

Information for professionals who can make a domestic violence declaration

Have your say on domestic violence rental laws

The NSW Government is reviewing the laws that allow tenants to end their tenancy, without penalty, if they or their children are experiencing domestic violence.

[Have your say on domestic violence rental laws](#)

Who can make a domestic violence declaration?

Previously, only registered medical practitioners were allowed to complete a domestic violence declaration.

From 11 December 2020, a wider range of competent persons may provide a declaration.

- Registered health practitioners who hold either general or specialist registration under the *Health Practitioner Regulation National Law (NSW)*, in one of the following health professions:
 - Aboriginal and Torres Strait Islander health practice
 - Chinese medicine
 - chiropractic
 - dental (including the profession of a dentist, dental therapist, dental hygienist, dental prosthetist and oral health therapist)
 - medical
 - medical radiation practice
 - midwifery
 - nursing
 - occupational therapy
 - optometry
 - osteopathy
 - paramedicine
 - pharmacy
 - physiotherapy
 - podiatry
 - psychology
- social workers who are a member of the Australian Association of Social Workers,

- employees of a NSW government agency that work in child protection,
- employees of non-government agencies that receive government funding to provide services relating to domestic violence/sexual assault or refuge/emergency accommodation, and
- approved counsellors under the *Victims Rights and Support Act 2013*.

This declaration is one of 4 acceptable forms of evidence a tenant can use to attach to their termination notice, to end their tenancy without penalty.

The declaration has been made available in response to concerns that many victims of domestic violence do not feel comfortable going to the police or engaging with the justice system.

Role of a competent person

Competent persons are professionals that can declare a tenant or their dependent child is a victim of domestic violence.

Many health practitioners, social workers and child protection/domestic violence support services already deal with the physical and emotional impacts of family violence.

These trusted professionals can proactively help a victim escape domestic violence in a rented home by telling their clients about the protections that may be available to them.

Competent persons can declare a tenant or their dependent child is a victim of domestic violence using the **Declaration Forms below**.

The tenant can then use this form as evidence to end their tenancy by providing it to their landlord with the required termination notice.

Competent persons are not obliged to make a declaration.

Making a declaration

Competent persons must have consulted (in their professional capacity) with the tenant who is seeking to end their tenancy, or the tenant's dependent child.

By signing a declaration, the person is providing evidence that a tenant or their dependent child is a victim of domestic violence, based on their professional assessment.

| The competent person does not have to prove domestic violence has taken place.

If the competent person is not satisfied that the tenant who is seeking to end their tenancy, or the tenant's dependent child, is a victim of domestic violence, then they should not make a declaration.

It is an offence for a person to knowingly provide false or misleading information in connection with a declaration. It is also an offence for a person to sign the declaration knowing that it is false or misleading.

It is not an offence for a competent person to make a declaration based on information that they believed to be true at the time of making the declaration.

For example, if the information the competent person based their declaration on is later found to be false or misleading, but the person did not know this was the case at the time of making the declaration, then it is not an offence.

Collecting, using or disclosing personal information

A competent person must keep the information in a declaration, and any copy of a declaration in their possession, confidential and secure.

Competent persons are authorised to collect, hold, use or disclose personal information about the relevant domestic violence offender that they require for the purposes of making a declaration.

A competent person should not, under any circumstances, contact or seek information from the relevant domestic violence offender.

Declaration forms

Declaration by competent person for tenant

Declaration by competent person for tenant's dependent child

If the competent person is declaring that a tenant is the victim of domestic violence, they must complete the Declaration by competent person for tenant.

A separate declaration needs to be made for each tenant seeking to be declared a victim of domestic violence.

If the competent person is declaring that the tenant's dependent child is the victim of domestic violence, they must complete the Declaration by competent person for tenant's dependent child. They only need to complete this form if the tenant is not a victim of domestic violence, but their dependent child is.

It is important to read the information on the declaration form carefully and complete the entire form.

Once a competent person has consulted with the tenant or their child and made their assessment, they should complete the form by:

1. entering the details of the tenant and, if applicable, details of the tenant's dependent child, and

2. entering the name of the relevant domestic violence offender, based on the information provided by the tenant, and
3. selecting the type of relationship between the tenant and the relevant domestic violence offender, based on the information provided by the tenant, and
4. completing and signing the declaration.

After making a declaration

After completing the declaration, a competent person should give the form to the tenant and keep a copy of it and any other notes for their own records.

Competent persons are not required to take any further action.

The tenant must attach the signed declaration to a domestic violence termination notice and give these documents to their landlord or the landlord's agent to end their tenancy.

Only the tenant's landlord or the landlord's agent will receive the declaration, which they must keep confidential and secure. The contents of a declaration are not reviewable in any Tribunal proceedings.

[Prev](#) Resolving residential rental problems

[Next](#) Agricultural tenancy

<https://www.fairtrading.nsw.gov.au/housing-and-property/renting/professionals-who-can-make-a-declaration> 11-11-22

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11-11-22