

RENT, ARREARS MANAGEMENT & EVICTION Policy & Procedure

QA REFERENCE	P&T P&P No 09
INTRODUCED	28 th March 2019
LAST REVIEWED	28 th March 2019
NEXT REVIEWED	28 th March 2022
RESPONSIBILITY	Property and Tenancy Management is responsible for the review and currency of this policy and associated procedures.
APPROVED	Approved by the Chief Executive Officer on 28 th March 2019 <i>This policy and procedure is valid from the date of introduction and remains in force, as amended from time to time, until such time as formally revoked by resolution at a meeting of the Operational Leadership Group.</i>
ENDORSED	Endorsed by the Operational Leadership Group on
REFERENCES –	
Related Legislative Acts and other sources of Authority	<ul style="list-style-type: none"> • Housing Act 1983 (Vic) Part VIIIA – Social Housing • Residential Tenancies Act 1997
Related Standards, Guidelines and other References	<ul style="list-style-type: none"> • Performance Standards for Registered Housing Agencies • DHHS Victorian Housing Register Operational Guidelines • Guidelines for Registered Housing Agencies published by DHHS • Legal agreements between MASP and the Director of Housing relating to the VHR
Related MASP Policy and Procedure Documents	<ul style="list-style-type: none"> • Accessibility Modifications – P&T P&P No 04 • Allocations – Internal – P&T P&P No 07 • Allocations – VHR – P&T P&P No 06 • Bonds Management – P&T P&P No 11 • Code of Conduct – HRM P&P No 12 • Conflict of Interest – HRM P&P No 28 • Complaints & Appeals Tenants & Prospective Tenants – P&T P&P No 03 • Eligibility – P&T P&P No 10 • Inspections – P&T P&P No 12 • Maintenance and Repairs – P&T P&P No 08 • Privacy and Information Security – P&T P&P No 01 • Property Damage by Tenant – P&T P&P No 02 • Rent Setting and Collection – P&T P&P No 05
Related MASP Instructions and Guidelines	<ul style="list-style-type: none"> • Being a Good Neighbour – P&T B&P No 05 • COVID 19 Maintenance P&T I&G No 01 • Urgent After-Hours Repairs – P&T I&G No 02
Related MASP Forms and Templates	<ul style="list-style-type: none"> • Condition Report – Entry – P&T ED • Condition Report – Exit – P&T ED • Residential Rental Agreement – P&T ED • COVID 19 Health Declaration Contractor Maintenance Worker – P&T F&T No 06 • COVID 19 Health Declaration MASP tenant – P&T F&T No 03 • COVID 19 Letter to contractor or tradesman – P&T F&T No 05
ACRONYMS/DEFINITIONS	

<ul style="list-style-type: none"> • Applicant • DHHS • Director of Housing • Public housing • VHR • MASP • Tenant • Household Members 	<ul style="list-style-type: none"> • A person who has applied for housing via the VHR or, where permitted by this policy, directly to MASP • Victorian Department of Health and Human Services • Victorian government statutory authority that owns all public housing land in Victoria and which is the principal funding body for community housing • Housing owned and managed by DHHS • The Victorian Housing Register, the statewide common application for people seeking public housing and community housing • Mallee Accommodation and Support Program • The person who signed the Residential Tenancy Agreement • Other people who have been authorised by MASP to reside at the property
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PURPOSE

The purpose of this policy is to define MASP's policy on tenancy charges including rent and non-rent debts.

All tenants are required to pay rent as a condition of their residential tenancy agreement.

Rents collected from tenants are required in order to continue to maintain and repair MASP's properties.

The aim of this policy is to:

- establish an effective Arrears Management Policy
- outline action that may be taken by MASP in respect of non-payment of rent
- provide guiding principles for how MASP will manage situations involving the non-payment of rent or non-rent accounts by tenants

SCOPE

This policy applies to all tenants and former tenants of MASP. MASP will treat debt recovery with sensitivity and have an emphasis on privacy whilst recognising the capacity of individuals to meet their commitments.

POLICY

MASP is committed to achieving sustainable tenancies and minimising rental arrears.

MASP believes early action is the key to keeping arrears under control. MASP adopts a sensitive approach to any financial difficulties tenants maybe facing with a view to maintaining the tenancy.

MASP is committed to maintaining its function as a social housing provider and will implement business rules and allocate sufficient resources to ensure that rental arrears and non-rent debts are appropriately managed, monitored, and addressed.

MASP is able to apply and recovers tenancy related charges in accordance with the provisions of the Residential Tenancies Act 1997. Tenants have a legal obligation to pay their tenancy charges as they

become due. If they do not make payments, their accounts will fall into arrears; this will result in a breach of their tenancy agreement.

MASP will work with tenants to ensure they meet their obligations to pay their tenancy charges; however, MASP will take appropriate legal action where there are major or persistent arrears.

The Property and Tenancy Worker will check rental arrears on a monthly basis and send a rental arrears report to the Senior Manager for action if required.

COLLECTION OF RENT

MASP can collect rent from tenants via

- Centrelink payment via Centrepay deduction
- Direct Debit from bank account
- Payment at the MASP office

The preferred option is via a Centrelink Payment Authority signed by the tenant at sign up.

MASP requires all tenants to be two weeks in advance on commencement of tenancy. If a tenant is unable to pay two weeks in advance MASP may add a minimal amount to the weekly rent until the target amount is reached.

ADVISING AND MANAGING TENANTS IN ARREARS

MASP encourages all tenants to make contact with either their MASP Case Manager/Support Worker or the Tenancy & Property Management Worker as soon as possible if they are unable to pay their rent.

Arrears must be addressed as early as possible to ensure that tenants on low incomes do not accrue rental debts that become unmanageable.

MASP's Tenancy & Property Management Worker is responsible for monitoring rent payments made by tenants. Whenever a tenant falls into arrears the Tenancy & Property Management Worker will email the MASP Case Manager/Support Worker to advise the details.

The MASP Case Manager / Support Worker shall contact the tenant and establish the reason for arrears and put in place strategies for dealing with the situation. Under no circumstances should a MASP Case Manager / Support Worker allow the tenant to remain in arrears and to disregard the situation.

Where a tenant is in arrears with their rent, MASP will take steps to:

- communicate sympathetically with tenants and their supports proactively to ensure that they are aware of any rent arrears [personal contact (phone call/home visit) is preferred prior to any correspondence being sent to tenants]
- provide a reasonable opportunity for tenants to address their arrears promptly
- refer tenants to appropriate support services in respect of helping sustain their tenancy, including for example financial counselling
- as a last resort take action with the Victorian Civil and Administrative Tribunal (VCAT) to establish effective orders to recover outstanding rental amounts.

NON-RENT ACCOUNTS

MASP will address arrears in non-rent accounts using the same actions and principles as outlined in this policy. Non-rent accounts include water and damages accounts.

TERMINATION NOTICE

In accordance with the Residential Tenancies Act 1997, MASP will not issue a termination notice for non-payment of rent unless a tenants' rent has remained unpaid in breach of the residential tenancy agreement at 14 days.

A termination notice for non-payment of rent will advise the tenant that if they pay the rental arrears in full or they enter into and comply with a written repayment agreement that they do not have to vacate the property. It is important that tenants understand that MASP's goal is to sustain the tenancy by working proactively with tenants.

Where a tenant remains in breach of their agreement, MASP will take action in the Victorian Civil and Administrative Tribunal (VCAT) to establish orders for the repayment of rent. Where orders are made by VCAT and the tenant does not comply with these orders, MASP may then take action to end the tenancy by seeking a termination order

GUIDELINES FOR VCAT ACTION

Where MASP lodges an application in the VCAT for orders in respect of rental or non-rental arrears, the following guidelines will apply.

- An application for possession will be made to enable a Specific Performance Order with a 'relist date' to be granted unless eviction has been authorised in writing by the Chief Executive Officer.
- Tenants will be promptly advised in writing that an application has been made, contacted by telephone to explain the reasons for seeking the orders, and encouraged to attend the hearing
- Referral advice to tenant advocacy services will be provided, including culturally appropriate options.
- With a view to sustaining the tenancy, all efforts will be made by MASP to reach an acceptable repayment agreement that is affordable and reasonable for both the tenant and MASP.
- In addition to orders relating to rent arrears, if a termination order is sought MASP will seek orders regarding the disposal of goods left at the property and the tenant's bond will not be sought as part of rent arrears orders (this is to be dealt with at end of tenancy).

ORDER OF TERMINATION AND POSSESSION

An Order of Termination and Possession is an order granted in VCAT, which legally ends the tenancy on a certain date. In deciding whether to seek a termination order, MASP will consider

- amount of rent arrears owing and the extent to which the tenant has made efforts to repay
- previous history of non-payment of rent and non-rent accounts or non-compliance with orders
- tenant's personal and financial situation, including their housing affordability
- impacts of possible eviction on children or vulnerable household members
- whether the tenant has sought to engage with MASP and/or support services to sustain their tenancy
- history of the tenancy generally

EVICTION

An eviction action in accordance with the guidelines of the Residential Tenancies Act 1997 is only ever taken by MASP as a last resort after reasonable efforts have been made to sustain the tenancy.

SPECIAL CONSIDERATION

In some circumstances MASP may re-sign a new lease with the tenant after considering the following factors:

- Whether the tenant has repaid the outstanding arrears in full within 30 days, or has reached an acceptable repayment agreement with THT.
- Whether the tenant has engaged with THT and/or other support services to address the reasons why the tenant became in arrears
- Any other extenuating factors not known to THT at the time of seeking the order.