaged or is likely to engage in anti-social behaviour based on history or current tenancy or previous tenancy with the same lessor. Can include occupants, guests or person allowed by tenant.</p>
527E Application for termination relation to acceptable behaviour agreement	<p>HHS and community housing lessors can apply to the Tribunal for termination if the tenant:</p> <ul style="list-style-type: none"> - fails or refuses to enter into acceptable behaviour agreement - seriously or persistently breaches an acceptable behaviour agreement.
556 Application by the state or community housing providers for particular termination orders	<p>If the state or a community housing organisation applies to the Tribunal for a termination order under s345 before commencement of s345A, the application must continue under s345.</p>





APPENDIX 2





Housing Act 2003 – Sections relevant for tenants

Section number & name	Description and comment
s4 Main objects	Improve the access of Queenslanders to safe, secure, appropriate and affordable housing and to help build sustainable communities.
s5 How the objects are to be primarily achieved	By providing public housing and other housing services and developing, undertaking or supporting other housing programs and initiatives.
s6 Guiding principles	<p>Availability of safe, secure, appropriate and affordable housing in a community that:</p> <ul style="list-style-type: none"> - enhances the quality of life of people living in the community - contributes to the wellbeing of the community by enabling people to participate in its social and economic life. <p>Safe, secure, appropriate and affordable housing can be met by government, industry and the community, acting together or separately.</p> <p>Sustainable communities mean:</p> <ul style="list-style-type: none"> - socially and economically diverse, cohesive, resilient and adaptable - access to appropriate services and amenities. <p>This responds to the diverse and changing needs of individuals, families and other households.</p> <p>The state's housing provisions should:</p> <ul style="list-style-type: none"> - provide leadership, promote best practice and residential development - be integrated with provision of other government services as far as possible. <p>Housing services should have regard to:</p> <ul style="list-style-type: none"> - local and regional differences - cultural diversity - Aboriginal tradition and Island custom. <p>Housing should take into account the needs, views and interests of consumers of housing services, Aboriginal and Torres Strait Islander communities, non-government entities, industry bodies and local governments.</p>
s14 Waiver of amounts owed	<p>The chief executive, who can delegate powers to officers can waiver amounts owed for things like rent, loans, compensation for damage caused to rental property.</p> <p>The chief executive can take into account circumstances such as:</p> <ul style="list-style-type: none"> - amount owed - why money is owed - whether payment would cause financial hardship - person's ability to repay - special circumstances whether it would be fair to enforce payment.



s17 False or misleading information	A person must not give false or misleading information to HHS or funded provider about their financial circumstances and income NOTE: 10 penalty units
s19 Unauthorised use or subletting or rental accommodation	A person must use the premises as a place of residence. A person must not sublease the premises, not allow anyone other than on lease or family to live there, and not allow more than stated number of people to live there. NOTE: 10 penalty units
s63 – s67 Review of decisions	Decisions can be reviewed about: <ul style="list-style-type: none"> - eligibility - type of social housing - location of housing. A person can put in an application for review within 28 days of the decision being made. The chief executive or their appointee can: <ul style="list-style-type: none"> - confirm - amend - substitute a new decision.





APPENDIX 3





Residential Tenancies and Rooming Accommodation Act 2008 and domestic and family violence

This appendix summarises sections of the RTRA Act amended in October 2021 and other sections relevant to domestic and family violence

Section number & name	Description and comment
BOND REFUNDS (relate to community housing)	
s128(3)(a) Application by lessor or provider	For DFV Bond refunds, RTA must follow processes in s136 – s136E where the lessor or provider applies for bond and directs payment to themselves
s129(3)(a) Application by contributor	For DFV Bond refunds, RTA must follow processes in s136 – s136E where contributor applies for bond and directs payment to themselves
s135A Application of subdivision	s135A clarifies that where tenant or resident experiencing violence has given a Notice ending tenancy Form 20 or Notice ending residency Form R20 plus evidence of domestic violence, RTA will not notify any other bond contributors.
s135B Joint application by contributor and lessor or provider	RTA will pay the bond where joint application by the tenant or resident experiencing DV and lessor or provider
s135C Application only by lessor or provider	Where only lessor or provider applies for bond and directs payment to <ul style="list-style-type: none"> • contributor RTA will make the payment • themselves, RTA will notify only the tenant or resident who experienced violence
s135D Application only by contributor	Where the tenant or resident experiencing violence applies for bond and directs payment to <ul style="list-style-type: none"> • the lessor or provider, RTA will make the payment • themselves, RTA will notify lessor or provider
s136A Response by interested person to application for payment of rental bond	Interested person has 14 days to submit a notice of claim
s136B Application to tribunal if conciliation process ends without conciliated resolution	If agreement not reached through conciliation, interested person may apply to tribunal within 7 days of receiving a Notice of unresolved dispute



s136C Extension of time to apply to tribunal	Interested person can request in writing to RTA for 3 day extension of time to submit application to tribunal where they have a good reason. Note: people experiencing domestic violence are likely to have sufficient reason
s136D Tribunal order about payment of rental bond	Tribunal order to have regard of the tenant or resident efforts to comply with their obligations and evidence they provide to support their claim. However the tenant or resident is not responsible for damage caused by domestic violence to premises or inclusions
s136E Payment of rental bond after dispute resolution process	RTA will pay the bond where <ul style="list-style-type: none"> no dispute resolution request dispute resolution requests are withdrawn no-one applies to tribunal within timeframe after receiving a Notice of unresolved dispute
s139(4) Limitation affecting early payment	RTA must not pay bond where the tenant or resident has given a Notice ending tenancy or Notice ending residency for domestic family violence if it knows the tenant or resident has not vacated
s144 Sdivs 3, 3A and 4 apply subject to this subdivision	Bond loans team can direct the portion of bond refund to the tenant who experienced violence where they have paid off some of the bond loan. The tenant needs to contact Bond Loans prior to submitting Form 4a to RTA.
DAMAGES	
s188(5) Tenants obligations generally	Person who experienced violence is exempt from obligations to compensate the lessor for damage caused by domestic violence, during and at the end of the tenancy.
s217(5) Notice of damage	Person who experienced violence is not obliged to inform lessor about damage caused by domestic violence
FORWARDING ADDRESS	
s205(3)(b) Tenant's name and other details	This section does not apply to a tenant who ended the tenancy agreement or their interest in the tenancy agreement
ATTACHING FIXTURES (for security)	
s207 Attaching fixtures and making structural changes	The tenant can attach fixtures only if the lessor agrees
s208 Agreement about fixtures and structural changes	An agreement about fixtures or structural changes needs to be <ul style="list-style-type: none"> in writing describe the fixture, how it will be attached state if and how it will be removed at the end of the tenancy The lessor can pay out the value of the fixture at the end of the tenancy if it is left on the premises The lessor can't be unreasonable about attaching a fixture



s209 Attaching the fixture or making structural change without lessor's agreement	If the tenant attaches a fixture without the lessor's approval it can be considered a breach of the agreement but the lessor can reconsider, waive the breach and consider it an improvement to the premises.
CHANGING LOCKS	
s211(2) (4) & (5) Changing locks	<p>Tenant may change the locks if it is necessary to protect themselves or an occupant from domestic violence. They must use a qualified tradesperson.</p> <p>Tenant is required to give a key to the lessor but lessor cannot give a copy of the key to anyone else without the tenant's permission (including, maintenance people, sales agents) or a reasonable excuse.</p> <p>Note 50 penalty units</p> <p>Tenant must comply with body corporate bylaws when changing locks</p>
LEAVING	
s308A Victims right to leave	<p>A tenant has a right to leave where they can no longer safely continue to occupy the premises because of domestic violence experienced by the tenant.</p> <p>A tenant can end their interest in the tenancy by giving a notice ending tenancy</p>
s308B Notice ending tenancy interest	<p>Notice ending tenancy must be in the approved form and supported by evidence prescribed in the Regulations s25A</p> <p>The tenant can provide a copy of the evidence or allow lessor to inspect the evidence</p>
Regulations s25A Supporting evidence	<p>from DFV Protection Act</p> <ul style="list-style-type: none"> • a protection order (DVO) • temporary protection order • Police protection notice (PPN) • an interstate order <p>Family Law order</p> <p>Domestic and family violence report can be signed by an authorised person</p> <ul style="list-style-type: none"> • Health practitioner – Aboriginal & Torres Strait Islander Health service, medical, midwife, nurse, occupational therapist, psychologist • Social worker – person eligible for membership of AASW • Refuge or crisis worker • DFV support worker or case manager • Aboriginal & Torres Strait Islander Health Service • A solicitor



s308C Lessor's response to notice ending tenancy interest	<p>The lessor must within 7 days of receiving Notice ending tenancy inform the tenant if the lessor proposes to apply to the tribunal to have the notice set aside because it does not comply with s308B and Regs s25A</p> <p>AND</p> <p>If other tenants, the lessor must inform the tenant who is leaving that</p> <ul style="list-style-type: none"> • remaining tenants will be informed • when remaining when the remaining tenants will be informed will be informed and • tenancy continues for remaining tenants
s308D Effect of notice ending tenancy if sole tenant	<p>Where sole tenant gives a Notice ending tenancy, the agreement ends later of</p> <ul style="list-style-type: none"> • 7 days or • day the tenant hands back vacant possession
s308E Effect of notice ending tenancy interest if more than 1 tenant	<p>Where a co-tenant gives a Notice ending tenancy, their interest in the tenancy ends the later of</p> <ul style="list-style-type: none"> • 7 days or • The day they leave <p>After they leave, the lessor must give each remaining tenant a continuing interest notice, stating that</p> <ul style="list-style-type: none"> • vacating tenant's interest in the tenancy agreement has ended • the tenancy continues for the remaining tenants on the same terms • if required to top up the bond, that remaining tenant/s are required to top up the bond, the amount and date for bond top up • The lessor is required to give at least 1 month's notice of bond top up • The lessor must give continuing interest notice 7 – 14 days' notice after vacating tenant's interest ends <p>The lessor and remaining tenants become parties to the tenancy agreement</p>
s308F Top ups of rental bond	<p>Remaining tenant/s required to top up bond within 1 month must pay the amount to the lessor</p>
s308G Particular costs not recoverable	<p>Where a tenant has given a Notice ending tenancy (either sole tenant or co-tenant) they are not liable for costs relating to</p> <ul style="list-style-type: none"> • ending the tenancy agreement • goods left on premises • reletting fees <p>applies despite other provisions in the Residential Tenancies and Rooming Accommodation Act 2008 or the tenancy agreement</p>
s308H Application to tribunal about notice ending tenancy interest	<p>If a tenant gives a Notice ending tenancy, the lessor can within 7 days apply to the tribunal to set aside the notice because it does not comply with s308B</p> <p>Tribunal must have regard for evidence but must not examine</p> <ul style="list-style-type: none"> • whether or not the tenant experienced DFV or • The tenant's belief that not safe to stay in premises



s308I Confidentiality	<p>The lessor, agent or an employee who has access to evidence must not disclose evidence to anyone else except</p> <ul style="list-style-type: none"> • between themselves • a lawyer for legal advice • evidence for court or tribunal • required by law <p><i>100 penalty units</i></p>
s357A(2)(b) Reletting costs	A tenant is not liable to pay re-letting costs where the tenant gave a Notice ending tenancy due to DFV
s415(5)(la) Meaning of urgent application	s308H lessor's application to set aside the Notice ending tenancy
APPLYING TO THE TRIBUNAL	
s245 Injury to domestic associate	<p>Where domestic associate is a co-tenant and experiences violence from the other co-tenant they can apply to the tribunal to be recognised as the tenant instead of the person using violence. The tenant needs to provide evidence such as DVO or other evidence. The lessor/agent needs to be included in the application to the tribunal. The tribunal can make orders about the bond and about tenancy database listings.</p>
s246 Injury or damage affecting occupants	<p>An occupant who is not a co-tenant can apply to the tribunal to be recognised as the tenant because the tenant has caused injury to the occupant or seriously damaged the premises. The occupant needs to provide evidence of the injury or damage. The lessor/agent needs to be included in the application to the tribunal.</p>



