

Renter responsibility, dispute and resolution Policy

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Our vision is that **Aboriginal Victorians secure appropriate, affordable housing as a pathway to better lives and stronger communities**. We believe that achievement of our vision is through the provision of housing services which enhance the dignity of our clients and renters and which respects and celebrates their cultural beliefs, values and practices.

Our policies and procedures are designed so that our practice and service delivery is in accord with this cultural statement.

1 Policy Objectives

The purpose of this policy is to detail the processes for responding to neighborhood and renter responsibility issues. This policy intends to balance the rights of renters with the rights of neighbours to create positive relationships and build strong communities.

2 Scope

This policy applies to all social housing properties owned or managed by AHV.

3 Guiding principles

In applying this policy AHV will ensure:

- Cultural safety in recognition of cultural sensitivities such as sorry business or community matters
- Eviction is a measure of last resort
- Decision making is person-centred, and tenancies are sustained wherever possible

- Where tenancies are at risk, intervention will occur as early as possible to attempt to rectify any issues
- Proper consideration is given to the human rights of renters that may be impacted by decisions around evictions
- Consistent, fair and accountable processes are followed, and renters will be provided information about processes that impact their tenancies
- A commitment to respond to matters that may be family violence related that is trauma informed and aligns with the Family Violence Multi-Agency Risk Assessment and Management Framework (MARAM)
- All our legal, regulatory and contractual duties are met

4 Responding to breaches of renter responsibility

4.1 AHV response to breaches of renter responsibility.

There are several sections of the Residential Tenancies Act (RTA) that outline the respective duties of renters and landlords. These duties are reflected in the Residential Rental Agreement. AHV's approach to resolving breaches of duty varies according to the seriousness of the breach.

4.1.1 Nuisance or Interference with the peace, comfort or privacy of neighbours

Nuisance is behaviour that substantially and unreasonably impacts the rights of neighbours or the community. Interference with the peace, comfort or privacy means unreasonably impacting the quiet enjoyment or privacy of neighbours.

Forms of nuisance can include but are not limited to:

- Excessively loud noise, or loud noise for an extended period or at inappropriate times.
- Bad odours from uncollected rubbish.
- Unhygienic enclosures for animals.
- Excessive noise from animals or visitors to the premises.
- Using cameras to view a neighbour's private property.

Section 60 of the Residential Tenancies Act 1997 (**RTA**) prohibits renters or their visitors from using their rented premises in a manner which causes a nuisance or interferes with the reasonable peace, comfort or privacy of neighbours.

4.1.2 Damage and costs incurred by renters

Where a renter or a household members caused damage to the premises, AHV will assess the circumstances behind to determine the most appropriate recourse of action.

AHV may seek compensation from renters in circumstances where repairs to a rental property are necessary, because of damage, neglect, not approved alterations that were caused by the renter, another household member, or a visitor.

These costs may not be pursued where the cause of damage relates to family violence or other serious issues and can be demonstrated through documentation such as:

- Police reports
- Supporting letters from a family violence service
- A Protection or Intervention order stemming from an incident in the home

In these circumstances, AHV may serve a breach of duty notice or in more serious circumstances an immediate notice to vacate and seek an Order for Possession under s243 of the Act. The RTA outlines the respective rights and duties of the renter and AHV.

Other costs that may be pursued through a compensation process relate to fines issued to AHV regarding issues caused by the tenancy e.g. council fines where a renter has not taken reasonable care for the lawns or property.

AHV will negotiate with the renter to create a reasonable plan to address the costs incurred however where this does not occur, this may need to be managed via a compensation order issued through VCAT.

4.1.3 Value of costs incurred

Based on cost-effectiveness and supporting reduction of debt on community, the above process will only be initiated if subsequent costs incurred exceed \$200. If the renter wishes to contribute to an amount that is under this threshold that will be coordinated with their consent but not pursued through formal means.

4.1.4 Dangerous behaviour serious acts of violence, threats and intimidation

Serious acts of violence or behaviour which endangers the safety of neighbours, others on the premises or the rental provider, are in breach of the RTA and are behaviours warranting an immediate response.

In these circumstances AHV will issue the renter with an immediate Notice to Vacate under the RTA to ensure the safety and wellbeing of neighbours, others on the premises or the

rental provider. Renters have a duty not to threaten or intimidate AHV, its staff, contractors or neighbours. Section 91ZK of the RTA permits rental provider to issue an immediate Notice to Vacate to a renter where this occurs.

See also section 4.9 Disputes between household members and family violence

4.1.5 Illegal use

Renters must not use the rented premises or permit their use by any other person for any purpose that is illegal at common law or under an Act.

Section 91ZO of the RTA permits rental providers to issue a Notice to Vacate to a renter where the property is used for an illegal purpose. There must be a connection between the illegal activity and the property, for example, if a property is altered to support illegal drug growth or manufacture.

4.2 What Actions are taken if Allegations are substantiated?

Where there is reasonable evidence that a renter has breached their tenancy through behaviour that is anti-social, destructive or dangerous, all relevant circumstances will be considered in deciding the most appropriate response.

This includes the safety and quiet enjoyment of neighbours and the community, and the impact on any property that may be at risk of damage or being used inappropriately. It also includes the impact on the renter and their household and each individual's human rights (see Ending Tenancies and Evictions Policy for discussion of relevant human rights). Competing interests will be carefully considered before action is taken in response to a substantiated breach.

4.3 Breach of Duty Notices

Where a renter has breached a duty provision of the RTA, AHV may decide to issue a breach of duty notice. The notice is a formal written warning to the renter that their obligations under the RTA have not been met. A notice provides a timeframe for the renter to rectify any breach. If the breach is not fixed within the timeframe, AHV may apply to VCAT for a compliance or compensation order.

4.4 Successive Breaches

In circumstances not relating to an immediate Notice to Vacate and where a renter has breached the same duty provision three times and has been issued with breach of duty notices on the first two occasions, AHV may issue a Notice to Vacate on the third breach of that duty. Please refer to the Ending Tenancies and Evictions Policy for further guidance.

4.5 Compensation or compliance Order

When the renter has not complied with a breach notice, AHV may make an application to VCAT for a compensation or compliance order.

A compensation order will require the renter to pay for any costs associated with remedying the breach. A compliance order requires the renter to comply with their duties under the RTA. If the renter fails to comply with the terms of either order, this may be grounds to issue a Notice to Vacate.

4.6 Notices to Vacate

Where there are grounds under the RTA and AHV has considered the relevant human rights impacts, AHV may issue a Notice to Vacate to a renter. Each Notice to Vacate will specify the grounds for termination of the tenancy agreement and provide a notice period for the renter to vacate the property

Eviction is treated as the option of last resort. To maximise opportunities for renters to sustain their tenancies, AHV adopts early intervention strategies in relation to tenancy breaches, and refers renters to appropriate support services. Please refer to the Ending Tenancies and Evictions Policy for further guidance.

4.7 Support Services

As outlined in Section 4.1.3 above, dangerous behaviour serious acts of violence, threats and intimidation will be responded to swiftly. In less serious circumstances, staff will assess what appropriate support services may be helpful in preventing tenancy breaches, helping renters respond to allegations and providing support to sustain tenancies.

This may include referrals to:

- Community legal centres
- Specialist tenancy support and advocacy services
- financial counselling services
- community based mental health services, or
- disability support services.

4.8 Disputes between neighbours

Where two or more neighbouring renters are in dispute, it can be difficult to determine if a tenancy breach has occurred. In these circumstances, AHV strongly encourages the parties in the dispute to participate in a mediation process. Mediation is a potentially affordable, non-threatening way for parties to work through their issues and come to some agreement themselves to achieve a resolution.

If the conflict cannot be resolved through mediation, AHV may make a general application to the VCAT for a legal resolution under s. 452(1). Section 452 provides for either a rental

provider or renter to make a general application to the Tribunal for disputes arising under the tenancy agreement or if there has been a breach of the tenancy agreement or of the RTA in relation to the tenancy agreement.

Section 472 of the RTA outlines VCAT’s power to make any decision it thinks fit, including an order:

- to restrain any action in breach of a tenancy agreement or the provisions of the RTA; or
- to require any action in the performance of a tenancy agreement or of duties under the RTA.

AHV may make application under s452(1) for an order for intervention, compliance and or restraint in relation to disputes between neighbours.

In some instances, the relocation of an AHV household may be initiated by AHV as a means of resolving the dispute, if other courses of action have not been successful.

4.8.1 Pets

As per the “Eligibility and Allocations Policy”, current renters must seek approval from AHV at allocation and must comply with local government by-laws. AHV will assess pets according to the local government by-laws and in alignment with the RTA.

Some AHV housing properties are subject to owners’ corporation rules and regulations and as such renters must comply with any owners’ corporation rules concerning the ownership of pets.

When complaints are received about nuisance behaviour caused by a renter’s pet, the respective parties are encouraged to resolve the problem with the assistance of a community mediation service.

If the owner of the animal does not attempt to remedy the problem, AHV may issue a Breach of Duty notice. In more serious cases, AHV may need to contact the local council and/or police for advice or assistance, for example where:

- a person has been attacked by an animal; or
- neglect of an animal is causing sanitation or health problems; or
- an animal is repeatedly wandering at large.

AHV contacts an animal welfare agency such as the RSPCA when:

- an animal appears to have been abandoned by a renter; or
- there is evidence of maltreatment, harm or neglect.

4.8.2 Alterations or modifications

A renter who wishes to make an alteration or modification to their home, should seek approval in writing where needed and in accordance with Consumer Affairs Victoria. AHV will review this request and send the outcome in writing, and where approved the renter will

be required to complete an “*Internal/External works permit*” form.

Where works are undertaken without the proper approval process, AHV may issue the renter a breach to remedy the issue and return it to the original state. If this is not followed an application will be made to VCAT for a compliance order.

AHV will not reasonably refuse requests to modify especially where the modification is to support people living with disabilities and to address family violence.

4.8.3 Owners’ Corporation rules

Some AHV properties are part of an Owners’ Corporation development (eg, an apartment or unit). Renters of these properties must comply with the rules and regulations of the Owners’ Corporation. AHV provides prospective renters with a copy of the relevant Owners’ Corporation rules at the time of allocation.

As a rental provider in an Owners’ Corporation, AHV has responsibility for taking action to require renter compliance with Owners’ Corporation rules. Failure of AHV to take appropriate action upon notification of a breach of rules may result in an application by the Owners’ Corporation to the Magistrates’ Court for a declaration or an order to determine the dispute.

AHV treats breaches of Owners’ Corporation rules by renters in the same way as other tenancy breaches.

4.9 Disputes between household members, and family violence

At times, AHV receives requests from renters to intervene when relationships between household members have broken down. If conflict between household members does not involve a tenancy related breach of the RTA, AHV does not have the legal authority to intervene.

Where a tenancy breach has not occurred, AHV refers the parties to community support or other legal and mediation services, which may be able to help.

In the case of a renter who has been physically abused by their partner, the victim may ask AHV to evict the perpetrator. AHV does not have the legal authority to do so but will advise the renter to seek legal advice in relation to obtaining a family violence intervention order. A party to a final family violence intervention order under the Family Violence Protection Act 2008 may apply to VCAT for an order:

- terminating the existing tenancy agreement where the person against whom the family violence intervention order has been made is a renter; and
- requesting the landlord of the premises to enter into a new tenancy agreement with the protected person and other persons (if any) specified in the application.

Refer to the Renter and Tenancy Transfers Policy for further details.

4.10 Renters with appointed guardians

A renter may have an appointed guardian to support them under either a Guardianship Order or an Enduring Power of Guardianship. The Guardianship Order lists any limitations to the power of the guardian and will set out the conditions with which they must comply.

Where the renter has an appointed guardian, AHV liaises with the renter and their guardian to negotiate an agreed course of action. If tenancy related issues continue to occur, AHV may issue a Breach of Duty notice. Copies of the breach notice are sent to the attorney/administrator, guardian and the renter.

At this stage the represented person and their guardian must demonstrate that sufficient supports are in place for them to remedy the breach and maintain their tenancy.

5 Relevant Documents

5.1 Policies and procedures

Related policies, procedures

Ending Tenancies and Evictions Policy

Renter and Tenancy Transfer Policy

5.2 Legislation

Legislation, standards, guidelines

Charter of Human Rights and Responsibilities 2006

DHHS Victorian Housing Register Operational Guidelines

Family Violence Protection Act 2008 (Victoria)

Housing Act 1983 (Victoria)

Performance standards for registered housing agencies 2015 (Victoria Housing Registrar)

Registered Agency Agreement between AHV and the Director of Housing relating to participation in the VHR

Residential Tenancies Act 1997 (Victoria)

Victorian Civil and Administrative Tribunal Act 1998 (Victoria)

Charter of Human Rights and Responsibilities 2006

Document control

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