

Ending Tenancies Policy

1. Policy Statement

Uniting Vic.Tas (Uniting) provides tenancy and asset management services for community housing to Uniting Housing Victoria (Uniting Housing), a Registered Housing Provider.

The purpose of this policy is to detail the arrangements, processes, and considerations for ending tenancies.

2. Scope

This policy applies to all housing arrangements managed under the *Residential Tenancies Act 1997* which include, but are not limited to, tenancies in:

- Properties owned by Uniting Housing and Uniting Vic.Tas for use as long-term community housing.
- Properties leased by Uniting Housing from Homes Victoria for long term community housing.
- Rooming Houses.
- Properties managed under the Transitional Housing Management (THM) program, the From Homelessness to a Home (H2H) program and the Homes for Families program.
- Retirement village units rented to persons under the *Residential Tenancies Act 1997*; and
- Properties managed as Affordable Housing, including properties under the National Rental Affordability Scheme.

This policy covers the ending of tenancies in accord with the legal requirements of the *Residential Tenancies Act 1997*.

3. Policy

3.1. Guiding principles

In applying this policy Uniting will ensure:

- Where tenancies are at risk, intervention will occur as early as possible to attempt to rectify any issues.
- Decision making is person-centred, and tenancies are sustained wherever possible.
- Consistent, fair, and accountable processes are followed, and renters will be provided information about processes that impact their tenancies.
- Eviction is a measure of last resort.

Document Name: <i>Uniting Housing Ending Tenancies Policy</i>	<i>Printed copies of this document are considered uncontrolled.</i>	
Document Number: <i>UP-UH-004</i>	Policy Area: <i>Quality, Risk & Compliance</i>	
Version Number: <i>1.0</i>	Document Owner: <i>General Manager, Housing & Property</i>	
Publication date: <i>29/11/2022</i>	Endorsed by: <i>General Manager, Housing & Property</i>	Page 1 of 9

- Proper consideration is given to the human rights of renters under the *Charter of Human Rights and Responsibilities Act 2006* that may be impacted by decisions around evictions.
- 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 obligations are met.

3.2. Circumstances for ending tenancies

A tenancy can end under one of the following circumstances:

- By mutual consent between Uniting and the renter
- When a renter gives written notice to Uniting that they wish to end the rental agreement
- When a renter abandons the rental property, i.e., leaves the property with no intention of returning and stops paying rent and does not inform Uniting
- When a renter dies (and no transfer of tenancy occurs to another household member)
- When Uniting terminates the tenancy on one of the following grounds:
 - When the property is required to undergo major repairs or renovation
 - When the property is to be demolished
 - When the property is to be sold
 - Where a fixed term residential agreement is in place and Uniting wishes to end the tenancy
- When Uniting evicts the renter for a serious breach of the residential rental agreement

In all cases Uniting will:

- act in compliance with the requirements of the Residential Tenancies Act 1997.
- sustain tenancies where possible through positive renter support and early intervention.
- acknowledge the role of extenuating circumstances and hardship in a renter's ability to sustain their tenancy.
- facilitate access to support agencies or advocates (Uniting or external) where it is identified that such a referral may assist the renter to maintain their tenancy; and
- uphold the rights of renters to have safe and secure accommodation.

3.3. Tenancy ended by renter

Renters may initiate ending their rental agreement when they give written notice of their intention to vacate the rented premises.

Renters should use the [Notice of Intention to Vacate form](#) available from the Consumer Affairs Victoria website which outlines the required timeframes for providing the notice. Uniting will provide a copy of this form upon request.

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Uniting will request information from renters on their reason for ending the tenancy and use this information to inform service improvements and to provide appropriate support referrals where necessary.

Uniting will inform renters of their responsibilities when ending their tenancy:

- The keys must be returned to Uniting on or before the last day of the tenancy.
- Renters must remove all belongings from the property.
- The property should be left in a clean and tidy state.
- Renters must resolve all outstanding rental issues.
- Renters will be given a reasonable opportunity to attend the final inspection. An exit condition report will be completed from this inspection.

A renter and Uniting can also end the tenancy by mutual agreement, which does not require a formal notice, but should be confirmed in writing.

3.4. Abandonment

Abandonment occurs where a renter leaves a property empty or uninhabited, without intending to return and stops paying rent.

Where a rental property is suspected of being abandoned, Uniting will:

- Attempt to contact the renter
- Confirm that rental payments have stopped
- Undertake a visual external inspection (e.g., long grass, uncollected mail)
- Attempts to contact next of kin and/or support worker.
- Send a notice of entry and inspect the property internally.

Where Uniting determines that a property has been abandoned by the renter, an application may be made to VCAT seeking an order declaring the property to be abandoned. Where the renter has confirmed that they have abandoned the property or Uniting has otherwise confirmed that the renter will not be returning to the property, and there is no one else residing in the property, Uniting may take possession without applying to VCAT.

Any goods left behind will be stored or disposed of in line with the Uniting's **Good Left Behind procedure**.

3.5. Death of a renter

In the event of a death of a renter, every endeavour is made to manage the process sensitively and promptly and in accordance with legal requirements.

Where there is a death of a renter in a sole tenancy, Uniting will make arrangements with the next of kin or legal representative for termination of the rental agreement and collection of all goods left at the property. Uniting will ensure the renter's goods

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are secured until next of kin or legal representative have determined removal or disposal.

If a next of kin or legal personal representative is not listed, or not contactable, Uniting will apply to VCAT to end the rental agreement, which requires evidence of the death of the renter.

Where other household member/s reside at the property and wish to remain living in the property but are not parties to the rental agreement, a request to have the tenancy assigned to a remaining household member/s will be considered in line with the **Succession of Tenancy policy**.

The rental agreement is terminated on the earliest date of the following:

- A date agreed in writing between Uniting and deceased renter's next of kin or legal personal representative.
- The date on the "Termination after Death of a Sole Renter Notice" given by Uniting to the next of kin or legal personal representative.
- The date on the Notice of Intention to Vacate form given by the next of kin or legal personal representative to Uniting.
- A date determined by VCAT

3.6. Evictions

Where a renter fails to uphold their obligations under the residential rental agreement and the *Residential Tenancies Act 1997*, Uniting will work with the renter to rectify any issues and assist them to secure access to the support services they may need to help them to sustain their tenancy.

Eviction is a measure of last resort where a renter is seriously breaching their obligations under the rental agreement. Eviction would only occur where:

- All alternative options have been explored with the renter.
- Suitable referrals have been made to support and advocacy services.
- The human rights of the renters under the Charter of Human Rights and Responsibilities have been given proper consideration and the decision is compatible with obligations under the Charter.
- A consistent, fair, and accountable process has been followed and the renter has been kept informed of this process; and
- The relevant actions and recommendation have been reviewed and approved by a senior decision maker.

A decision to apply to VCAT for a Possession Order requires written approval from the Senior Manager Housing Services.

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3.7. Charter of Human Rights and Responsibilities

Uniting staff will consider the potential impact of any proposed action on the renter’s (and household members’) rights under the Charter of Human Rights and Responsibilities.

Uniting will ensure that human rights are at the centre of all decisions made with respect to the tenancy. A renter’s human rights are subject only to reasonable limitations under the law. Decisions made by Uniting that limit a renter’s human rights must:

- be lawful, necessary, reasonable, and proportionate.
- consider the nature of the human rights and the importance of limitations upon it.
- ensure that any less restrictive actions reasonably available to Uniting have been explored.

Relevant Charter rights include:

- Recognition and Equality before the law (s8).
- The right to protection from cruel, inhuman, or degrading treatment (s10)
- Privacy and Reputation (s13).
- Protection of families and children (s17).
- Right to protection of cultural rights (s19).

Further information on each of these rights is available from the [Victorian Equal Opportunity and Human Rights Commission](#).

Staff taking action in line with this policy must:

- Understand the objective and rationale of the actions they are taking.
- Consider the impact of a proposed action on the renter’s rights under the Charter of Human Rights and Responsibilities.
- Consider whether the proposed impact is balanced, proportionate and necessary to achieve the objectives of the organisation.
- Choose the least restrictive measure available.

As part of the process for obtaining organisational approval to apply for a Possession Order, an assessment of the recommended action against rights of the renters under the Charter will be completed and documented and the renter and/or their advocate will be informed of the actions being considered.

The renter and/or their advocate will be provided an opportunity to respond. Any alternative course of action to resolve the issue will be considered. The human rights assessment and the response from the renter and/or their advocate will be reviewed and considered by a senior decision maker prior to a decision being made.

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If eviction is considered necessary, information about alternative housing options will be provided to the renter prior to and at the time of eviction.

3.8. Procedural fairness

Procedural fairness means acting fairly in administrative decision making. It relates to the fairness of the procedure or process by which a decision is made. Key principles of procedural fairness are:

- the decision maker is impartial.
- the person affected receives a fair hearing; and
- decisions are based on relevant evidence.

Renters will be provided with adequate notice of any proposed actions or proceedings so that they are in a position to seek assistance where needed and to effectively consider and prepare their response.

To ensure procedural fairness, Uniting staff will:

- Notify the renter, either in writing or verbally, of the nature of the alleged breach that may result in action taken by Uniting
- Inform the renter of information and evidence gathered that will be used in making a decision in relation to their tenancy.
- Provide the renter with an opportunity to refute an alleged breach or provide a response to an alleged breach, including reasons why a notice should not be issued and allowing the renter to provide supporting evidence.
- Fairly consider any material or information provided by the renter when making a decision.
- Where family violence is identified, any assessment will be trauma informed and align with MARAM and not further disadvantage victim-survivors.

3.9. Tenancy ended by Uniting for property management reasons

Uniting may end tenancies due to property management decisions. Such decisions may include:

- major repairs or renovation
- demolition and redevelopment
- premises to be sold

Uniting will assist the renter to find secure and affordable alternative housing if the renter agrees to end their tenancy at Uniting's request or where the property is being redeveloped or renovated.

Renters will be assisted with removal costs associated with moving to another property regardless of whether the new home is a Uniting property or not.

Uniting will maintain excellent communication with renters throughout this process and provide reasonable opportunities for relocation. However, if a renter does not

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agree to end their tenancy at Uniting’s request, based on the above circumstances, appropriate action through VCAT and in accordance with the *Residential Tenancies Act 1997*, will be taken to end the tenancy.

3.10. Changes to policy

Uniting may, from time to time, make changes to this policy. The revised policy will apply to all tenancies on and from the date of the change.

This policy will be fully reviewed within 3 years of the approval date.

3.11. Procedures

Procedures set out processes to ensure compliance with this policy, including:

- Rent Arrears procedure
- Tenancy Breaches procedure
- Abandonment procedure
- Goods left behind procedure
- Death of renter procedure
- Eviction procedure

4. Definitions

Term	Meaning
Abandonment	A renter leaves a property empty or uninhabited, without intending to return
Breach of duty	Failure to meet a requirement of the RTA that is classed as a duty provision (a provision which has specific legislative requirements and consequences for either a rental provider or a renter).
Breach of duty notice	A notice served on a resident or landlord to inform them that their behaviour has caused them to breach one of more of the duty provisions of the Residential Tenancy Act
Charter of Human Rights and Responsibilities	A Victorian law that sets out the basic rights, freedoms, and responsibilities of all people in Victoria - https://www.humanrights.vic.gov.au/for-individuals/human-rights/
Compliance order	A legal order issued by VCAT directing a party to restrain any action in breach of the tenancy agreement or the RTA or require any action in the performance of a tenancy agreement or of duties under the RTA

Term	Meaning
Eviction	Removal of renter from a property, as authorised by a Warrant of Possession issued by VCAT
MARAM	Family Violence Multi-Agency Risk Assessment and Management Framework – process for ensuring effective identification, assessment, and management of family violence risk.
Notice to Vacate	A legal notice telling a renter that the rental provider wants them to vacate the property by a certain date.
Possession order	An order granted by VCAT giving the landlord the right to obtain a warrant to regain possession of the property.
Procedural fairness	Fairness of the procedure or process by which a decision is made
Residential Rental Agreement	Legal agreement between a rental provider (landlord) and renter (tenant) to rent a home
VCAT	Victorian Civil & Administrative Tribunal. A legal institution set up to administer several Acts. For residential tenancies, the Tribunal administers the Residential Tenancies Act 1997
Warrant of Possession	A legal document issued by VCAT authorising the Police to evict renters from a property.

5. Transparency and accessibility

This policy will be available on the Uniting Housing and Uniting Vic. Tas websites.

If you require this policy in a language other than English, or in accessible format please contact Uniting.

6. Legislation/Regulations

This policy implements the obligations of Uniting under:

- *Housing Act 1983*
- *Residential Tenancies Act 1997*
- *Residential Tenancies Regulations 2021*
- *Charter of Human Rights and Responsibilities 2006*

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- Victorian Housing Registrar Performance Standards
- Service Level Agreement between Uniting Vic Tas and Uniting Housing

7. Related Documents

Rent Arrears Policy

Rent Arrears procedure

Tenancy Breaches procedure

Abandonment procedure

Goods left behind procedure

Death of renter procedure

Eviction procedure

[Notice of Intention to Vacate form](#)

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