

RTA Notices to Vacate Protocol

1. Purpose

Uniting Housing Australia complies with all relevant legislative requirements, including the *Residential Tenancies Act 1997* and *Retirement Villages Act 1986* in respect of its residential tenancy practices.

The purpose of this protocol is to outline Uniting Housing Australia's practices regarding the issuing of notices to vacate (NTV) to tenants of Uniting Housing Australia properties, and to ensure that:

- tenancy problems are first addressed through negotiation, consultation and when necessary, through appropriate legal action
- all tenants are informed of their rights and responsibilities
- all notices are appropriately and accurately issued

This protocol applies to all employees working with Uniting Housing Australia properties.

2. Protocol

2.1 General Principles

- Uniting Housing Australia ensures all tenants and residents are provided with a copy of the relevant Consumer Affairs booklet and are advised of their legal rights and responsibilities, at the commencement of their participation in a Uniting Housing Australia program.
- Uniting Housing Australia abides with the spirit of the Charter of Human Rights and will exhibit fairness in its dealings with tenants and residents.
- When issues arise during a tenancy, Uniting Housing Australia will ensure that tenants are given the opportunity to have their point of view put forward before any action is taken.
- Uniting Housing Australia aims to solve tenancy problems through negotiation, consultation and when necessary through appropriate legal action.
- If a tenancy dispute is unable to be resolved Uniting Housing Australia shall make an application to VCAT to have the matter heard and have a determination made.
- Uniting Housing Australia ensures that all RTA notices and applications comply with legal requirements, are on the prescribed forms, are completed accurately and are appropriately served.
- Uniting Housing Australia will ensure that all Tenancy workers are trained in the legal requirements, processes and procedures in regard to VCAT hearings prior to representation at VCAT.
- Uniting Housing Australia considers they have responsibilities under the *Residential Tenancies Act 1997* to deal with all complaints made by neighbours of Uniting Housing Australia properties. However no legal action can be taken if complaints are anonymous or unconfirmed.
- Uniting Housing Australia does not issue any notices or take any legal action unless such complaints are in writing (can be emailed).

2.2 Types of Notices and Orders issued

- If a tenant does not meet their obligations under the *Residential Tenancies Act 1997*, Uniting Housing Australia may serve them with a **Breach of Duty notice**.
- An **Order of Compliance** may be granted by VCAT if the tenant/resident still does not remedy the breach behaviour.
- A **Notice To Vacate**, served when a tenant is in breach of their tenancy responsibilities or to end a short-term tenancy/residency. A Notice To Vacate stipulates a date indicating when the tenant must leave the premises. The times vary from immediate to 120 days depending on the circumstances.
- A tenant/resident may decide to contest a Notice to Vacate by applying to VCAT and formally disputing the reasons identified in the NTV. Under these circumstances Uniting Housing Australia is required by law to wait for the VCAT determination before proceeding (in other words the tenant is permitted to stay until the matter is resolved by VCAT).
- If an NTV is served and the tenant/resident does not vacate as directed Uniting Housing Australia is required to apply to VCAT for a hearing within twenty-eight (28) of the notice to vacate expiring. Under these circumstances an **Order of Possession** is requested.
- An **Immediate Notice to Vacate** may be served if there is an incident involving endangerment. In some cases, a decision may be made to report matters to the Police. Uniting Housing Australia may be also required to make a critical incident report to DHHS.
- Under the *Residential Tenancies Act 1997*, a tenant/resident is responsible for the behaviour of any visitor. If a visitor causes problems at the property, the tenant/resident will be served with the notice.
- A tenant's visitor may be served with a **Notice to Leave** if their behaviour is endangering others
- If a tenant/resident does not pay their rent by the due date, they are considered to be in arrears. If tenants/residents become 14 days or more in arrears, they can be issued with a **Notice to Vacate**.
- A tenant/resident may also be issued with a **Notice of Inspection**. In a short-term lease, tenants must be given 24 hours' written notice of entry. In a long-term lease, tenants must be given 14 days' written notice. The notice must be written and state the reason for the entry (i.e. inspection).
- Uniting Housing Australia can apply to VCAT for a **Notice of Abandonment** if it is believed that the tenant has abandoned the property. This will end the tenancy agreement.
- A warrant is the final step in the legal process to remove a tenant/resident from the property. Execution of the warrant is the responsibility of Victoria Police. VCAT Referee grants an order for a **Warrant of Possession** stipulating either a fourteen (14) or thirty (30) day warrant. This means that the police must execute the warrant within the time stipulated.
- An application will be heard by VCAT within 5 business days of such an application being made, after which VCAT may by order declare that the property was abandoned by the tenant/resident.
- An **Order of Compensation** may be claimed under the RTA (by either the tenant/resident or Uniting Housing Australia) where there has been a breach of (1) duty provisions (2) the tenancy agreement, or (3) the RTA.

3. Definitions

Term	Meaning
DHHS	Department of Health & Human Services Victoria
NTV	Notice to Vacate

RTA	Residential Tenancies Act 1997
Tenant	Resident or occupant of Uniting managed property, including residents of retirement villages
TC	Tenancy Co-ordinator
TW	Tenancy Worker (includes Residential Tenancy Administrator and Housing Administrator)
UHA	Uniting Housing Australia (registered housing provider to the Uniting Church)
VCAT	Victorian Civil & Administrative Tribunal

4. Related Policy, Instructions and Advice

Consumer Affairs Victoria, *Renting a Home: a guide for Tenants and Landlords*

Consumer Affairs Victoria, *Rooming Houses: a guide for Residents, Owners and Managers*

5. Related Legislation/Regulations

Residential Tenancies Act 1997 (Vic)

DHHS Funded Program Guidelines

Housing Act 1983 (Vic)

Housing Registrar Performance Standards for Registered Housing Agencies

Revision Record			
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