



Commonwealth of Massachusetts
**DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT**

Charles D. Baker, Governor ♦ Karyn E. Polito, Lt. Governor ♦ Jennifer D. Maddox, Undersecretary

PHN 2020-39

To: Local Housing Authority (LHA) Executive Directors

From: Ben Stone, Director, Division of Public Housing

Date: November 19, 2020

Re: LHA Responsibilities to Tenants and Applicants who are Victims of Domestic Violence and Sexual Assault

In 2005, DHCD issued Public Housing Notice [2005-05](#) to all LHAs regarding domestic abuse and sexual violence and reissued a [1996 memorandum](#) setting out the requirements for granting Abuse Situation Priority to applicants. Since that time there have been considerable changes, including: staff turnover, the implementation of the Common Housing Application for Massachusetts Public Housing (CHAMP) waitlist system, amendments to the Eligibility and Selection Criteria regulation at [760 CMR 5.00](#), and the enactment of Chapter 402 of the Acts of 2012, An Act Relative to Housing Rights for Victims of Domestic Violence, Rape, Sexual Assault and Stalking, codified as [M.G.L. c. 186](#), sections 23 through 29. M.G.L. c. 186, §§23-29 includes requirements similar to those that are already mandated for LHAs by DHCD, but it did provide penalties for non-compliance and a shield from liability for landlords making a good faith attempt to comply.

DHCD is issuing this public housing notice to make certain that each and every LHA and their staff are aware of their responsibilities to tenants and applicants who are the victims of abuse, domestic violence, dating violence, sexual assault, and stalking. Key points discussed in further detail below include:

- **Applicants:**
 - Confirming documentation that satisfies the Abusive Situation Housing Priority. There is no change to the requirement for documentation.
 - Screening applicants for qualification - an applicant may show as mitigating circumstances that the applicant was a victim of abuse/domestic violence/dating violence/sexual assault/stalking and that the abuser caused the violation.

- **Tenants:**
 - Clarifying protections for remaining household members for damage, disturbance, or other lease violations caused by the abuser.
 - A brief summary of LHA obligations to change locks, including statutory obligations to change locks for tenant households under imminent threat of domestic violence, rape, sexual assault or stalking. See updated lease with revised lock change language (**Attachment C** to this PHN, Section VIII(h)).
 - LHA assistance to victims of domestic violence and resources for victims.

DHCD has created a notice to be provided to all applicants (**Attachment A** to this PHN) through the CHAMP screening package, as well as a notice to be provided by LHAs to all tenants upon lease-up or, for existing tenants, annual rent redetermination (**Attachment B** to this PHN). The following provides clarifications to the DHCD regulations and guidelines regarding applicants and tenants of state-aided housing and members of their households. If you have any questions regarding the application of this PHN to any particular situation, please contact your assigned Housing Management Specialist or LHA Attorney.

Applicants

Priority

Priority for Homeless Applicants continues to be granted for applicants in an Abusive Situation under the [Housing Situation Priority Policy for LHAs](#). The Policy grants Priority 4 to applicants who have been displaced or are about to be displaced from their primary residence due to an Abusive Situation. The Policy provides that an applicant is in an Abusive Situation if the applicant or member of the applicant household is determined by the LHA to be a victim of abuse as defined in the Abuse Prevention Act ([G.L. c.209A, §1](#)). The Abuse Prevention Act defines “abuse” as the occurrence of one or more of the following acts between “family or household members”: (1) attempting to cause or causing physical harm; (2) placing another in fear of imminent serious physical harm; or (3) causing another to engage involuntarily in sexual relations by force, threat or duress. “Family or household members” are individuals who are related by blood or marriage, have a child together, or who now or formerly resided in the same household or dated each other. Abuse that meets this definition also meets the requirement under the Housing Situation Priority Policy that abuse must constitute a significant and direct threat to life or safety. In order to be granted Priority 4 on account of an Abusive Situation, an applicant must generally meet the definition of “Homeless Applicant” at [760 CMR 5.03](#) with the following clarifications/caveats:

1. An applicant who is a victim of “abuse,” as that term is defined under the Massachusetts Abuse Prevention Act, satisfies the “significant and direct threat to life or safety” requirement under the “Homeless Applicant” definition.
2. Because an applicant who is granted a Priority Status will go ahead of other applicants on the waiting list, an Abusive Situation needs to be documented by the applicant based on their individual circumstances. The documents found online in CHAMP (the “[Checklist of Required Verification Documents for Housing Situation Priority Status](#)”) contain a list of the types of documents that applicants may provide to verify that they meet the criteria for Abusive Situation. LHAs shall require at least one document or written description of circumstances. Since certain actions on the part of victims of domestic violence can trigger violent acts by the offenders, no particular item can be mandated as a required form of verification for Abusive Situation Priority Status. However, if any verification appears vague, an LHA may obtain additional documentation until the LHA feels that a reasonable showing has been made that the applicant meets the criteria for the Priority.
3. Applicants who have been displaced by an Abusive Situation are not required to be in a continuing situation of immediate risk of harm in order to be eligible for the priority under the

Housing Situation Priority Policy. Such applicants must only show that the abuse was the cause of their displacement or imminent displacement.

4. In determining whether an applicant became displaced or is imminently facing displacement due to abuse, LHAs may consider a detailed explanation from the applicant or other reliable source of the circumstances that led to the applicant being displaced or imminently facing displacement.

5. There is a presumption that victims did not contribute to their circumstances. Therefore, victims must not be required to demonstrate that they did not cause/contribute to the Abusive Situation, or to demonstrate that they tried to prevent the Abusive Situation that caused their displacement or imminent displacement.

6. While victims of sexual assault or stalking that does not constitute “abuse” as defined by the Abuse Prevention Act do not receive priority based on that situation alone, if the victim becomes displaced/faces displacement as a consequence of the sexual violence or stalking, the victim may be eligible for Priority 4 under the Housing Situation Priority Policy. As in cases of domestic violence, there should be a presumption that victims did not contribute to their circumstances.

7. If actual or feared contact with the perpetrator in the present housing has caused severe medical or psychiatric illness, applicants should be granted a Priority 4 as Homeless due to a Severe Medical Emergency under the Housing Situation Priority Policy.

Screening Applicants for Qualification

1. When an LHA determines that an applicant may be disqualified for housing because of a lease violation at a prior tenancy, including damage, disturbance, or nonpayment of rent, if the applicant shows that the applicant was a victim of abuse/domestic violence/dating violence/sexual assault/stalking, and that the lease violation was caused by the perpetrator of domestic abuse or sexual violence, then these facts shall be considered by the LHA as mitigating circumstances pursuant to [760 CMR 5.08\(2\)](#).

2. [M.G.L. c. 186, §25](#) provides that a landlord or subsidy provider may not refuse to enter into a lease or provide a subsidy because an applicant exercised their rights under Chapter 186 to terminate their lease or to change their locks.

Tenants

1. If an existing tenant is a documented victim of abuse/domestic violence/dating violence/sexual assault/stalking, and removes the abuser from the unit, the LHA shall not evict the tenant/remaining household members for damage, disturbance, or other lease violation caused by the abuser unless failing to do so could, within an immediate time-frame, result in death or serious bodily harm to persons lawfully on the LHA property, and there are no other actions that could reasonably be taken to reduce or eliminate the threat. For permissible documentation of abuse/domestic violence/sexual violence/dating violence/stalking, see the Checklist of Required Verification Documents for Housing Situation Priority Status for “Abusive Situation.”

2. Upon notification that an existing tenant is a documented victim of abuse/domestic violence/dating violence/sexual assault/stalking, and has removed the abuser from the unit, the LHA shall recalculate the household rent subtracting the abuser's income from the household's total income. In accordance with [760 CMR 6.04\(3\)\(b\)](#), there may be good cause for a waiver of any late fees and interest that might otherwise have been charged if the tenant fails to pay the rent until the amount of rent has been recalculated after the removal of an abuser from the household.
3. The DHCD Form Lease and regulation at [760 CMR 6.06\(4\)\(q\)](#) requires that an LHA must provide reasonable and appropriate assistance to tenants who are victims of domestic violence. Such reasonable and appropriate assistance for victims of domestic violence/abuse (as well as for victims of sexual assault, dating violence, or stalking) may include granting the tenant a transfer for administrative reasons in accordance with the definition at [760 CMR 5.03](#).
4. Reasonable and appropriate LHA assistance also includes encouraging tenants to take all reasonable precautions to be safe and to contact the state domestic violence hotline, SafeLink¹ at (877) 785-2020 or <http://www.casamyrna.org/chat> (includes options for the Deaf and hard of hearing), the National Domestic Violence Hotline at 1-800-799-7233 (1-800-787-3224 (TTY) for persons with hearing impairments), and/or a local domestic violence shelter for assistance in safety planning. Safety planning includes identifying safe housing or shelter locations. Tenants who are or have been victims of sexual assault should also be encouraged to call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE (or visit the online hotline at <https://ohl.rainn.org/online/>). Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.
5. The DHCD Form Lease and regulation at [760 CMR 6.06\(4\)\(r\)](#) now requires an LHA to re-key locks promptly and waive charges for the cost where circumstances warrant, upon request of a household member who has obtained a restraining order which is in force against another household member on account of domestic violence, and will require it for sexual assault, or stalking once the regulation change is finalized.
6. [M.G.L. Chapter 186, §26](#) provides that if a member of a tenant household is under imminent threat of domestic violence, rape, sexual assault or stalking, the landlord must change the locks within 48 hours of receiving a request to do so, and deny the perpetrator a key to the new lock. In the event that the landlord does not change the lock within 2 business days, the victim has the legal right to change the locks without permission.
7. Where an abuser is not a member of a tenant household, in appropriate circumstances, the LHA may seek a court order to prohibit the abuser from entering or remaining upon LHA property in accordance with [M.G.L. c.121B, § 32B-32F](#).

¹ SafeLink is a toll-free domestic violence Massachusetts hotline that provides callers 24/7 live response in English, Spanish, Portuguese, with access to translation in more than 130 languages. See also <http://www.casamyrna.org> for additional resources.

8. A Massachusetts court with jurisdiction may determine who shall be entitled to the public housing tenancy in the event of the break-up of the tenant family or a protective order. When the issue arises, LHAs should inform tenants and the courts of the existence of this regulation.

9. [M.G.L. c. 186, §24](#) provides that if a tenant proves that they were the victim of domestic violence, rape, sexual assault or stalking and they vacate the premises, then the landlord must allow the tenant to terminate the lease and the tenant will no longer be responsible for any lease obligations in accordance with the terms of the statute.

10. Although a tenant may have been housed as a Priority 4 Homeless due to an Abusive Situation, if evidence is provided, and the LHA feels confident that the abuser has been rehabilitated, the LHA may give written permission to add the former abuser to the tenant's lease in accordance with the provisions in the definition of Family (Household) at [760 CMR 5.03](#).

Attachments:

Attachment A: *Notice to All Applicants: Information Regarding Domestic Violence, Sexual Assault, Dating Violence, And Stalking in State-Aided Public Housing*

Attachment B: *Notice to All Tenants: Information Regarding Domestic Violence, Sexual Assault, Dating Violence And Stalking in State-Aided Public Housing*