



Community Housing Intervention Order guideline

This guideline outlines how community housing providers manage:

- an [intervention order](#) notification concerning a tenant
- the storage and management of intervention order information
- the service response to protected person/s and the defendant named in an intervention order.

Key definitions are at the end of this document.

This guideline applies to:

- all community housing providers that receive intervention order notifications identifying a property address that is subject to or bound by a Community Housing Agreement between a community housing provider and the South Australian Housing Trust (SAHT) (including the Better Places Strong Communities and Renewing Our Streets and Suburbs Housing Transfer Management Deeds).
- any other lease or agreement which refers to this guideline

This guideline does not apply to:

- Specialised Housing Program leases, which are governed by the SA Housing Authority (the Authority) Domestic Abuse Policy and report intervention orders to the Authority (public housing section).

Under the [Intervention Orders \(Prevention of Abuse\) Act 2009](#) ('the Act'), the police and the court can issue

- interim intervention orders
- intervention orders
- tenancy orders.

The objectives of the Act include:

- a. to assist in preventing domestic and non-domestic abuse, and the exposure of children to the effects of domestic and non-domestic abuse, and
- b. to provide special police powers of arrest, detention and search in connection with issuing, serving and enforcing Intervention Orders; and
- c. to further protect persons suffering or witnessing domestic or non-domestic abuse.

In an intervention order, the victim is referred to as the protected person and the perpetrator is referred to as the defendant.

If the Department of Human Services (DHS) informs Housing Partnerships, SA Housing Authority of an intervention order that relates to or is relevant to a community housing provider for the purposes of this guideline, then Housing Partnerships will pass this information on to the relevant community housing provider to the extent Housing Partnerships is legally able to do so.

Intervention order conditions need to be carefully considered by community housing providers. The conditions of interim intervention orders and intervention orders may override other relevant legislation (which may include certain provisions of the [Residential Tenancies Act 1995 \(SA\)](#)). It is important the community housing provider obtains its own advice to ensure it complies with the relevant legal requirements.

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Depending on the conditions of the intervention order, the community housing provider may be required to:

- separate a joint registration of interest so the defendant and the protected person have their own registrations
- not allow the defendant to access a community housing property
- not allow the defendant to end their community housing tenancy while an interim intervention order is in place
- insist the defendant to stay away from or end their tenancy in a community housing property
- not approve a defendant's registration for transfer
- transfer the defendant's tenancy to a protected person under a Court issued tenancy order.

The conditions of an intervention order may prohibit the defendant from residing in the same property as the protected person, even if the defendant is the tenant of the property.

Following an intervention order, the Court may issue a tenancy order which assigns the tenancy to another person, for example the protected person. The defendant may be unable to appeal this condition to the South Australian Civil and Administrative Tribunal (SACAT).

Under section 89A(2) of the [Residential Tenancies Act \(Domestic Violence Protections\) Amendment Bill 2015](#) (the Act), SACAT may, on application by a community housing provider, terminate a tenancy if it is satisfied that:

- an intervention order is in force against a tenant for the protection of a person who normally or regularly resides at the residential premises; or
- a tenant has committed domestic abuse against a person who normally or regularly resides at the residential premises.

What domestic abuse is

Subject to the Act and any other relevant law, domestic abuse is an act that results in, or is intended to result in, any of the below:

- physical injury
- emotional or psychological harm
- denial of financial, social or personal autonomy
- damage to property owned, used or enjoyed by the victim

Domestic abuse can happen between two people who are, or have been, in any of the below relationships:

- domestic partners, or another form of intimate personal relationship where their lives are interrelated, and their actions affect each other
- a person and a child of any age, for example stepchild, grandchild, child under the person's guardianship
- siblings, stepsiblings or other children who regularly stay or live with the other
- people otherwise related to each other by blood, marriage, adoption or another form of domestic partnership
- people who are related according to Aboriginal or Torres Strait Islander kinship rules, or are both members of another culturally recognised family group
- a carer and the person they're caring for

Notifying a community housing provider of an intervention order

Community housing providers are to nominate a contact officer to receive notifications of intervention orders, and inform Housing Partnerships, of the contact details.

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The Courts Administration Authority may inform DHS of an intervention order including proof of service, variations and revocations.

Where the property is a community housing property, DHS may notify Housing Partnerships, which will endeavour to notify the relevant community housing provider by email (to the extent Housing Partnerships is legally able to do so), usually on the same day the information is received.

The email to the community housing provider must use the current correct template and attach the Intervention Order as a PDF and include the property address.

Managing interim intervention order notifications

Community housing providers must check whether the defendant named in the interim intervention order is their tenant, and whether the conditions of the interim intervention order exclude the tenant from their property. No action may be required where the defendant and/or the protected person(s) are not a tenant or listed household member of the property.

Defendant is named on the tenancy agreement

Where the defendant is a tenant named on the tenancy agreement and they are excluded from their property under the conditions of the interim intervention order, their tenancy agreement will remain in place until the interim intervention order is reviewed by the court, normally within 8 days after the date of the interim intervention order (section 26(5) of the Act).

However, where the defendant is not living at the property, the community housing provider may make a fixed term lease arrangement with the protected person for the period of the interim intervention order and reassess the rent payable, based on the income of the remaining household occupants (that is, the defendant's income is excluded from the rent assessment).

Defendant is a household member (ie not named on the tenancy agreement)

Where the defendant is a household member (but not named on the tenancy agreement) and is excluded from their property, a change of circumstances will apply, and household income should be reassessed. Refer to: [Community housing rent policy](#) and its [addendums](#).

Managing tenancy orders

Pursuant to section 25 of the Act, if the Court confirms an interim intervention order as a final intervention order (or otherwise issues a final intervention order), and if:

- the final intervention order prohibits the defendant from being on premises at which the protected person resides; and
- the defendant and the protected person previously resided together on the premises; and
- the premises are subject to a tenancy agreement to which the defendant is a party,

then the Court may also make a tenancy order that the defendant will be taken to have assigned the defendant's interest in the tenancy agreement to a specified person or persons with the landlord's consent (for example, the protected person). This means that the assignee assumes responsibility for the lease of the property.

However, where the landlord is a community housing provider and the premises constitutes "community housing", then a tenancy order may only be made if the Court is satisfied that the assignee:

- Consents to the assignment of the tenancy agreement; and

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- Meets the eligibility requirements for such community housing (including, for example, the criteria in the CH [Eligibility policy](#) and CH [Eligibility guideline](#)); and
- Could reasonably be expected to comply with the obligations under the tenancy agreement.

Where a tenancy order has been issued, the community housing provider must notify the Courts Administration Authority of the assignee's housing eligibility assessment, and must then undertake the relevant process to transfer the tenancy agreement from the defendant to the Court nominated assignee.

Revoked intervention order notifications

Where an intervention order (including an interim intervention order) is revoked in accordance with the Act, the order ceases to be in effect and its terms and conditions no longer apply. In this case, the defendant can resume his or her tenancy (unless the protected person/s continues to occupy the property under a court-imposed tenancy order).

Changing locks

The community housing provider will be responsible to change all keyed access points to the home where the defendant (the person whom the intervention order is against) is a person listed as an occupant or tenant on the tenancy agreement. The community housing provider will retain a key. In most circumstances the community housing provider will pay for these changes. Other security items may also be provided and installed by the provider, such as security screens and security windows.

Community housing providers should refer the protected persons to these programs for additional assistance, which may include security items:

- SAPOL Home Assist Program
- Safe at Home (SaH) Program
- Home security assistance from the Commissioner for Victim's Rights

Further information is at [Safety at home | Victims of Crime South Australia \(voc.sa.gov.au\)](https://voc.sa.gov.au)

If the tenant has given a key to a person not listed as a tenant or occupant on the lease, and an interim intervention order or intervention order is put in place against that person (the defendant), the tenant will be responsible to pay for lock replacement.

If the community housing provider has been notified of the intervention order prohibition, it may be an offence if it provides the defendant with a key to the premises or otherwise assists or permits the defendant to gain access to the premises (as per section 32 of the Act).

Confidentiality

Community housing providers which receive information about intervention orders must ensure that the information is kept confidential. Only those people who need to know the information, in relation to housing and tenancy arrangements, should be informed of the intervention order or tenancy order and the conditions.

To report violation of an intervention order

Community housing providers must report all known breaches of intervention orders to the police.

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Where the violation of an intervention order:

- creates reasonable grounds for suspecting that a child is at risk of any harm; or
- creates reasonable grounds for suspecting that an adult is an imminent risk of serious harm,

the community housing provider must report the suspected violation to the police.

Definitions

Community Housing Agreement

The agreement entered into between the South Australian Housing Trust (SAHT) and a community housing provider, pursuant to section 20 of the *Community Housing Providers (National Law) (South Australia) Act 2013* and includes:

- The Master Community Housing Agreement including all attachments, annexures and schedules to it; and
- Any agreement, deed or instrument executed under, or which is subject to or bound by the Master Community Housing Agreement (including but not limited to project agreements, deeds or statutory charge and pre-existing agreements).

Community housing provider

An entity that provides community housing and is registered under the *Community Housing Providers (National Law) (South Australia) Act 2013*.

Court

The Magistrates Court can make rulings under the Intervention Orders (Prevention of Abuse) Act 2009 and other legislation.

Defendant

The defendant is either:

- A person against whom an application for an intervention order has been or is intended to be brought, or
- A person against whom an intervention order has been made.

Interim Intervention Order

An interim intervention order is an application for an intervention order and provides temporary protection to the person specified in the order. The order requires the defendant to appear before the court for determination of the application. Once confirmed by the court the interim intervention order becomes an intervention order.

Intervention Order

Intervention orders are orders prohibiting a defendant from doing certain things and, if necessary, requiring the defendant to do other things as set out in the terms of the order.

The order may be issued for the protection of anyone against whom it is suspected the defendant will commit an act of abuse or any child who may hear or witness or otherwise be exposed to the effects of an act of abuse committed by the defendant against another person. The order may be issued to protect more than one person.

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Proof of Service

Evidence that the intervention order has been delivered to the intended party (that is, the defendant), notifying them of initial legal action. If the intervention order had not been served on the defendant, it is not effective.

Protected person

A person for whose protection an interim intervention order or intervention order has been issued. He or she may be named in the order as the person being protected from abuse or who the order restrains the perpetrator from abusing.

Revoke

An Intervention order is ongoing and continues in force until it is revoked [Intervention Orders \(Prevention of Abuse\) Act 2009 Part 3, 11\(1\)](#)). When an intervention order is revoked, the order ceases to be in effect and its terms and conditions no longer apply.

South Australian Civil and Administrative Tribunal

This Tribunal can make rulings under the [Residential Tenancies Act 1995 \(SA\)](#) and other legislation.

Tenancy order

An order issued in addition to an intervention order, where a tenancy of a property is assigned to another person(s) specified by the Court (for example, the protected person) if the original tenancy agreement was in the name of the defendant.

Roles and Responsibilities

| Position | Responsibility |
|-----------------------------|---|
| SA Housing Authority | <ul style="list-style-type: none">- on receipt of information from DHS, Housing Partnerships notifies the relevant community housing provider of an Intervention Order's details using the correct template- keep information about an Intervention Order confidential - inform only the people who need to know about it |
| Community housing providers | <ul style="list-style-type: none">- nominate a contact officer and inform Housing Partnerships- check if defendant is named on Tenancy Agreement- where the defendant is not living at the property, make a fixed term lease arrangement with the protected person for the period of the interim intervention order and reassess the rent payable based on remaining household income- where the defendant is a household member (but not named on the tenancy agreement) and is excluded from their property, reassess the household income- where a tenancy order has been issued, notify the Courts Administration Authority of the court nominated assignee's housing eligibility assessment; and then transfer the lease from the defendant to the court nominated assignee- allow a defendant to resume tenancy when Intervention Order is revoked- where an interim intervention order or intervention order prohibits a defendant from being on premises at which a protected person/s resides, |

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| | <p>provide and install new security items such as new door locks, window locks security screens and security windows</p> <ul style="list-style-type: none">- refer the protected person to Safety at home Victims of Crime South Australia (voc.sa.gov.au) for more assistance and security items- keep information about an Intervention Order confidential - inform only the people who need to know about it- report a suspected breach of an Intervention Order to the police |
|--|---|

Related documents

- [Intervention Orders \(Prevention of Abuse\) Act 2009](#)
- [Intervention Orders \(Prevention of Abuse\) Regulations 2011](#)
- [Intervention Orders \(Prevention of Abuse\) \(Miscellaneous\) Amendment Act \(Commencement\) Proclamation 2015](#)
- [Intervention Orders \(Prevention of Abuse\) \(National Domestic Violence Orders\) Variation Regulations 2017](#)
- [National Plan to Reduce Violence against Women and their Children](#)
- [Residential Tenancies Act 1995 \(SA\)](#)
- [Residential Tenancies Act \(Domestic Violence Protections\) Amendment Bill 2015](#)
- [SA Housing Authority Domestic Abuse policy](#)
- www.police.sa.gov.au/your-safety/intervention-orders
- [Safety at home | Victims of Crime South Australia \(voc.sa.gov.au\)](https://www.voc.sa.gov.au)