

# Tenant Liability Policy

## Purpose

This policy explains:

- what tenant liability is;
- what Foundation Housing considers to be tenant damage and how it is managed; and
- how Foundation Housing manages tenant liability charges.

This policy also gives details of the support Foundation Housing Ltd (FHL) can offer to tenants in managing tenant liability charges.

## Definitions

**Tenant:** where the word 'tenant' or 'tenants' is used in this Policy, it refers to people residing in FHL owned or managed accommodation, whether under a Residential Tenancy Agreement, or Licence To Occupy.

**Fair wear and tear** means damage to the property including its fixtures and fittings, congruent with use over time.

**Former Tenant:** this refers to those tenants or residents defined above who have vacated FHL accommodation.

**Tenant Liability:** money that a tenant owes to FHL as a result of tenant damage or neglect.

**Tenant Damage:** Tenants are responsible for any deliberate, negligent or accidental damage caused by them, their household, or any person visiting the premises. They are also responsible for any costs incurred by FHL that are not through normal wear and tear such as missed appointments.

**Negligence:** failure to care for the property adequately. This includes repairs needed as a result of inadequate cleaning or ventilation.

**Urgent Repairs:** in Western Australia, urgent repairs are broken down into two categories:

1. Essential services;
  - Electricity
  - Gas
  - A functioning fridge (if provided with the property)
  - Sewerage, septic tank or other waste management

- Water, including the supply of hot water

2. Other urgent repairs;

These are repairs that are not an essential service but are necessary to avoid;

- Exposing the property to damage
- Exposing a person to the risk of injury, or
- Causing undue hardship or inconvenience

## Scope

Under their tenancy agreement, tenants have a responsibility to take care of their property and keep it clean and are expected to hand it back in a similar condition to how it was when they first moved in (fair wear and tear excepted).

FHL will pass on the costs for repair, replacement or damage otherwise incurred at the property which is deemed to be tenant liability. This includes but is not limited to:

- broken windows or glass;
- blocked sinks, drains or toilets caused by something other than normal sewage such as oil, nappies, sanitary towels, wet wipes, food etc;
- holes in doors or walls inside the home;
- burns or other damage to floor coverings, kitchen benches or other surfaces;



- broken locks or replacement of keys (not resulting from fair wear and tear);
- overgrown gardens or lawns;
- chemical contamination;
- damage to outside doors and security screens;
- damage to water or gas pipes;
- costs for end-of-tenancy repairs and services such as cleaning and rubbish removal and;
- charges incurred for missed appointments, false call outs or late cancellations.

## Tenant Responsibilities

Tenants are required to notify FHL within 3 days of any instances of damage to their home. Tenants are responsible for rectifying any tenant damage; either by organising the work themselves or arranging it through FHL if it is considered an urgent repair. For non-urgent repairs, FHL may undertake the work if the tenant has sufficient credit in their rental account to cover the cost of the works. A prepayment arrangement can be made in the event that the tenant has insufficient credit, and works will be undertaken when the required credit is reached. In the event that a tenant undertakes the repairs themselves, they should be mindful of ensuring the work is completed by a suitably qualified professional.

If the damage was the result of a crime and this has been reported to the police, tenants must provide Foundation Housing with the police report number and evidence to prove that the crime was committed by someone not connected to the tenant within 3 days. FHL will not charge tenant liability in these circumstances.

Tenants are expected to take reasonable steps to resolve any maintenance issues at their property. This includes but is not limited to;

- checking RCDs when there is no power;
- checking that power points are on if an appliance stops working;
- ensuring that gas or electricity remains connected to the property;
- checking that there are no outages in the area (e.g. Western Power or Water Corporation);
- items are clean (e.g. stove top ignitors, sliding door tracks).

If a tenant makes an appointment with a FHL maintenance contractor but does not keep the appointment, cancels without a minimum of 12 hours' notice, or impedes the

contractor's ability to complete the required repair (such as aggressive behaviour, unable to access the area etc) they may be charged a call-out fee.

## FHL's Responsibilities

FHL will assess all reports of tenant damage and seek further clarification from the tenants, Housing/Lodging Coordinator and/or contractors to enable a full and proper assessment to be made regarding the damage and whether or not it is tenant liability. The tenant will be informed of the outcome of that assessment and any actions and/or costs arising prior to the work being undertaken. In the case of an urgent repair or one required due to a safety issue, FHL will undertake this work and then discuss the TL charge following the work being completed. In such instances, the tenant will still be informed prior to the works being completed that the repair constitutes TL.

FHL will only repair tenant damage during a tenancy if the repairs are considered urgent or if the tenant has sufficient credit in their rental account to cover the cost of the works.

If there has been damage to the premises, and this has happened because of family and domestic violence, the tenant can apply to the Magistrate's Court for an order under Section 17B of the Residential Tenancies Act 1987. The Court can assign liability for any damages or debt to whoever is responsible for the family and domestic violence. If there is no court order, all tenants remain jointly liable for any damages and/or debt.

FHL will not charge for damage caused by a perpetrator of family and domestic violence, only where this has been determined by a magistrate's court, and in accordance with Section 17B of the Residential Tenancies Act 1987.

If the tenant has a support agreement with a support provider, FHL will work with the support provider, in line with the agreement, on all matters relating to tenant liability.

Decisions about tenant liability charges will be made with consideration of any mitigating circumstances; for example, damage to walls caused by wheelchair use if the property is not appropriate for a wheelchair user.

## Calculating Tenant Liability

Where it has been established that damage at the property is the result of intentional damage or negligence, the Property Services team will determine the amount that the tenant is liable for, based on contractor invoices. In determining tenant liability costs the Property Services team will have regard to all remediation costs including labour, parts and GST. Where FHL chooses not to replace an item like-for-like, the tenant liability cost will be calculated based on a like-for-like replacement and FHL will cover any difference in cost as a result of this decision.

Tenants are not responsible for damage at the property that can be considered 'fair wear and tear'. The Tenant Liability Procedure provides detail on reduction of tenant liability for fair wear and tear. The Property Services Team Leader will make the final determination as to whether or not damage at the property is classified as tenant liability or fair wear and tear and will inform tenants of this decision and the rationale for reaching that conclusion.

## Appealing a Decision

If a tenant does not agree with any of Foundation Housing's decisions or actions, they can appeal against them under Foundation Housing's Appeals Policy, which can be accessed at [www.foundationhousing.org.au](http://www.foundationhousing.org.au).

## Relevant Legislation

- Residential Tenancies Act 1987 (WA)

## Related Documents

- Tenant Liability Procedure
- Appeals Policy