



family violence protection

TENANCY KIT

what you can do
if you are renting

Tenants Union of Victoria



TENANTS UNION
of Victoria Ltd

Victorian Women's  Benevolent Trust

Investing in Women and Girls.

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Table of Contents

About this kit	1
The checklist	2
Changing the locks	4
Getting an intervention order	7
Staying in the rental property	10
Leaving the rental property	13
Applying to VCAT	18
Claim details: start a new lease	28
Claim details: reduce a fixed-term lease	30
Claim details: remove a name from a periodic lease	32
Claim details: paying for damage to property	34
Public housing tenants	36
Changing the locks (public housing)	37
Trouble paying rent (public housing)	38
Leaving the rental property (public housing)	39
Changing the lease (public housing)	41
Getting another place (public housing)	42
Damage to the property (public housing)	43
Appeals and complaints (public housing)	44
Your feedback	45
Acknowledgements	46

About this kit

This kit is designed for support workers and advocates who assist people affected by family violence. The purpose of the kit is to help people in rental housing to know their rights, have a secure home and limit any financial loss.

The law

- [Residential Tenancies Act 1997 \[AustLII website\]](#)
is the main legislation for rental housing in Victoria.
- [Family Violence Protection Act 2008 \[AustLII website\]](#)
is legislation for family violence in Victoria.
- [Personal Safety Intervention Order Act 2010 \[AustLII website\]](#)
is legislation for intervention orders when the perpetrator is not a family member.

The jargon

- **affected person:** the person who has been affected by family violence
- **protected person:** how the person who has been affected by family violence is referred to in the intervention order
- **perpetrator:** the person who committed family violence
- **respondent:** how the person who committed family violence is referred to in the intervention order
- **excluded tenant:** how the person who committed family violence is referred to in VCAT applications if they are excluded from the rental property in an intervention order
- **intervention order:** a court order to protect the affected person from the perpetrator
- **exclusion condition:** part of an intervention order to stop the perpetrator going to a specific place (e.g. the rented home)
- **fixed-term lease:** a tenancy agreement for an agreed period such as 12 months. Note: Most tenancies begin with a fixed term. When the fixed term is over, the lease automatically continues as a periodic agreement unless someone ends the agreement or a new fixed-term lease is signed
- **periodic-lease:** a tenancy agreement with no end date that continues until someone ends the agreement. Note: Most periodic leases are month-to-month but they can also be week-to-week
- **VCAT:** Victorian Civil and Administrative Tribunal

The checklist

Deciding whether to stay or leave the family home is an important and personal decision for a person affected by family violence. If they live in a rented home, here are some extra things to consider.

Important questions to ask if the affected person lives in rented housing:

Do locks need to be changed to protect the affected person's safety?

It is possible to get the locks changed for rental housing in cases of family violence. And it can be done quite quickly. See [Changing the locks](#) and [Changing the locks \[public housing\]](#).

Is there an intervention order?

Getting an intervention order gives the affected person more options for rental housing and can help them avoid expensive lease-break costs. See [Getting an intervention order](#).

Is there an exclusion condition in the intervention order?

An exclusion condition orders the perpetrator to stay away from specific places such as the rented home. See [Getting an intervention order](#).

Do they live in private, public or community housing?

If the affected person leaves the rented premises, they may need to go on a waiting list for public or community housing. If they live in public or community housing it may be better if the affected person can stay in the home. See [Staying in the rental property](#).

Do they know they have the right to stay?

It's important that the affected person is made aware that if they have experienced family violence they have the right to stay in their rented home, even if their name is not on the lease. See [Staying in the rental property](#).

Whose name is on the lease?

Is the affected person's name on the lease? Is the perpetrator's name on the lease? Are they both on the lease? Is someone else on the lease? In many cases, it is possible to change the names on a lease.

Even if the affected person's name is not on the lease, they can apply to end the old lease and start a new lease in their name. See [Staying in the rental property](#) and [Leaving the rental property](#).

What are the dates on the lease?

The dates on a lease can help you work out what options the affected person has if their name is on the lease. In some cases, they can apply to reduce the time left on a [fixed-term lease](#). See [Leaving the rental property](#).

Can they afford the rent and bills if they stay?

After safety, one of the most important things to consider when deciding if they can stay is whether they can afford to pay the rent and bills. See [Staying in the rental property](#).

Is there any damage caused by the perpetrator?

If the perpetrator has caused damage at the rental property, the affected person can argue that they could not prevent the damage and that they should not be responsible to pay for any damage. See [Who owes what when the lease changes?](#) and [Who owes what when the lease ends?](#)

Do they need support?

If the affected person needs support there are many different services that can help. A good starting point is:

- [1800RESPECT](http://1800respect.org.au) (1800respect.org.au) The national counselling, support and information hotline open 24 hours
- [Safe Steps](http://safesteps.org.au) (safesteps.org.au) 24/7 Family violence response
- [Find your nearest community legal centre](http://fclc.org.au) (fclc.org.au)
- [Victoria Legal Aid](http://legalaids.vic.gov.au) (legalaids.vic.gov.au)

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Changing the locks

An affected person may need to get the locks changed to ensure that they are secure and safe in their rented home.

Do you need the landlord's consent?

The affected person can change external door or window locks without the landlord's consent if:

- they have a family violence safety notice or intervention order that **excludes a tenant** from the address, or
- the affected person's name is on the lease (and the perpetrator is not on the lease), and the locks are **not** part of a master key system (one master key that opens many locks). If you're not sure if there's a master key system, it's best to check with the landlord or agent before you change the locks.

! **IMPORTANT:** The affected person must give the landlord a copy of the new keys and a certified extract or copy of the safety notice or intervention order that excludes a tenant from the address.

The affected person must get the landlord's consent before they:

- change locks that are part of a **master key** system (one master key that opens many locks) if they **do not have** a safety notice or intervention order, or if the safety notice or intervention order **does not exclude** a tenant from the address; or
- add any other safety features, such as deadlocks, security screens, sensor lights or alarms. The landlord's consent should be in writing and it should be clear that the protected person does **not** have to remove the safety features when they leave, otherwise the protected person may have to pay to have the safety features removed when they leave.

What if the affected person is not on the lease?

If the affected person has a family violence safety notice or an interim or final intervention order that excludes a tenant from the address and they consider the rented housing their main home, they can get the locks changed even if their name is not on the lease.

Who gets the new keys?

Landlord or agent:

- If the affected person changes the locks, they **must** give a copy of the new keys to the landlord or agent as soon as possible.

Tenants:

- If the affected person changes the locks, they **must** give a copy of the new keys to the other tenants as soon as possible.

Perpetrator:

- If the perpetrator has been **excluded** from the property in a family violence safety notice or intervention order, the affected person does not have to give them a copy of the new keys even if the perpetrator's name is on lease.
- If the perpetrator's name is on the lease and they are **not excluded** from the rental property by an intervention order or safety notice the affected person must give them a copy of the new keys.
- If the perpetrator's name is on the lease and they are **no longer excluded** from the rental property because an intervention order or safety notice has ended, the affected person must give them a copy of the new keys.
- The landlord or agent **must not** give a key to the perpetrator if the affected person has given the landlord or agent a certified extract or a copy of a family violence safety notice or intervention order that excludes the perpetrator from that address.



HOT TIP: To prevent the perpetrator getting a copy of the new keys from the landlord, the affected person should give the landlord or agent a certified extract or copy of a family violence safety notice or intervention order that excludes the perpetrator from that address.

Privacy regarding the intervention order or safety notice

- The landlord **must not** give a copy of the intervention order or safety notice to anyone except the landlord's agent or legal representative.
- The landlord's agent **must not** give a copy of the intervention order or safety notice to anyone except the landlord or landlord's legal representative.

Paying for the new locks

If the affected person lives in **public housing**, DHHS might pay for the locks to be changed. See [Changing the locks \[public housing\]](#).

✿ **HOT TIP:** Affected persons may get financial help to change the locks and for other expenses. See **Victims of Crime** (victimsofcrime.vic.gov.au) or contact **Domestic Violence Resource Centre Victoria** (dvrcv.org.au).

The law

Locks: [Section 70, Residential Tenancies Act 1997 \[AustLII website\]](#).

Locks and intervention orders: [Section 70A, Residential Tenancies Act 1997 \[AustLII website\]](#).

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Getting an intervention order

What is an intervention order?

An intervention order is a court order made to protect the affected person's safety. It prohibits the perpetrator from doing certain things such as contacting or coming near the affected person. Intervention orders usually prohibit threatening behaviour such as stalking, verbal abuse, harassment and physical or sexual assault. They can also include an exclusion condition that prohibits the perpetrator going near specific addresses.

Breaking an intervention order can result in a criminal conviction and even prison.

Types of orders and notices

- **Family Violence Intervention Order:** An order made by the court to protect someone from violence when the perpetrator is a family member. See the [meaning of family member in the Family Violence Protection Act 2008](#).
- **Personal Safety Intervention Order:** An order made by the court to protect someone from violence when the perpetrator is not a family member.
- **interim order:** An order made by the court for immediate protection until there is a hearing.
- **final order:** An order made by the court after evidence is presented at a hearing.
- **family violence safety notice:** A notice issued by police if they think that someone needs immediate protection. This can be issued at the family violence incident.

Does the affected person need a safety notice or intervention order?

Getting an intervention order gives the affected person more options regarding their rental housing:

- **To get locks changed**, if they don't have a family violence safety notice, or an interim or final intervention order, they might need to get the landlord's permission first. See [Changing the locks](#).
- **To get their name taken off the lease**, they need to have an interim or final intervention order.
- **To end the current lease, remove the perpetrator's name and create a new lease in their name**, they will need to have a final intervention order excluding the perpetrator from the rental property.
- **To reduce the time left on their fixed-term lease and avoid expensive lease-break costs**, it is possible to apply without an intervention order but it is usually easier if they have one.
- **To get any belongings they left at the property**, they can ask for conditions to be included in the intervention order that gives them access to do this.

How to get an family violence safety notice

A family violence safety notice can be the first step towards an intervention order. The police can issue a notice at any time if they believe that the affected person, their children or property requires immediate protection. The police will usually take the matter to the Magistrates' Court within 5 days of the notice being issued. The Court will then either grant an intervention order or decide it is not necessary.

How to get an intervention order

If the affected person is over 18, either the affected person, a police officer, or an adult with written consent from the affected person can apply for an intervention order at their nearest Magistrates' Court. See [Magistrates' Court of Victoria website](http://magistratescourt.vic.gov.au) (magistratescourt.vic.gov.au) for more about: [intervention orders](#), [intervention-order forms](#) and to [find your nearest court](#). See the Court's [Family Violence website](http://familyviolence.courts.vic.gov.au) (familyviolence.courts.vic.gov.au) where you can [Apply online for a Family Violence Intervention Order](#).

If the affected person is under 18 and they are not covered by another intervention order, applications can be made at the Children's Court by the affected person if they are 14 or over, or by an adult on behalf of a child. You can find out [how to get an intervention order](#), get [intervention-order forms](#) and [find your nearest court](#) at the Children's Court of Victoria website (childrenscourt.vic.gov.au).

Need help?

- **For urgent help call 000**
- [Victoria Police](http://police.vic.gov.au) (police.vic.gov.au)
- [1800RESPECT](http://1800respect.org.au) (1800respect.org.au)
- [Victoria Legal Aid](http://legalaid.vic.gov.au) (legalaid.vic.gov.au)
- [Find your nearest community legal centre](http://fclc.org.au) (fclc.org.au)

What to include in an intervention order

When you fill in an application for an intervention order you can choose from a list of conditions that you would like the court to include.

Exclusion condition

If the affected person wants to stay in the property or if they are not sure what they want to do, it is important to get an exclusion condition in the order that prohibits the perpetrator from going to the rented premises. Here is an example exclusion condition:

The Court orders that the respondent must not:

Go to or remain within 200 metres of 10 Smith Street or any other place where a protected person lives, works or attends school/childcare.

Access to collect personal property

If the affected person has left the property quickly and left things behind, it's important to add a condition that gives them access to the property to collect their belongings. To reduce stress for everyone it's probably best to have access when the perpetrator is not there. Here is an example access condition:

The Court orders that the respondent must:

be excluded from the rented premises between the hours of 9am-5pm on Tuesday 26 April 2016 to allow the protected person to collect their personal property (and take all reasonable steps to allow access to the property).


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Staying in the rental property

Sometimes the best or only option for an affected person is to stay in their current rental housing, even if the perpetrator knows their address. This is often the case in regional areas and in public and community housing.

Paying the rent and bills

If the affected person has been sharing the payments for rent and bills with the perpetrator it could be too expensive for them to cover the whole lot on their own. There might be someone else who can move in to share the expenses. Or there might be some family or friends who can help them with a loan. They can also call up the gas, electricity, water, telephone and internet providers to work out a payment plan due to financial hardship.


 **HOT TIP:** It's important to advise affected persons to avoid short-term loans from payday loan companies because the huge interest rates, fees and charges could get them deep into debt.

Changing the lease when you want to stay

If the affected person's name is on the lease and perpetrator's name is not on the lease, then the lease does not need to be changed.

If perpetrator's name is on the lease, the affected person has two options:

- a. They can ask the perpetrator to transfer (assign) the lease into their name. Often this is a difficult option because it requires consent from the perpetrator and the landlord. But sometimes it can be as simple as changing the names on the current lease with the changes signed by the tenants and the landlord. To find out more see: [Assignment and sub-letting \[Tenants Victoria website\]](#).
- b. Or they can apply to VCAT to end the current lease and start a new lease with their name on it. This could be an easier option because the perpetrator does not need to agree. But it could take longer. See [Applying to VCAT](#) and an [example application to start a new lease](#).

 **HOT TIP:** The affected person can apply to VCAT for a new lease if they consider the rented housing their main home, even if their name is not on the current lease. They can apply if the current lease is fixed-term or periodic.

What you need

These are the things you need before you apply to VCAT for a new lease (tenancy agreement):

- *final* intervention order with an *exclusion* condition that excludes the perpetrator from the rental property;
- perpetrator must be a *tenant* (their name must be on the current lease);
- affected person must be either a tenant (with their name on the current lease) or living in the rented premises as their main or only home;
- the affected person must be able to afford the tenancy.


Who owes what when the lease changes?

If the affected person applies for a new lease, and there is any unpaid rent, unpaid bills or damage to the rental property, they can ask VCAT to decide who has to pay for what. Usually, it is the joint responsibility of all tenants, but VCAT can decide whether the affected person, perpetrator or any other tenant is liable together, or separately. VCAT can also make orders about the bond.


Inspection for damages

If you ask VCAT to decide who pays, they may adjourn (postpone) the hearing for an inspection of the rental property. This usually happens so that the landlord can check for any damage.

If the perpetrator is excluded from the rental property by an intervention order, they must not attend the inspection. However, they can arrange for a representative to attend. They must give the name of the representative to the landlord or real estate agent.

 **HOT TIP:** If VCAT decides to adjourn for an inspection, it is a good idea to ask for an order that the perpetrator must provide the name of their representative to the affected person before the inspection.

Compensation and lease-break costs

 **HOT TIP:** In cases where the lease ends and VCAT orders that a new lease be created because of a family violence intervention order, the landlord or tenants cannot claim compensation because the lease has ended early. This means the landlord cannot claim “lease break” costs.

The law

New tenancy agreements

Applications: [Section 233A, Residential Tenancies Act 1997 \[AustLII website\]](#)

VCAT orders: [Section 233B, Residential Tenancies Act 1997 \[AustLII website\]](#)

Liabilities: [Section 233C, Residential Tenancies Act 1997 \[AustLII website\]](#)

Cross-examinations: [Section 233D, Residential Tenancies Act 1997 \[AustLII website\]](#)

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Leaving the rental property

Leaving a tenancy early can be expensive. Following these tips can help limit any extra costs.

Staying instead of leaving

Before they leave the rental property, it's important that the affected person is made aware that they have the option to stay and that there are steps they can take to make it safer to stay. See [Staying in the rental property](#).

Don't return the keys too early!

It is very important that the affected person does not return the keys too early. If all tenants move out and return the keys to the landlord, the lease has ended and VCAT is unable to reduce the lease. If this happens in a fixed-term lease it is likely that they will have to pay lease-break costs to the landlord.



HOT TIP: If the affected person's name is on a fixed-term lease, they should **not return the keys** until they have an order from VCAT that reduces the fixed-term, or a clearly written agreement with the landlord that sets out what compensation the tenant needs to pay (if any).

The affected person still has to pay rent while they have the keys, but this is usually a lot less than the costs for breaking a lease.

Ending the lease when you want to leave

The three important things to find out are:

- Is the lease [fixed-term](#) or [periodic](#)?
- Who's names are on the lease?
- Is there an intervention order in place?

The affected person has five options when they want to leave:

1. Give 28 days notice

This is a good option if there is a periodic lease or if there are less than 28 days to go until the end of the fixed term, and if the affected person is the only one on the lease.

They can write to the landlord to give notice of their intention to vacate the property. They must include

the end date in the letter and it must be at least 28 days from the day the landlord receives it. If sending it by mail, add extra days for the mail to be delivered. See [delivery times \[Australia Post website\]](#).

2. Get the landlord's okay

If the landlord and other tenants agree (in writing), the lease can be ended early. This may not be the best option because all tenants need to agree (including the perpetrator if their name is on the lease).

3. Transfer the lease to someone else (assignment)

Another option for the affected person is to transfer (assign) their part of the lease to another person. This option is a good one if there is someone who wants to live at the property with the perpetrator. The steps you need to take are:

- **Get an agreement in writing.** All current tenants, the landlord, and the new tenant need to agree. The landlord cannot unreasonably withhold consent.
- **Get the bond money from the new tenant or other tenants who are staying.** It's a good idea to do this before you transfer the bond, because if the affected person's name is taken off the bond they have no right to the bond money held at the RTBA.
- **Transfer the bond into the new name.** Everyone involved needs to sign a tenant transfer form. And the form must be given to the [Residential Tenancies Bond Authority \[RTBA website\]](#).

4. Apply to VCAT to get their name taken off the lease


If the affected person and perpetrator are on a periodic (month-to-month) lease together, the affected person can apply to VCAT to get their name taken off the lease and end their liability. However, it is not guaranteed that VCAT will make an order taking the affected person's name off the lease as there is no specific power to do this in the *Residential Tenancies Act 1997* (Vic).

Because there is nothing specific in the law about removing names from a lease, you need to apply to VCAT with a general dispute. Apply under [section 452](#) for orders as outlined in [section 472](#).

See [Applying to VCAT](#) and an [example application to remove a name from a periodic lease](#).

5. Apply to VCAT to reduce the term of the lease

If the affected person is on a fixed-term lease, they can apply to VCAT to reduce the term of the lease. This will help to avoid expensive lease-break costs. This can be done even if the perpetrator's name is not on the lease.

 **HOT TIP:** VCAT will not backdate the end of the lease. The affected person will have to pay rent until the date they get the VCAT orders, even if they have moved out. **Do not return the keys** to the rented premises until the VCAT decision is made.

What you need

These are the things you need before you apply to VCAT to reduce a fixed-term lease:

- **interim or final intervention order**
 - If the affected person has an intervention order they can apply under section 234 (2A) of the *Residential Tenancies Act 1997*.
 - It is still possible to apply to VCAT for a reduction of fixed term tenancy without an intervention order, under section 234 (1), *Residential Tenancies Act 1997*. However the affected person will need to provide evidence of the family violence. This could include giving verbal evidence, which may be difficult for the affected person. It is generally easier to get a reduction when there is an intervention order in place as VCAT members will normally take intervention orders at face value.
- **affected person must be a tenant** (with their name on the current lease)
- **affected person must show that they have had an unforeseen change in their circumstances, which has caused them severe hardship.** Generally family violence will meet the threshold for hardship as required by section 234 of the *Residential Tenancies Act 1997* if it can be shown that there is sufficient evidence of family violence. When considering whether to grant the reduction, the VCAT member will determine if the tenant's hardship is greater than that of the landlord's.

See [Applying to VCAT](#) and an [example application to reduce a fixed-term lease](#).

Who owes what when the lease ends?

If there is anything owing when a lease ends it is usually the joint responsibility of all tenants to pay. This could include any unpaid rent, unpaid bills or damage to the rental property and even cleaning costs if the rental property is not left in a reasonably clean condition.

In some cases, an affected person may be able ask VCAT to order that they should not have to pay for damage to the property.

Compensation to the landlord

If a fixed term lease is reduced, the landlord may ask for compensation. VCAT has the power to award compensation to the landlord if they reduce the lease under s 234 (3) of the *Residential Tenancies Act*

1997. Typical orders that VCAT makes in relation to compensation are for re-letting fees, advertising costs or lost rent.

! **IMPORTANT:** Tenants Victoria believe that it is entirely inappropriate that an affected person has to pay compensation to the landlord. We encourage you to advocate strongly against compensation orders that favour the landlord.

Getting your bond back

Sometimes affected persons apply for a reduction of their fixed term lease and the return of their bond in the same application. However, VCAT is unlikely to grant a reduction and return the bond at the same hearing, particularly if there is another tenant is still living at the property.

Usually VCAT will not order that the bond be repaid by the Residential Tenancies Bond Authority (RTBA) until all tenants have vacated the property. Even if all tenants have gone, VCAT will only make a decision about the bond if the agent has been given an opportunity to inspect the property.

Paying for damages

Tenants usually have joint responsibility for any damage to the rental property caused by any of the tenants or their visitors. In cases a family violence the affected person can argue they are not responsible for the damage:

If damage was caused by the perpetrator, and both the affected person and the perpetrator are on the lease, the affected person can ask VCAT to order that the perpetrator is solely responsible for the damage, under Part IVAA of the *Wrongs Act 1958* (Vic) which applies to a claim for economic loss or damage to property that arises from a failure to take reasonable care. Because their name is on the lease, the affected person can be seen as a 'concurrent wrongdoer' and therefore they are equally liable even if they did not cause the damage. But the affected person can ask for the liability to be apportioned (shared) and that their share be limited to the proportion that VCAT considers fair with regard to their responsibility for the damage.

If damage was caused by the perpetrator who is not on the lease, the affected person can argue that they were not able to prevent this damage occurring due to family violence. They can also argue that the perpetrator was not their invited visitor, especially if they have an intervention order.

! **IMPORTANT:** The affected person must be prepared to give evidence to VCAT that shows the perpetrator caused the damage (for example, a police report or verbal evidence from witnesses or the affected person).

See [Applying to VCAT](#) and an [example application about paying for damage to property](#).

The law

Damage: [Section 61, Residential Tenancies Act 1997 \[AustLII website\]](#)

Assignment: [Section 81 and Section 82, Residential Tenancies Act 1997 \[AustLII website\]](#)

Termination by agreement: [Section 217, Residential Tenancies Act 1997 \[AustLII website\]](#)

Termination by consent: [Section 218, Residential Tenancies Act 1997 \[AustLII website\]](#)

Reduction of fixed-term lease by VCAT: [Section 234, Residential Tenancies Act 1997 \[AustLII website\]](#)

General dispute at VCAT: [Section 452, Residential Tenancies Act 1997 \[AustLII website\]](#)

Apportionable claims: Part IVAA [Wrongs Act 1958 \[AustLII website\]](#)

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Applying to VCAT

If the affected person has an intervention order that excludes the perpetrator from the rental address, you can use: [Application by a Protected Person \[VCAT website\]](#). This form is also available from the VCAT office.

In this form, the affected person is called the **protected person**, and the perpetrator is called **excluded tenant**.

Filling in the application form

In the first few sections of the application form you need to include **names** and **contact details** of all current tenants (including the perpetrator), anyone who wants to become a tenant and the landlord. If any of these people has someone else representing them, you also need to include those names and contact details on the form.

Applicant details

If you don't want the perpetrator to find out the affected person's address and contact details, write "confidential" on the form and attach a separate sheet with these details for VCAT.

Applicant details

example only

The protected person

Is the protected person: *

(a) a tenant named in the lease of the rented premises or

(b) a person who resides in the premises as his or her principal place of residence

Name (if the applicant is an individual)

Title* Surname* Given name 1 Given name 2

Current Address (If the address is confidential, please attach on a separate sheet. PO Box is insufficient.)

Street address*

Suburb / Town* State* Postcode*

Contact details (If these are confidential, please attach on a separate sheet.)

Please provide at least one phone number

Business phone After hours phone Mobile Fax number

() () ()

Area code Number Area code Number Number Area code Number

Excluded tenant details

! IMPORTANT: Don't use the address of the rental property for the perpetrator if they have been excluded from this address in an intervention order. Instead, you can use the address the perpetrator provided for court documents, or their last known address.

Excluded tenant's details			
			Org ID (Office use only) <input type="text"/>
Name			
Title *	Surname *	Given name 1	Given name 2
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Address			
<i>(This may be an address nominated by the excluded tenant under s.33 or 85 of the Family Violence Protection Act 2008. If the protected person has been given an address of the excluded tenant to send court documents to write that address here. If the protected person does not know the nominated address, write the last known address or postal address of the excluded tenant other than the rented premises. If you are unable to provide any address or postal details at all, please contact the Tribunal on (03) 9628 9800 or 1800 133 055 (Rural or Regional Victoria) for further assistance.)</i>			
Street address *			
<input type="text"/>			
Suburb / Town *	State *	Postcode *	
<input type="text"/>	<input type="text"/>	<input type="text"/>	

don't write the rental address here!

Representatives details

- **Landlord's representative:** This could be a real estate agent or lawyer.
- **Tenant's representative:** This could be a lawyer, social worker, family member or friend.

Rented premises

This is where you write the rented address. In this section you also tell VCAT if children live there, if there is any damage to the property and if the excluded tenant is appealing the decision to exclude them from the rented address.

Rented premises

example only

Address

Street address *

Suburb / Town *

State *

Postcode *

Children
 Are there any children living at the rented premises? Yes No

Damage
 Has there been any damage caused to the rented premises during the tenancy? Yes No

If yes, please describe briefly

Appeals
 Has the excluded tenant lodged an appeal against the decision to exclude him/her from the rented premises? Yes No

If yes and any details are known, please describe briefly

Previous VCAT applications

If there were any previous VCAT applications between the landlord and the tenants, you must include the VCAT file numbers. You can find the file numbers on the the notice of hearing or the orders made by VCAT. Or you can [contact VCAT](#).

Previous or pending residential tenancies list file number/s

example only

If you have dealt with other disputes involving the same Applicant/s and Respondent/s or if there are other related matters to be heard by the Tribunal please insert the file number(s) here:

VCAT file number VCAT file number VCAT file number

Bond details

- Include names of the tenants who paid the bond, the amounts they paid and the bond number from the Residential Tenancies Bond Authority (RTBA).
- If the affected person doesn't have a copy of the bond receipt, they can call the RTBA on 1300 137 164 and ask for the bond number. The bond number can be used on the RTBA website (rentalbonds.vic.gov.au) to get written confirmation of the bond details, which should be attached to the VCAT application.

example only

Bond details			
Was a bond paid? * <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
If yes, please enter details below.			
		Bond number	Amount paid (\$)
Tenant A's name	<i>Elizabeth Bennett</i>	<i>2148620589</i>	<i>\$500.00</i>
Tenant B's name	<i>Jane Bennett</i>	<i>2148620589</i>	<i>\$500.00</i>
Tenant C's name	<i>George Wickham</i>	<i>2148620589</i>	<i>\$500.00</i>
Director of Housing			
		Total amount paid	<i>\$1500.00</i>

Claim details: What do you want VCAT to do?

! This section of the form is where you describe the reasons for your application and what orders you want VCAT to make.

See some examples:

- [Applying for a new lease – so the affected person can stay](#)
- [Applying to reduce a fixed-term lease – so the affected person can leave early](#)
- [Applying to remove a name from a periodic \[month-to-month\] lease](#)
- [Applying for a decision about damages caused by the perpetrator](#)

Hearing arrangements

- **Interpreter:** The affected person can request an interpreter for the hearing on the application form.
- **Special assistance:** The affected person can also ask for other special assistance on the form.
 - The affected person can ask VCAT to use the **remote witness room** for the hearing so they don't have to be in the same room as the perpetrator. However the remote witness room is only available if the hearing is held in Melbourne at 55 King Street.
 - If the affected person is not able to attend a hearing in Melbourne, they could request to give **evidence by telephone**. You need to complete a [telephone attendance request \[VCAT website\]](#).
- **Security:** If you think security is needed contact VCAT after you submit the form.

*** HOT TIP:** Even if the affected person thinks that the perpetrator will not attend the hearing, we still recommend they use the remote witness room or give evidence by

telephone. Or they'll have to wait in the court or VCAT foyer with the perpetrator if they attend. And it could be for a couple of hours if hearings are running late.

Hearing arrangements

example only

If you believe that security may be needed at the hearing, please contact the Tribunal immediately on 9628 9800 or 1800 133 055 (Rural or Regional Victoria) after you have lodged your application in order to have satisfactory arrangements made.

Does the Applicant or Respondent require an interpreter at the hearing? * Yes No

Name of person requiring an interpreter

Title * Surname * Given name 1 Given name 2

Language/dialect *

Does any person at the hearing require any other special assistance? * Yes No

Please specify what special assistance is required *

Remote witness room

Service of application

- A copy of the application will need to be “served” (sent by mail or handed personally) to all tenants (including the perpetrator), the landlord and anyone who wants to be added to the lease. In this section you must write **when** and **how** these copies were served.
- We recommend you send all copies by **registered post** so that you can prove “service” by showing VCAT the receipt.

! IMPORTANT: If the perpetrator has been excluded from the rental property in an intervention order or safety notice, it is very important that you do not send their copy of the application to that address.

- If affected person does not know the perpetrator’s current address, they could serve the application by as many methods as possible: to an address or email address for the perpetrator in the intervention order, to an address of a family member or close friend that the perpetrator is likely to be in contact with. You can even send a text message to notify the perpetrator that the application has been sent to that address. The affected person will need to ask VCAT for an order that they can serve the application this way (order for substituted service) when they get to the hearing.

Service of application

example only

The application form must be served to all other parties. It can be sent by ordinary mail or handed personally to all other parties, provided that to do so would not place you in breach of a Family Violence Intervention Order or Family Violence Safety Notice.

Date of service

Excluded Tenant

Personal Service

Left at address nominated by excluded tenant with person above the age of 16 years

Email

Left at last known address of excluded tenant (not including rented premises) with person above the age of 16 years

<p>Date of service <input style="width: 150px;" type="text" value="10/11/2015"/></p> <p>Landlord</p> <p><input type="checkbox"/> Personal Service</p> <p><input checked="" type="checkbox"/> Post</p>	<p>Date of service <input style="width: 150px;" type="text" value="10/11/2015"/></p> <p>Other existing tenants (if any)</p> <p><input type="checkbox"/> Personal Service</p> <p><input checked="" type="checkbox"/> Post</p>	<p>Date of service <input style="width: 150px;" type="text" value="10/11/2015"/></p> <p>Prospective tenants (if any)</p> <p><input type="checkbox"/> Personal Service</p> <p><input checked="" type="checkbox"/> Post</p>
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VCAT Fees

- **Fee waiver:** The affected person can request a fee waiver due to financial hardship or if they have a concession card. They need to fill in and attach the [fee relief form \[VCAT website\]](#).
- **VCAT application fee:** Otherwise, the affected person must pay the VCAT fee, which from 1 July 2018 is \$63.70.

Payment details

example only

You must pay the relevant application fee at the same time you lodge this form. Fees may change each year. To find out about the current fee or whether you are entitled to a fee waiver, visit the VCAT website. Alternatively, call VCAT on 9628 9800 (1800 133 055 for callers from rural Victoria).

Fee Waiver
Are you applying for a fee waiver? * Yes No

Concession Card Holders
If you are a concession card holder, please complete the application for fee waiver concession card holder form and attach to this application and include copies of evidence to support your claim.

Financial Hardship
If you are applying for a waiver of fees due to financial hardship please complete and attach the declaration in the application for waiver of fees by reason of financial hardship form.

Please note if there is more than one applicant each applicant should fill out the appropriate application form.

For copies of the fee waiver application forms and for further information please visit the VCAT website.

Which Act/s are you making this claim under? *
(Please note if you are applying under more than one Act, the higher application fee will apply).

<input checked="" type="checkbox"/> Residential Tenancies Act 1997; except Part 10	\$59.80
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Payment can only be made via the following methods:

- Online by Credit Card.
- By mail, cheque or money order made out to the Victorian Civil and Administrative Tribunal or using a credit card, please complete a Payment by Credit Card form available at the VCAT website or by calling VCAT.
- In person at the Ground Floor, 55 King Street Melbourne, you can pay over the counter by credit card, cash, eftpos, cheque or money order made out to the Victorian Civil and Administrative Tribunal.
- By fax, (you can only pay by credit card using this method), you will also need to complete a Payment by Credit Card form available at the VCAT website or by calling VCAT.

Documents to support the application

The affected person should attach evidence to support their case, such as:

- **copy of the lease** (or other proof that they are renting the property such as a rent certificate from Centrelink or rent receipts)
- **copy of the current intervention order**
- **proof of connection** to the local area (such as copies of letters from support services) if they want a lease to be created in their name
- **proof of ability** to meet the obligations of the lease (such as ability to pay, rental history)
- **proof of costs** that they want VCAT to order the perpetrator pay for and the reason that they should pay. For example, a copy of a utility bill, police report or photo in relation to damage that the perpetrator caused.

Preparing for the VCAT hearing

Safety


- You should contact VCAT to confirm arrangements for the remote witness room or telephone attendance. You should ask to speak to VCAT's family violence support worker.
- Discuss with the affected person how they will get to and leave VCAT. You may want to discuss this with the VCAT support worker to make arrangements with VCAT security.

Consent

- You should contact the real estate agent or the landlord and any other tenants to ask whether they consent to the application before you apply.

Documents

- You should ask the real estate agent or landlord, and the other tenants, for copies of any documents that they plan to use at the hearing. If they won't give you a copy of these documents, you could warn them that this could cause an adjournment, which will just delay the process and require everyone to come back another time.
- You should give a copy of any documents that you intend to use at the hearing to all other parties (landlord or their agent and other tenants). You should also have proof that you have served the application and documents to them. Registered post is the easiest way to prove service.
- If sending things by mail make sure you add enough time for the mail to be delivered. See [delivery times \[Australia Post website\]](#).

 **HOT TIP:** If the affected person is intending to provide evidence by telephone or from the remote witness room, you should make sure that copies of any documents you want to rely on at the hearing are on the VCAT file, as the affected person won't be in the hearing room to give them to the VCAT member.

Can't attend?

If VCAT list a hearing at a time that the affected person can't attend, they can request to adjourn (postpone) the hearing. However, they need to have a good reason for not being able to attend (such as being in hospital).

- It's best to ask the other parties to agree to adjourn before you put in a request to VCAT. You can use the VCAT form to get their consent in writing: [Request for Consent to an Adjournment](#). And you can still apply for adjournment even if the others don't consent.
- To request an adjournment you need to do it **in writing**. It's best to use the VCAT form: [Application for an Adjournment](#)
- You need to provide VCAT with **proof of the reason** that the affected person can't attend.
- The request needs to be provided to VCAT by **4:00 pm at least two business days before the hearing**.
- You need to send a copy of your adjournment request to all other parties to the VCAT application. However, if some details are **confidential** or **not safe to disclose**, you don't have to give these details to anyone except VCAT. You can attach a separate sheet for VCAT only.



HOT TIP: If the hearing is not officially adjourned by VCAT, and you don't attend, it could go ahead without you.

What happens at the VCAT hearing

Remote witness room

- If the affected person is using the remote witness room, they will be able to see what is going on in the hearing room by video. The people in the hearing room will be able to see the affected person on video as well. The affected person could ask to have a support person with them in the remote witness room. VCAT also have a support worker who is likely to be with the affected person while they use the remote witness room.

Making an oath

- VCAT will ask all parties to give an oath or affirmation to VCAT, which is a promise to tell the truth.

Copies of the application

- The VCAT member is likely to ask how the application was served on the other parties, particularly if one of them has not attended or says that they didn't receive a copy of the application. This is very important as VCAT could adjourn (postpone) the hearing and tell you that you have to serve it again if they don't think that it was served properly in the first place.

Your turn to speak

- The VCAT member will hear from all the parties about whether to make the orders that the affected person has asked for in their application.
- The perpetrator can't ask the affected person questions in the hearing, unless VCAT allows it. And even if VCAT allows them to ask questions, there might be restrictions on what they can ask.

The result

- The VCAT member will usually make a decision (an order) in relation to the application on the day. The VCAT member will make an order verbally and then prepare a written order to provide to all the parties. Usually this will be available on the day of the hearing.
- If the affected person wants to ask for written reasons for the VCAT decision they must do so at the time of the VCAT hearing (not later).

This information is a guide only and should not be used as a substitute for professional legal advice.

Claim details: start a new lease

This example shows how to fill in the **Claim details** section of the VCAT application if you want to end the current lease and start a new lease **so the affected person can stay**.

Tick the boxes

Tick the box for **Section 233A** – to ask VCAT to end the existing tenancy, and create a new tenancy.
Tick the box for **Section 233C** – if there is any unpaid rent, bills or damage to the property and you want VCAT to decide who pays.

Tick the box for **Other orders** – if you want VCAT to order anything else. Then write the details in the box below. Examples include:

- order about the bond
- order about damage to property
- order that if there is an inspection of the property and the perpetrator has someone represent them at the inspection, they must provide the name of their representative to the affected person

example only

Claim details - What do you want VCAT to do?

This section tells the Tribunal and other parties what orders you are wanting the Tribunal to make. Please refer to the claim details section in the Application Guide. *

Section 233A Termination (ending of the existing tenancy agreement and requiring the landlord to enter into a tenancy agreement with the protected person and other persons (if any).

Section 233C determination of parties' liability under the existing tenancy agreement (relating to for example damage to the property and utility charges). Note: This application can only be made if an application under s233A is also being made.

Section 234 reduction of fixed term tenancy agreement - application made by protected person.

Other orders sought. Please specify

Write the details

Write as much detail as possible. Attach a separate sheet if you need more room. These are some things you should include:

- **lease type** ([fixed term](#) or [periodic](#))
- **lease start and end dates**

- **intervention order details** (including any previous intervention orders or personal safety notices) and whether the intervention order is being appealed by the perpetrator
- **how long** the affected person has been living in the rental property
- **hardship** the affected person and dependent children would be likely to face if they had to move. For example: connection to the local area (schools or support services); financial hardship.
- **why** the affected person could reasonably be expected to meet the obligations as a tenant. For example: ability to pay rent; good rental history.
- **amount and details of liability** that the affected person would like VCAT to decide on. For example: rent arrears; unpaid bills; damage to the rental property caused by the perpetrator (excluded person). Explain why you think that the perpetrator should be responsible for this.

example only

You must give complete details about your claim so that the respondent is able to understand why you have made the application. If you do not provide enough information, your case may be dismissed or adjourned. If you need more space, print clearly on a separate piece of paper and attach to this application. *

The applicant (Elizabeth Bennett), Jane Bennett and George Wickham (the excluded tenant) are co-tenants on a 12 month fixed term lease over the rental property which will terminate on 6 June 2016.

A final intervention order was made under the Family Violence Protection Act 2008 (VIC) on 8 August 2015 against Mr Wickham.

The applicant is a protected person under the intervention order. Mr Wickham is excluded from the rental property under clause 6 of the intervention order. The intervention order will remain in place until 8 August 2016.

The applicant seeks an order under section 233A and 233B that the existing tenancy agreement is terminated and that a new tenancy agreement is created on the same terms and conditions, with the applicant, Jane and Lydia Bennett as co-tenants.

The applicant and the proposed co-tenants would be able to comply with their obligations under the proposed tenancy agreement and the Residential Tenancies Act 1997 (VIC). They are able to afford the rent and have not been issued with any breach of duty notices during the current tenancy. Please find attached proof of the current income for the applicant and the proposed co-tenants.

The applicant would suffer severe hardship if they were forced to vacate the rental property. Please find attached letters from the applicant's social worker and GP detailing the applicant's medical conditions.

It is reasonable to make this order as Mr Wickham is excluded from the rental property under the intervention order until 8 August 2016, which is after the end of the fixed term lease.

Jane Bennett has advised the applicant that she supports her application to VCAT.

The applicant also seeks an order under section 233C that Mr Wickham is solely liable for the cost of repairing the hole in the hallway. This hole was caused by Mr Wickham on 3 March 2015. Please find attached a police report in relation to the incident that caused this damage.

This information is a guide only and should not be used as a substitute for professional legal advice.

Claim details: reduce a fixed-term lease

This example shows how to fill in the **Claim details** section of the VCAT application if you want to reduce the amount of time left on a fixed-term lease **so the affected person can leave early**.

Tick the boxes

Tick the box for **Section 234** – to ask VCAT to reduce the fixed-term lease so you can leave early. Tick the box for **Other orders** – if you want VCAT to order anything else. Then write the details in the box below. Examples include:

- order about the bond
- order about damage to property
- order that if there is an inspection of the property and the perpetrator has someone represent them at the inspection, they must provide the name of their representative to the affected person
- order that no compensation be paid to landlord for reduction of tenancy

Claim details - What do you want VCAT to do?

example only

This section tells the Tribunal and other parties what orders you are wanting the Tribunal to make. Please refer to the claim details section in the Application Guide. *

- Section 233A Termination (ending of the existing tenancy agreement and requiring the landlord to enter into a tenancy agreement with the protected person and other persons (if any).
- Section 233C determination of parties' liability under the existing tenancy agreement (relating to for example damage to the property and utility charges). Note: This application can only be made if an application under s233A is also being made.
- Section 234 reduction of fixed term tenancy agreement - application made by protected person.
- Other orders sought. Please specify

Order that no compensation be paid to landlord for reduction of tenancy

Write the details

Write as much detail as possible. Attach a separate sheet if you need more room. These are some things you should include:

- **lease type** ([fixed term](#))
- **lease start and end date**
- **how long** the affected person has been living in the rental property

- **intervention order details** (including any previous intervention orders or personal safety notices) and whether the intervention order is being appealed by the perpetrator
- number and ages of dependent **children**
- **hardship** that the affected person and their dependent children would be likely to face if the lease was not reduced
- **damage** to the rental property

example only

You must give complete details about your claim so that the respondent is able to understand why you have made the application. If you do not provide enough information, your case may be dismissed or adjourned. If you need more space, print clearly on a separate piece of paper and attach to this application. *

The applicant (Elizabeth Bennett) and George Wickham (the excluded tenant) are co-tenants on a 12 month fixed term lease over the rental property which will terminate on 6 June 2016. Please find a copy of the lease attached.

An interim intervention order was made under the Family Violence Protection Act 2008 (VIC) on 30 December 2015 against Mr Wikham.

The applicant and her two children are protected persons under the intervention order. Please find a copy of the intervention order and application for intervention order attached.

The applicant seeks an order under section 234(2A) that the fixed term tenancy be reduced. The applicant has not resided at the rental property since 30 December 2015 as she is afraid for her safety and the safety of her children who are aged 6 and 8.

This information is a guide only and should not be used as a substitute for professional legal advice.

Claim details: remove a name from a periodic lease

This example shows how to fill in the **Claim details** section of the VCAT application if you want to remove a name from a periodic (month-to-month) lease.

Tick the boxes

Tick the box for **Other orders**. Then write the details in the box below.

- order that the affected persons name be removed from the lease
- order that the lease otherwise continue
- order about the bond (if needed)

Claim details - What do you want VCAT to do?

example only

This section tells the Tribunal and other parties what orders you are wanting the Tribunal to make. Please refer to the claim details section in the Application Guide. *

Section 233A Termination (ending of the existing tenancy agreement and requiring the landlord to enter into a tenancy agreement with the protected person and other persons (if any).

Section 233C determination of parties' liability under the existing tenancy agreement (relating to for example damage to the property and utility charges). Note: This application can only be made if an application under s233A is also being made.

Section 234 reduction of fixed term tenancy agreement - application made by protected person.

Other orders sought. Please specify

An Order under sections 452 and 472 of the Residential Tenancies Act 1997 (vic) to remove the applicant's name from the tenancy agreement and to transfer the lease into the name of the remaining tenant(s) only from the date of the hearing.

Write the details

Then write as much detail as possible. Attach a separate sheet if you need more room. There are some things you should include:

- when the fixed term **ended**
- **how long** the affected person lived in the rental property
- **intervention order details** and whether the intervention order is being appealed by the perpetrator
- details of any **children**
- if the landlord **consents** to the change (even if the perpetrator does not).

example only

You must give complete details about your claim so that the respondent is able to understand why you have made the application. If you do not provide enough information, your case may be dismissed or adjourned. If you need more space, print clearly on a separate piece of paper and attach to this application. *

The applicant (Elizabeth Bennett) and George Wickham (the excluded tenant) are co-tenants on a 12 month fixed term lease over the rental property which expired on 6 June 2015. Please find a copy of the lease attached. The tenancy has continued on a periodic basis since this time.

A final intervention order was made under the Family Violence Protection Act 2008 (VIC) on 30 December 2015 against Mr Wickham. The applicant and her two children are protected persons under the intervention order. Please find a copy of the intervention order and application for intervention order attached.

The applicant and her children are no longer residing in the rented premises due to the circumstances outlined in the intervention Order application. The applicant has not resided at the rental property since 30 December 2015 as she is afraid for her safety and the safety of her children who are aged 6 and 8.

The applicant is unsure of the the excluded tenant's intentions in relation to the rented premises.

This information is a guide only and should not be used as a substitute for professional legal advice.

Claim details: paying for damage to property

This example shows how to fill in the **Claim details** section of the VCAT application if the landlord is claiming costs from the affected person for repairing damage to the property **if the damage was caused by the excluded tenant**.

Tick the boxes

Tick the box for **Other orders**. Then write the details in the box below.

- An order for apportionment of liability under Part IVAA of the [Wrongs Act 1958](#) for property damage caused by the excluded tenant
- Order for the refund of the bond.

Claim details - What do you want VCAT to do?

example only

This section tells the Tribunal and other parties what orders you are wanting the Tribunal to make. Please refer to the claim details section in the Application Guide. *

- Section 233A Termination (ending of the existing tenancy agreement and requiring the landlord to enter into a tenancy agreement with the protected person and other persons (if any).
- Section 233C determination of parties' liability under the existing tenancy agreement (relating to for example damage to the property and utility charges). Note: This application can only be made if an application under s233A is also being made.
- Section 234 reduction of fixed term tenancy agreement - application made by protected person.
- Other orders sought. Please specify

An order for apportionment of liability under Part IVAA of the Wrongs Act 1958 (Vic) ('Wrongs Act') in relation to property damage caused by the excluded tenant.

Order for the refund of the bond.

Write the details

Then write as much detail as possible. Attach a separate sheet if you need more room.

example only

You must give complete details about your claim so that the respondent is able to understand why you have made the application. If you do not provide enough information, your case may be dismissed or adjourned. If you need more space, print clearly on a separate piece of paper and attach to this application. *

The applicant (Elizabeth Bennett) and George Wickham (the excluded tenant) were co-tenants on a fixed term lease that was to end on 6 July 2016.

On 19 October 2015, the applicant obtained an interim Family Violence intervention order against the excluded tenant.

On 26 October 2015, the applicant left the rental property on advice of the police. The excluded tenant had breached the intervention order by attending the rental property and causing damage to the front door and the kitchen walls. Please see the attached police report regarding this incident.

On 14 December 2015, the Tribunal made an order reducing the fixed term lease to that day (R2015/9864). Please find a copy of this order attached.

On 3 January 2015 a final intervention order was made against the excluded tenant.

The landlord has made an application for the bond and compensation for the cost of repairing the damage to the front door and the kitchen walls (R2016/214).

The applicant and excluded tenant may be considered 'concurrent wrongdoers' under Part IVA of the Wrongs Act because the landlord is seeking compensation against both parties. Section 24AH of the Wrongs Act defines a concurrent wrongdoer as "a person who is one of two or more persons whose acts or omissions caused, independently of each other or jointly, the loss or damage that is subject of the claim."

The landlord's application for compensation is an apportionable claim under section 24AE and 24AF of the Wrongs Act because it is a claim for economic loss or property damage arising from a failure to take reasonable care.

Under section 24AI of the Wrongs Act, the liability of a concurrent wrongdoer in an apportionable claim is limited to the amount that the Tribunal considers just, having regard to their responsibility for the loss or damage. In this case, the applicant did not cause the damage to the door or the kitchen and should not be required to compensate the landlord for this damage.

This information is a guide only and should not be used as a substitute for professional legal advice.

Public housing tenants

If the affected person lives in public housing, the law is the same but some of the steps are different. There are also specific public housing policies and procedures that deal with hardship due to family violence. You can read about some of these policies below.

Who's who

- **The department** that manages public housing in Victoria is *Department of Health & Human Services* (DHHS).
- **The landlord** for public housing tenants is the *Director of Housing*. So when filling in the landlord's name on forms, you need to write 'Director of Housing'. Applications and notices to the landlord should be addressed to 'Director of Housing'.

What you need

To make use of the DHHS policies, the affected person may have to provide **information** about their situation and **supporting evidence**, like an intervention order or a letter from a doctor, lawyer or community support worker who can confirm the family violence. This evidence can be useful in getting the Director of Housing to delay taking any legal action against the affected person.

Get help with

[Changing the locks](#)

[Trouble paying rent](#)

[Leaving the rental property](#)

[Changing the lease](#)

[Getting another place](#)


[Damage to the property](#)


[Appeals and complaints](#)

This information is a guide only and should not be used as a substitute for professional legal advice.

Changing the locks (public housing)

If the affected person lives in public housing, and has a family violence safety notice or intervention order that excludes a tenant from the address, they can ask for the locks to be changed and DHHS will arrange and pay for it.

 **HOT TIP:** If the affected person wants to get locks changed urgently, you might need to get consent from the Director of Housing first. See [Do you need the landlord's consent?](#)

 **IMPORTANT:** **The affected person must get permission** from the Director of Housing *before* adding any other safety features, such as deadlocks, security screens, sensor lights or alarms. You should ask the Director of Housing to agree in writing that the affected person does not have to remove the safety features at the end of the tenancy or else they may claim the cost of removal from them.

Find out more

[15.8.2 Lock change request from protected person, Tenancy Management Manual, Chapter 15: Transfer of tenancy October 2017](#)

This information is a guide only and should not be used as a substitute for professional legal advice.

Trouble paying rent (public housing)

According to the law if a tenant is more than 14 days behind in rent, the landlord can give them a notice to vacate. This is the first step in the eviction process. In cases of family violence, you should let DHHS know as soon as possible to try and avoid the affected person from being evicted.

What you can do

If the affected person lives in public housing and gets behind in rent payments (also known as rent arrears) they should:

- **notify the Housing Services Manager as soon as possible**
- do it in writing
- keep a copy of the letter/email.

What the policies say:

- If the affected person **hasn't paid rent** because of family violence, the Director of Housing may delay starting legal action;
- If the affected person **can't come to VCAT** because of family violence and they notify the Director of Housing, then the Director of Housing will ask to adjourn (postpone) the hearing;
- If an affected person **misses a payment in a repayment plan** due to family violence, the Director of Housing may set up another repayment plan with the affected person, or wait to see if the missed payment can be made up, rather than taking steps to evict the affected person from the property.
- In cases of **temporary absences** due to family violence, the Director of Housing may reduce the rent to \$15 per week. See [Leaving the rental property \[public housing\]](#).

Find out more

[Tenancy Maintenance Manual, Chapter 1: Arrears, October 2017 \[DHHS website\]](#)

This information is a guide only and should not be used as a substitute for professional legal advice.

Leaving the rental property (public housing)

The affected person has the right to leave public housing for a short time due to family violence, without fear of losing their home. This is called a **temporary absence**.

What you can do

If the affected person has to leave public housing due to family violence you should:

- **notify the Director of Housing** as soon as possible
- do it in advance if possible, *especially* if they will be away for **more than six weeks**
- do it in writing, they can use the [Temporary absence form \[HOUSING.vic.gov.au\]](https://www.housing.vic.gov.au)
- keep a copy of the letter or form.

What the policies say

- **Six months** is usually the maximum temporary absence accepted.
Also see [Extending the temporary absence](#).
- **Advanced notice** is not required if there is an intervention order and either the affected person or perpetrator has to leave immediately.
- **Other household members** can stay on with the tenant's permission (or without their permission if the tenant is the perpetrator).
- The Director of Housing will discuss the temporary absence with the affected person, household members, and support worker (if applicable) to get information such as:
 - the date the affected person left
 - how long they expect to be away
 - the date they expect to return
 - if they have to pay for temporary housing

Reduced rent for temporary absence

In cases of temporary absences due to family violence, the Director of Housing may reduce the rent to **\$15 per week**. This is done to reduce the financial hardship on tenants, especially if the affected person needs to pay for temporary housing somewhere else or if they have no income during this time.

What the policies say

The Director of Housing looks at individual situations for affected persons and takes action to support their tenancy, such as:

- **reducing rent** during the temporary absence;
- **increasing the rent rebate** during the temporary absence based on the income of remaining household members only;
Note: If someone moves in to care for dependents (such as children) that person's income will not be counted as household income if they can show their main home is somewhere else.
- **changing any debt repayments** (for example, rental arrears) during the temporary absence;

Extending the temporary absence

What you can do

If the affected person needs to stay away for longer than six months (and no other household members are living there) you should:

- **request an extension** before the end of the first six-month absence
- do it at your local housing office
- do it in writing
- keep a copy of the letter or form.

What the policies say

- Extensions are only approved in **exceptional circumstances**.
- The Director of Housing will consider situations of family violence and the impact on the tenant if the extension is not approved.
- If the extension is not approved and the tenants do not return to the public housing, the Director of Housing may take steps to end the tenancy starting with giving the tenants a *Notice to Vacate*.

Find out more

[Tenancy Maintenance Manual, Temporary Absence operational guidelines, July 2017 \[DHHS website\]](#)

This information is a guide only and should not be used as a substitute for professional legal advice.

Changing the lease (public housing)

In some cases, the Director of Housing can end a lease in one name and start a new lease with someone else who lives there. This is called “Transfer of Tenancy” in the DHHS policies and requires a VCAT Order.

What you can do

- **If the perpetrator’s name is on the lease**, you can apply to VCAT to remove their name from the lease.
- **If the affected person’s name is not on the lease**, you can apply to VCAT to add their name to the lease.
- You can apply to VCAT to do both of these at the same time.
- Also see [Staying in the rental property](#)

What VCAT can do

- VCAT can order to **end the agreement** between the Director of Housing and the current tenants.
- They can also order the Director of Housing to start a **new agreement** with the affected person (and any others).

! IMPORTANT: VCAT may not make the affected person a tenant if they don’t usually live at there, if they have a high income, or if they are not eligible for public housing.

Find out more

[Tenancy Management Manual, Chapter 15: Transfer of Tenancy, October 2017 \[DHHS website\]](#)

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Getting another place (public housing)

In cases of family violence, the affected person may want to move to another home in public housing or swap with another public housing tenant.

What you can do

If the affected person can no longer live in the property due to family violence, you can:

- contact your local housing office
- discuss what the best options are for your situation.

What the policies say

- If you want **another place** you can apply to go on a waiting list. The Director of Housing will consider your individual situation to decide if you are put on a *priority* list or a *non-priority* list.
- An affected person could be eligible via the **Special Housing Needs** category. One of the criteria for special housing needs is unsafe housing, which includes facing a serious threat of violence. This application must be made before the tenancy comes to an end. Tenants approved for a transfer via the Special Housing Needs category may be able to move into crisis accommodation and retain their transfer status and their current tenancy rights whilst waiting for an offer of alternative accommodation.
- If an affected person ends their tenancy due to family violence, they may also be eligible for the **Homeless with Support** category where they are homeless and receive support from a designated support program provider or specialist service.
- If you want to **swap with another tenant** you can apply to be added to the swap list. You can choose to share your name, email address and telephone number with tenants who are interested in swapping. **You don't have to share this information**, especially if there are safety issues. Your local housing office can discuss all the options with you.

Find out more

[Allocation manual, May 2017 \[DHHS website\]](#)

[Tenancy management manual \[DHHS website\]](#)

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Damage to the property (public housing)

If the Director of Housing has to get repairs or cleaning done, they might try to get compensation from the tenant. This is called a Maintenance Claim Against a Tenant (MCAT).

What you can do

If the affected person **did not** cause part or all of the damage, you can

- ask for the costs to be **reviewed**
- do it at your local housing office
- do it in writing
- keep a copy of the letter or form.

What the policies say

- **If the perpetrator caused the damage**, the Director of Housing will not charge the affected person for the costs of repairs to the property.
- The affected person may need to provide information and supporting evidence, like an intervention order. It can be helpful to include evidence from family members, witnesses and the police, the affected person's doctor or other health professional, family violence worker or other relevant support worker.

Find out more

[Maintenance Manual, Tenant property damage operational guidelines, July 2017 \[DHHS website\]](#)

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Appeals and complaints (public housing)

If the affected person doesn't agree with a decision about their public housing, you can make an appeal for them to review the decision. If the affected person is not happy with the result of the appeal or the service they received, you can make a complaint.

Appeals

- [Appeal a social housing decision \[HOUSING.vic.gov.au\]](https://www.housing.vic.gov.au).
- [Business Practice manual, Housing appeals May, 2017 \[DHHS website\]](#)

Complaints

- If the affected person thinks that the **result of the appeal is not fair**, they can make a complaint with the [Victorian Ombudsman \[ombudsman.vic.gov.au\]](https://www.ombudsman.vic.gov.au).
- If the affected person is **not happy with the service they got** from DHHS see [Making a complaint \[DHHS website\]](#).
- The Director of Housing must comply with the [Charter of Human Rights and Responsibilities Act 2006 \(Vic\) \[AustLII website\]](#).

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Your feedback

If you have any comments, suggestions, compliments or concerns about the **family violence protection TENANCY KIT**, [send us your feedback via the Tenants Victoria website](#).

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