

Policy Name: Evictions

Approved by: Chief Executive Officer

Date effective: May 2019

Due to be reviewed: May 2022

Section 1 – Introduction

PURPOSE

VincentCare Community Housing (VCCH) is committed to ensuring that it fulfils its duties as a landlord and upholds the rights of its tenants under the Residential Tenancies Act 1997. This Policy promotes a lawful, equitable, fair and transparent approach to ending tenancies.

VincentCare operates a diverse range of accommodation and support services for people experiencing disadvantage, and is committed to applying an appropriate duty of care to all people in contact with VincentCare services. This includes protecting people's personal and cultural safety regardless of ability, cultural background, ethnicity, gender identity, sexual orientation or religion.

SCOPE

This Policy applies to all housing managed by VCCH.

For the purpose of this policy, the term 'tenant' is inclusive of the term 'resident'.

REVIEW CYCLE

This policy will be reviewed every three years. It will be modified or replaced whenever VCCH becomes aware that the policy no longer complies with the requirements of the organisation or may be subject to legislative and regulatory changes.

Section 2 – Policy Statement

VCCH will comply with the relevant provisions of the Residential Tenancies Act regarding ending tenancies, including evictions. VCCH will end tenancies and undertake evictions in a manner that is lawful, equitable, fair and transparent.

VCCH is committed to ensuring evictions are a last resort and will only be explored after every other possible option has been exhausted.

Guiding principles and approach

VCCH applies the following principles in relation to evictions:

- VCCH shall end tenancies in a way that is lawful.
- VCCH shall act as a landlord in accordance with the Residential Tenancies Act (1997).
- VCCH shall uphold the rights of tenants when ending tenancies.



- VCCH shall end tenancies in a way that is equitable, fair and transparent.
- VCCH seeks to reduce the frequency of legal proceedings and minimise the likelihood of a return to homelessness for tenants as a result of evictions.
- Rent will remain payable until the day the property keys are returned to VCCH.
- Any amount of rent in credit shall be repaid to the tenant or resident.

2.1 Tenant-initiated exit

- Tenants are expected to give 14 day's advance notice of their intention to vacate.
- Tenants are expected to fulfil their obligations to leave the property in a reasonably clean condition and remove any rubbish.
- Rent will continue to be charged until the keys to the property are returned to VCCH.

2.2 Property abandonment

- If VCCH has reason to believe a property has been abandoned, staff will attempt to contact the tenant and support worker (if applicable) in the first instance.
- Property abandonment must be confirmed by inspecting the property.
- If upon inspecting the property, it is evident that the tenant has abandoned the property. VCCH shall apply to VCAT for an Order of Abandonment.

2.3 Immediate Notice to Vacate

VCCH shall only pursue an Immediate Notice to Vacate under extreme and select circumstances, including:

- Significant incidents of deliberate and intentional damage by the tenant or the tenant's visitor;
- The premises are totally or partially destroyed and unsafe, or unfit for living; or,
- The tenant or visitor is putting other tenants or neighbours in danger.

2.4 Notice to Leave

- VCCH shall only issue a Notice to Leave to a rooming house resident under extreme and select circumstances, limited to when the resident or their visitor:
 - Has committed a serious act of violence; or,
 - Are putting others' safety in danger.
- Staff may issue a Notice to Leave to ban a resident from a rooming house property for two business days.
- The resident may return to the rooming house after two business days if VCCH does not apply to VCAT for a hearing

2.5 Eviction

- Eviction will only be used as a last resort when every other possible option has been exhausted.
- Staff shall maintain communication with the tenant and their support worker at each stage of the eviction process to inform them of progress and alternate options.
- VCCH shall consider ceasing eviction proceedings if at any stage the tenant demonstrates they are upholding their obligations under the Residential Tenancies Act as well as their commitment to sustaining a successful tenancy.

COMMUNICATION

VCCH will provide clear information to tenants on the contents of this policy. VCCH will also inform tenants when their tenancy is at risk and if eviction is a likely outcome.

Section 3 – Procedures

The following key procedures will apply to VCCH tenancy terminations and evictions:

3.1 Tenant-initiated termination

- Staff shall advise the tenant that rent is payable until the day the keys are returned and seek to recover any rent arrears outstanding.
- The Manager shall approve any legitimate Rent Reimbursement Request.

3.2 Abandonment

- VCCH shall suspect a property has been abandoned where indicators such as no response from tenants or where rental payments are not paid are evident.
- If a property inspection hasn't occurred, staff shall send the tenant a Notice to Inspect due to suspicion of abandonment.
- Staff shall conduct a property inspection, on the grounds of suspected property abandonment.
- If the suspicion of property abandonment is upheld the staff member shall apply to VCAT for an Order declaring the premises abandoned.
- Staff will record all details of suspected property abandonment in the Tenancy and Property Management system.

3.3 Evictions

- Staff shall apply for an Order of Possession using VCAT online.
- Staff shall attempt to phone the tenant to confirm if they intend to attend the hearing.
- If at any point prior to a possession order at VCAT the tenant makes contact and wishes to rectify situation the worker shall advise them they must attend the hearing.
- If VCAT determines that VCCH has adhered to the RTA a Possession Order shall be granted.
- The Staff shall inform the tenant and their support worker that the Order has been granted, and that VCCH will purchase a Warrant of Possession for Police to execute.
- If VCAT do not grant a Possession Order they may issue a Compliance Order stating the actions the tenant must take to maintain their tenancy. If a Compliance Order is issued the Staff shall engage the support worker's assistance in monitoring the tenancy. If the tenant does not meet the conditions of the Compliance Order the Staff shall seek another Possession Order.
- The Staff will request that VCAT fax a copy of the Possession Order to the local police station.
- If the police do not contact the Staff within two working days Staff shall phone the local police station and arrange a time to execute the warrant.
- At the arranged time, the Staff and another VCCH employee shall meet the police officers at property and provide the key. Police officers must enter the property first.
- If the tenant is present the police officers will ask the tenants to vacate the property and take their belongings with them. If the tenant's do not comply, the Police may physically remove them from the property.

- Staff will arrange for the locks to be changed by a locksmith, or change the bi-lock barrels for properties with a bi-lock key system
- Staff will contact support to request an Exit Form and Authority to Dispose of Goods form if required.

Section 4 – References

Definitions

Word/Term	Definition
ILU's	Independent Living Units
Property abandonment	A tenant leaves their THM property without notifying VCCH and does not intend to return.
Resident	Resident of a rooming house
RTA	Residential Tenancies Act
Tenancy	In this document the term 'tenancy' is inclusive of tenancies and residencies
Tenant	In this document the term 'tenant' is inclusive of tenants and residents
THM	Transitional Housing Management
VCAT	Victorian Civil and Administrative Tribunal

Related External References

Name	Link
Housing and Support Partnership Agreement	http://www.nwhn.net.au/admin/file/content2/c7/Housing%20and%20Support%20Partnership%20Agreement%20Nov%2011.pdf
Housing Registrar Performance Standards	http://www.housingregistrar.vic.gov.au/files/assets/public/publications/performance-standards-and-evidence-guidelines/current-performance-standards.pdf
Homelessness Assistance Program Guidelines	https://dhhs.vic.gov.au/sites/default/files/documents/201705/Homelessness-Services-Guidelines-and-Conditions-of-Funding-May-2014.pdf
National Community Housing Standards	http://www.hpw.qld.gov.au/SiteCollectionDocuments/CHStandardsManual.pdf
Residential Tenancies Act 1997	http://www.austlii.edu.au/au/legis/vic/consol_act/rta1997207/

Related policies

Policy name	Description
VCCH Property Management Policy	https://vincentcare.org.au/
VCCH Complaints and Appeals Policy	https://vincentcare.org.au/
VCCH Arrears Management and Hardship	https://vincentcare.org.au/
VCCH Tenancy and Property Management Welfare Checks	https://vincentcare.org.au/
VCCH Rent Monitoring and Arrears policy	https://vincentcare.org.au/

Legislation and standards

This policy implements the obligations of VincentCare Community Housing under:

- Residential Tenancies Act 1997
- Housing Act 1983 (Vic)
- Performance Standards for Registered Housing Agencies

Section 5 – Governance

Transparency and accessibility

This policy will be available on VincentCare's website <https://vincentcare.org.au>

Responsibility

Process Owner	General Manager Housing
Content Holder/s	Housing Program Managers
Recommending body	Quality Committee
Endorsed by	Chief Executive Officer

Change history

Version	Effective Date	Author	Change
1	May 2019	General Manager Housing	<ul style="list-style-type: none">• This is a new policy for publication on VincentCare's website• This policy is a compliance requirement for registered agency participation in the Victorian Housing Register (VHR)