

# VCCH - TENANCY MANAGEMENT – MAINTENANCE CHARGE AGAINST RENTER PROCEDURE

<b>Name of Procedure:</b>	VCCH - Tenancy Management - Maintenance Charge Against Renter Procedure
<b>Approval Authority:</b>	Group CEO
<b>Date effective:</b>	14 May 2026
<b>Due to be reviewed:</b>	14 May 2029
<b>Accountable Officer:</b>	EGM Housing and Property Strategy
<b>Responsible Officer:</b>	Head of Housing & Partnerships
<b>Procedure applies to:</b>	VincentCare Community Housing

## 1. Purpose

- 1.1 The purpose of this Procedure is to establish Vincent Care Community Housing's and VincentCare Victoria (VCCH) approach to recovering charges from renters for damage and/or neglect that are deemed to be caused by the renter to VCCH property and/or common areas.

## 2. Scope

- 2.1 This Procedure applies to VCCH.
- 2.2 This Procedure applies to all long-term rental properties owned and managed by VCCH.
- 2.3 This policy does not apply to Transitional housing properties managed by VincentCare Community Housing and temporary or crisis accommodation.
- 2.4 Within this Procedure , "Renter" is inclusive of the term 'resident'.

## 3. Policy

- 3.1 Tenancy Management Policy

## 4. Procedures

### VCCH APPROACH

- 4.1 In keeping with its Tenancy Management Policy, VCCH's approach to charging renters for maintenance damage is informed by these commitments:
- meeting our contractual, legal, and regulatory duties;
  - helping renters understand their rights and responsibilities in their rental agreement;
  - supporting a renter's right to appeal the liability for a maintenance charge; and
  - giving due consideration to human rights and considering the impact of any decisions we make under the Charter of Human Rights and Responsibilities 2006.

4.2 VCCH will seek to:

- a) Recover repair charges from renters in circumstances where repairs to the premises are necessary, as a result of deliberate damage or neglect caused by the renter, another household member or a visitor who enters the property with the renter's permission. This charging and recovery process is known as a maintenance charge against renter (MCAR)

4.3 VCCH will not seek to recover repair charges:

- a) for fair wear and tear that occurs to the premises through ordinary day-to-day use of the property by a renter;
- b) for instances of family violence or third party criminal damage (third parties outside the control of the renter, including unknown persons or events where the renter has not contributed through act or omission)
- c) for any item, fixture or fitting at the end of its useable life or that is due to be replaced.

## **RENTERS' RESPONSIBILITIES**

4.4 Renters have a responsibility to comply with their obligations under the Residential Tenancies Act (1997) and their rental agreement. Renters are required to:

- a) Ensure that care is taken to avoid damaging their rented premises;
- b) Take reasonable care to avoid damaging common areas;
- c) Keep their rented premises in a reasonably clean condition;
- d) Refrain from installing fixtures or making any alterations, renovation or addition to the premises, and;
- e) Pay costs for damage that results from deliberate action, mistreatment or negligence of a renter, household member or visitor and to comply with orders to pay the costs of repairs or cleaning.

## **VCCH OBLIGATIONS AND RESPONSIBILITIES**

4.5 The Residential Tenancies Act (RTA) outlines the rights and duties of the tenant and the landlord (General duties of tenants and landlords) which forms the basis of the Tenancy Management – Maintenance Charge Against Renter Procedure.

4.6 Where VCCH is required to undertake repairs or cleaning because the renter has not complied with their obligations, this work is raised as a maintenance claim against the renter (MCAR). VCCH objectives in managing renter property damage and initiating MCARs are to:

- a) Minimise damage to housing stock and seek compensation for damage that has occurred as a result of the renter failing to comply with their obligations;
- b) Ensure consistent practice in the application and recovery of MCARs;
- c) Support safe and habitable conditions for renters;
- d) Ensure the sustainability of VCCH stock;
- e) Inspect the premises every six months;
- f) Undertake responsive and cyclical maintenance, and;
- g) Ensure that all maintenance is undertaken by qualified tradespeople.

It is expected that all VCCH staff manage renter property damage:

- h) With a strong focus on resolution and agreement
- i) In an inclusive and responsive manner including problem solving and negotiation with the renter as early as possible
- j) Through consistent and transparent decision-making with clearly documented evidence of issues, actions taken, decisions made, resolution sought or rationale for escalating,
- k) With an authorised approach where staff seek approval or decision from senior management at key decision points when necessary; and
- l) In accordance with the Society of St Vincent de Paul Victoria's Code of Conduct

## **DISCRETION UNDER THIS PROCEDURE**

- 4.7 An MCAR can be deactivated according to the Group Delegations of Authority Policy at any point prior to being substantiated.
- 4.8 Under certain circumstances the authorised delegate may take the contributing factors into account and consult with support workers where appropriate to determine the next course of action. This may include:
  - a) Reversing the charges of the MCAR;
  - b) Negotiating an agreement with the renter; or
  - c) Choosing not to pursue repair costs.
- 4.9 VCCH reserves the right to pursue compensation and costs through civil action against a renter who intentionally and maliciously damages a property.

## **INVOLVEMENT OF OTHER PROGRAMS OR SUPPORTS**

- 4.10 The early intervention and involvement of other programs that are available to support the renter to effectively sustain their tenancy should be considered by staff, and their line management, when responding to renter property damage. This can include:
  - a) Specialist homelessness services (including LGBTQIA+ specific programs)
  - b) Family violence services
  - c) Disability information and support
  - d) Financial counselling services
  - e) Drug and alcohol services
  - f) Mental health services

## **DETERMINING RESPONSIBILITY**

- 4.11 VCCH will only attribute damage of a property to a renter when it was caused by the renter's failure to:
  - a) Ensure that care is taken to avoid damaging their rented premises;
  - b) Take reasonable care to avoid damaging common areas;
  - c) Keep their rented premises in a reasonably clean condition; and

- d) Refrain from installing fixtures or making any alterations, renovation or addition to the rented premises, unless they have consent.
- 4.12 Examples of when the renter may have breached their obligations are:
- a) Intentional or malicious damage
  - b) Antisocial behaviour
  - c) Misuse, reckless or indifferent behaviour or a failure to take reasonable steps to prevent damage from occurring
  - d) Where the renter fails to keep the rented premises in a reasonable clean condition.
- 4.13 Renters may breach their obligations if a visitor or household member, rather than the renter, causes the damage.
- 4.14 VCCH will generally not claim costs from the renter in relation to property damage if:
- a) the damage is the result of an accident or actions which could not be reasonably prevented, for example, the renter has a disability or is a Victim-Survivor of family violence;
  - b) previously completed works by the department did not meet the required standards;
  - c) the damage is the result of criminal actions of a third party, and it was beyond the control of the renter to prevent it from occurring;
  - d) the damage is the result of emergency services intervention if they are called to attend the property;
  - e) the damage is the result of natural disasters;
  - f) the item, fixture or fitting is at the end of its useable life or is due to be replaced;
  - g) the repairs are required as a result of fair wear and tear; and
  - h) the property is vacant and it cannot be determined with sufficient certainty who is responsible for the damage.
- 4.15 As part of the process for determining responsibility, VCCH Tenancy & Property staff will contact the renter to discuss the damage. Staff will work with the renter, and support worker, to understand why and how damage occurred. This should include:
- a) giving the renter the opportunity to respond and explain why and how the damage occurred;
  - b) Informing the renter of the information and evidence gathered that will be taken into account in making the decision and determining responsibility for the damage; and
  - c) Taking into account any material or information provided by the renter when making a decision.
- 4.16 Staff will request information and supporting evidence where relevant from support workers, treating health practitioners, witnesses and the police, in order to assess and determine whether the renter is responsible for the damage.
- 4.17 Where family violence is involved, staff will accept advice from the victim's family violence worker or other relevant support worker as sufficient evidence to support the victim's claim.
- 4.18 In addition, staff will also gather evidence in relation to the property including:
- a) A detailed description of the damage;
  - b) Taking photographs of the damage; and

- c) A review of any available tenancy condition reports.
- 4.19 Where possible, staff will gather evidence of the damage prior to works commencing to fix the damage.
- 4.20 In determining whether the renter is responsible for the damage, whether in full or for identified items, staff will consider:
- a) The information, evidence and explanation provided by the renter;
  - b) Any complex tenancy issues identified;
  - c) The type and frequency of damage;
  - d) Any related incidents or previous damage; and
  - e) Whether there is a pattern of similar damage.
- 4.21 If staff identify that the damage to the property, either in full or for identified items, is the responsibility of the renter, staff will commence the process to reclaim the costs from the renter in line with these operational guidelines.

### **Claiming costs for the damage**

- 4.22 Where renter's responsibility for the damage is confirmed, staff will send a Notice of repair under s.78(1): Landlord may give renter repair notice of the Residential Tenancies Act notifying the renter stating:
- a) The nature of the damage;
  - b) A detailed description of the damage that was caused;
  - c) That VCCH will be undertaking works to repair the damage, specifying:
    - i) That the renter will be liable for the reasonable costs of the repairs;
    - ii) The repair works required, including the work order number, date it was issued; and
    - iii) That the repair will be undertaken by a contractor.
- 4.23 Once the repairs have been undertaken by the contractor and the costs for those repairs established, in order to claim the costs from the renter, VCCH Tenancy & Property staff will give the renter particulars in accordance with s 79(3): Landlord may do repairs and renter liable for costs of the Residential Tenancies Act. Staff will send a letter notifying renter that:
- a) The repair works have been undertaken including the order number and itemised list of the repairs undertaken and associated costs;
  - b) The date the works were undertaken;
  - c) Timelines for payment (14 days);
  - d) That VCCH may apply to VCAT for an order to recoup these costs if the renter does not pay for repairs; and
  - e) That the renter can choose to have independent representation in resolving and negotiating the matter.
- 4.24 VCCH will also include with the letter:
- a) A copy of the Notice of repair; and
  - b) An acceptance of liability form for the tenant's signature.

## **LOCAL RESOLUTION AND AGREEMENT**

- 4.25 Staff will seek, and be supported to manage, all renter property damage by direct negotiation with the renter where possible. Renter may choose to have independent representation in resolving and negotiating the matter. During the negotiation, staff will take into account factors such as the age of the damaged item, its condition and depreciation.
- 4.26 If the renter accepts liability for the identified damage, the claim should be considered a substantiated maintenance charge. The renter may either:
- a) Pay the amount in full; or
  - b) Enter into a Maintenance payment agreement.
- 4.27 The Maintenance payment agreement outlines an agreed weekly amount to be paid by the renter until the debt is repaid in full.
- 4.28 Staff should consider whether the payment will lead to financial hardship for the renter and negotiate the Maintenance payment agreement in a reasonable and fair manner.
- 4.29 If there is more than one Maintenance payment agreement, staff should combine all substantiated maintenance charges accrued throughout the tenancy into one Maintenance payment agreement.

### **If the renter disputes property damage**

- 4.30 If the renter denies they are responsible for all, or some, of the identified property damage they may request the charges being attributed to them be reviewed by VCCH.
- 4.31 A manager as determined by financial delegation requirements, will undertake the review.
- 4.32 If the review identifies the renter remains responsible for the damage, staff will communicate the review findings and continue to negotiate with the renter to pay the identified property damage charges.
- 4.33 If the review identifies that the renter is not responsible for the identified property damage charges, the manager, as required by financial delegation, will reverse the charges and advise the renter accordingly.
- 4.34 Should the renter continue to refuse to accept liability for the identified damage charges or refuse to accept responsibility, VCCH may proceed with VCAT application to claim the disputed amount.

### **Making an application to VCAT**

- 4.35 If the MCAR cannot be resolved locally, VCCH will make an application to VCAT to seek an Order for Compensation under s. 452: General application to the tribunal of the Residential Tenancies Act.
- 4.36 Taking an MCAR to VCAT should only be undertaken for items that are clearly attributable to a renter, or the household member or a visitor if applicable. Staff should detail what repairs were completed and the cost for each specific item.
- 4.37 Staff should not include damaged items that are not caused by the renter, household member or visitor as part of the submission to VCAT.
- 4.38 In preparing the application for VCAT, staff must apply the following to each damaged item to identify reasonable cost of repairs:
- a) Age;
  - b) Condition;
  - c) Depreciation (using the Australian Taxation Office depreciation rules);

- d) Fair wear & tear; and
- e) Whether cost is reasonable.

- 4.39 Under s. 447: Limits of jurisdiction of Tribunal of the Residential Tenancies Act VCAT has the jurisdiction to hear and determine cases for claims up to \$40,000.
- 4.40 In the event an MCAR costs exceeds \$40,000, staff will seek the renter's agreement to have the case heard at VCAT via completion of an Instrument in writing authorising VCAT to make a determination in excess of \$40,000.
- 4.41 In the event the renter does not consent to having the case heard at VCAT, staff may make an application for damages to VCAT under s. 217: This enables VCCH to make an application in the civil claims list of VCAT to recover damages or rent arrears in excess of \$40,000.

#### **Order of Compensation is granted**

- 4.42 If VCAT grants an Order for compensation, the MCAR is considered substantiated and the renter is required to pay for the damage.
- 4.43 Staff will negotiate a Maintenance payment agreement with the renter.

#### **Breaking a maintenance agreement**

- 4.44 Staff will monitor Maintenance payment agreements on a regular basis. In the event a renter breaks a Maintenance payment agreement by failing to make a payment, staff will contact the renter to determine the circumstances of why payment was not made.
- 4.45 Staff will then:
- a) Reinstate the Maintenance payment agreement if payments commence within four weeks after the initial missed payment
  - b) Negotiate a new Maintenance payment agreement if payments have lapsed for over four weeks.
- 4.46 VCCH reserves the right to seek an Order of Possession in the event the renter breaks the Maintenance payment agreement.

#### **Vacated tenancy**

- 4.47 If property damage is identified after a renter has vacated, staff will raise an MCAR work order specifically for renter property damage in vacated properties.
- 4.48 Once the works are completed, staff will write to the vacated renter's last known address stating:
- a) That the repair works have been undertaken including the order number and itemised list of the repairs undertaken and associated costs. Staff must not include the cost of damage not attributable to the renter such as fair wear and tear or depreciation;
  - b) The date the works were undertaken;
  - c) Timelines for payment (14 days);
  - d) That the renter may have independent representation in resolving and negotiating the matter; and
- 4.49 That VCCH may apply to VCAT for an order to recoup these costs if the vacated renter does not pay for repairs.
- 4.50 Staff will also include an Acceptance of Liability form for the vacated renter's signature.

- 4.51 If the MCAR for vacated renter cannot be resolved locally, staff will make an application to VCAT to seek an Order of Compensation under s. 210: Application to Tribunal for compensation on other grounds of the Residential Tenancies Act.
- 4.52 Lodging a vacated MCAR at VCAT should only be undertaken for items that are clearly attributable to a renter, another household member or a visitor. Staff should not include items that are not caused by the renter, household member or visitor as part of the submission to VCAT.
- 4.53 In the application to VCAT, VCCH should consider for each damaged item:
- a) Age;
  - b) Condition;
  - c) Depreciation (using the Australian Taxation Office depreciation rules);
  - d) Fair wear and tear; and
- 4.54 Whether the cost is reasonable.
- 4.55 All vacated maintenance charges are finalised by VCCH staff.
- 4.56 If a renter is vacating their property with a credit for rental payments as well as an outstanding MCAR, staff will seek the vacating renter's permission for VCCH to transfer credit from the rental account to the maintenance account to pay charges.
- 4.57 Staff and their line manager will only consider transfers between rental and maintenance accounts when:
- a) All job orders raised for the account have been invoiced and finalised;
  - b) The charges are attributable to the renter; and
  - c) The vacating renter agrees to the transfer of monies.
- 4.58 Rental refunds will not be considered until the above steps have been completed.

## 5. Legislative and Regulatory Obligations and Quality Alignment

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- 5.1 This Procedure supports SVDPV's alignment with the following legislation or quality standards:
- a) [Housing Act 1983](#)
  - b) [Residential Tenancies Act 1997](#)
  - c) [Guidelines for Registered Housing Agencies published by Department of Health and Human Services DHHS](#)
  - d) [Performance standards for registered housing agencies](#)
  - e) [Rainbow Tick Standards - 3rd edition](#)