



Public Housing Tenant's Handbook

4th Edition June 2006
(Formerly Public Housing Survival Kit)

Published by the Tenants Union of Victoria Ltd
ACN 081 348 227
PO Box 234 Fitzroy
VIC 3065

Tenants Union of Victoria Ltd © 2006
Cover illustration by Damian Fitzgerald © 2002
Inside illustrations by George Haddon © 2000
Design by Watson Design
Printed by Allanby Press

National Library of Australia Cataloguing-in-Publication data:

Bijkersma, Karen.

Public Housing Tenant's Handbook:
a guide for Victorian public tenants.

ISBN 0 909224 43 9

1. Public housing – Law and legislation
– Victoria.

2. Public housing – Resident satisfaction
– Victoria.

3. Landlord and tenant – Victoria.

I. Title.

333.5409945

We gratefully acknowledge the funding and assistance provided by the Office of Housing & Community Building for this publication, and the assistance provided by the Peninsula Community Legal Centre and Northern DHS.

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Introduction

About this guide

This booklet is produced by the Tenants Union of Victoria as a guide for public tenants and people wanting to apply for public housing. It not only explains your rights, it gives you advice on how to protect your rights. Along the way this booklet provides plenty of useful tips.

SHASP services

There are several free and confidential services across Victoria that specialise in public tenant advice and assistance. They are known as Social Housing Advocacy and Support Program (SHASP) services. You will find a list of SHASP providers on page 39 of this booklet.

The Tenants Union

The Tenants Union of Victoria is a free and confidential tenancy advice service. We offer a statewide advice and legal service for public and private residential tenants. The Tenants Union is independent of the Office of Housing and other government departments.

Public tenants needing advice can contact the Tenants Union on ☎ 9416 2577 or ☎ 1800 068 860 (freecall). If you need an interpreter, call us through the Telephone Interpreting Service on ☎ 131 450.

The Tenants Union or your SHASP provider can:

- > give you expert legal advice about your public tenancy
- > help you fill in forms relating to your public tenancy
- > help you at the Victorian Civil and Administrative Tribunal (which handles disputes between public tenants and the Office of Housing)

- > help you appeal Office of Housing decisions that affect your public tenancy
- > help you make a complaint about the Office of Housing or its staff
- > refer you to your nearest SHASP provider (see page 1)

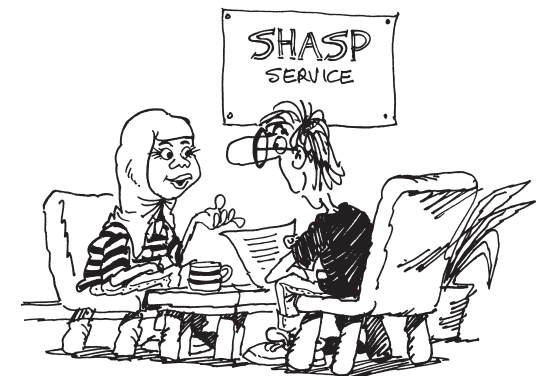
Your local SHASP provider can:

- > help you with a dispute with the Office of Housing
- > help you with Office of Housing services such as requests for transfer, relocation or special maintenance
- > help you appeal a decision by the Office of Housing
- > help you make a formal complaint to the Office of Housing

The Office of Housing

The Office of Housing is part of the Department of Human Services. They provide public housing in Victoria and manage public housing applications and rentals.

Most of your dealings with the Office of Housing will be with a Housing Services Officer via your local Housing Office. To find your local Housing Office, look under Human Services/Housing Services Division in the White Pages Business & Government directory.



Disclaimer

Information is correct at the time of printing but is subject to change. Please check details with your nearest SHASP provider (see page 39) or the Tenants Union of Victoria. This booklet is a guide only and should not be used as a substitute for the *Residential Tenancies Act 1997*, Office of Housing Policy and Procedures or professional legal advice.

If you have a problem with your Housing Services Officer you can raise the matter with the person in charge of your local Housing Office or the Housing Services Area Manager. Your nearest SHASP provider (see page 39) may help you raise concerns with your Housing Services Area Manager.

You can also appeal an Office of Housing decision (see 'Appeals against Office of Housing decisions' on page 36 for more information).

Public housing & the law

The legal rights and responsibilities of public tenants and the Office of Housing are laid down in the *Residential Tenancies Act 1997*.

The Office of Housing publishes their policies and procedures in a number of departmental manuals. These manuals cover areas such as rental rebates, relocations and property maintenance.

Most disputes between public tenants and the Office of Housing can be resolved at a local level. When this is not possible, the Victorian Civil and Administrative Tribunal can hear the dispute. The Tribunal can make legally binding decisions or 'orders' on matters such as eviction, repairs and compensation.

Your nearest SHASP provider (see page 39) or the Tenants Union can also help you with a dispute you have with the Office of Housing.

The Office of Housing's rights & duties

The Office of Housing's duties as landlord include:

- > making sure the property is vacant and reasonably clean on the date you move in
- > keeping the property in good repair
- > making sure you have 'quiet enjoyment' of the property
- > fixing any part of the property that is broken or not working properly

Public tenants' rights & duties

Your duties as a public tenant include:

- > making sure you do not damage the property and that you report any damage to your local Housing Office
- > making sure you keep the property reasonably clean
- > not using the property for an illegal purpose
- > not transferring your tenancy to someone else without the Office of Housing's consent
- > not allowing another person to move into the property without the Office of Housing's consent
- > not creating or allowing your visitors to create a nuisance

Top 5 tips for public tenants

- 1 Never sign forms or agreements that you cannot read, or that you do not understand or agree with.
- 2 Never sign an agreement that you think you could have trouble sticking to.
- 3 Make sure agreements between yourself and the Office of Housing are in writing and signed, and that you are given a copy for your records.
- 4 Always get receipts for any money that you pay in relation to your tenancy.
- 5 If in doubt regarding Office of Housing policies and procedures, contact the Tenants Union for advice.

Applying for public housing

Who can apply?

To apply for public housing you must be an Australian citizen or a permanent resident over the age of 15. Single people, couples and families can apply. Up to five single people can lodge a group application.

If you are a newly arrived migrant with permanent resident status and are subject to the Centrelink two-year waiting period, you can go on the public housing waiting list. However you will not be offered public housing until the two-year waiting period has expired.

Housing options

Public housing options are limited. In most cases, you cannot specify the type of housing that you want (eg a house versus a walk-up). However, if you have a special need such as wheelchair access, this should be taken into account. You will need to provide documentation from your doctor or other health care professional and complete the Medical/Care Assessment Form available from any Housing Office.

While you might want to live in a particular area, it is difficult to demand or rule out a particular suburb unless you have a good reason. For example, you can ask that you not be housed in a certain suburb if that would expose you to the risk of domestic violence. You could also ask that you not be housed in a location that would affect your Centrelink payments. If you need to live near special schooling or medical services, you can ask for these needs to be taken into consideration.

Waiting lists

There are not enough public housing properties to keep up with the demand. As a result, public housing applicants are placed on waiting lists. There are four different waiting lists or 'segments' and each segment relates to different circumstances. Your Housing Office will help you apply for the right segment. In order of priority, the waiting list segments are as follows:

Segment 1: recurring homelessness

This is the highest priority segment, for people who have a history of being homeless or who are at risk of long-term homelessness.

Segment 2: supported housing

This is for people with high support needs who are living in unsuitable housing or who need major modifications made to their home due to physical disability.

Segment 3: special housing needs

This is for people whose current housing is unsuitable. Housing may be unsuitable if it is not appropriate, it is unsafe or it does not meet a household's urgent medical needs.

Segment 4: wait turn

This segment is for people who are eligible for public housing but who do not have an urgent need.

tip> You may be able to apply for more than one of the above segments, depending on your circumstances. If you can do this, it might help you get into public housing sooner.

How to apply

You can apply for public housing at any Housing Office. You will be asked to fill in an Application for Rental Housing form (or forms) and to provide proof of income, proof of citizenship or permanent residency (if you were born overseas), and identification.

tip> The Office of Housing usually asks for at least two forms of identification. To avoid delay, take along every document that has your photo or signature (or both). You may also need to provide your passport and proof of your residency status.

tip> If any of your details change (eg you have a child), or you change address while on the waiting list, tell the Office of Housing because it might help you get into public housing sooner.

tip> If your application is unsuccessful, you can appeal the decision (see page 36 for more information).

Public housing offers

You may not be given much notice that a public housing property has become available. If you have a fixed-term lease when the Office of Housing sends you a written offer of public housing, contact the Tenants Union or your nearest SHASP provider for advice.

If you are in one of the early housing categories you will only be offered one property as an early allocation. If you refuse this offer you will be placed in the wait turn category.

If you are in the wait turn category you are able to receive two offers of housing. If you refuse both offers your application will be removed from the waiting list.

If you are not happy with an offer it is a good idea to talk to your local SHASP provider. It may be possible to appeal if the offer is inappropriate.

Starting your tenancy

At the start of your public tenancy the Office of Housing will give you an information kit. The kit will contain two important documents: a Tenancy Agreement and a Condition Report (see page 9).

Tenancy agreements

Once you have been offered a property, you will be asked to sign a Tenancy Agreement (lease). This sets down the terms and conditions of the tenancy (eg the amount of rent you will pay). You will be given a copy of the Tenancy Agreement once it has been signed.

The Tenancy Agreement will name the Director of Housing as the 'landlord'. You will be named as the 'tenant'.

tip> If you are unclear about anything in your Tenancy Agreement, ask the Tenants Union for advice before you sign.

Tenants & residents

Not every person who lives in the property will be regarded as a 'tenant' by the Office of Housing. People living in the property who are over the age of 18 but are not named on the Tenancy Agreement are regarded as 'residents'. Residents may be family members, dependents or friends. Residents do not have the same rights as tenants.

In some cases a resident can become a tenant (see 'When the tenant dies or vacates the property' on page 28 for more information).

Condition reports

A Condition Report describes the condition of a public housing property at the start of a tenancy. The Office of Housing's information kit will contain two Condition Reports, one copy for you and one copy for the Office of Housing.

Your Housing Services Officer will have inspected the property before you moved in. They will have filled in and signed both Condition Reports. There is space on the reports for you to disagree with their assessment of the condition of the property. **It is very important that you use the reports to make a note of any problems (eg marks on the carpet or walls). If you do not make a note you may be held responsible for the damage.**

When you have filled in and signed both reports, return one copy to your local Housing Office. The report must be filled in and returned within three days. Keep the other copy for your records.

tip> At the end of your tenancy, the condition of the property will be checked against the Condition Report. If there is any damage that was not recorded on the Condition Report (other than fair wear and tear) you could be held responsible and made to pay for repairs. This means it is in your best interests to make sure the Condition Report is correctly filled in at the start of your tenancy.



During your tenancy

Rent

Market rent

The Office of Housing works out how much rent should be charged for each public housing property. This is called the 'market rent'. Your Tenancy Agreement will give the market rent for your property. However, if you are eligible for a rental rebate, your rent will be less than the market rent (see 'Rental rebates' below for more information).

The Office of Housing reviews market rent once a year. They will inform you in writing if the market rent changes for your property.

Rental rebates

Your Tenancy Agreement will state that you must pay the market rent. However, at the start of your tenancy the Office of Housing will ask you for details about your household income. Household income includes the income of all people living at the property—not just those named on the Tenancy Agreement.

Household income includes Child Support payments, Rent Assistance, interest on savings, overseas pensions, WorkCover and any other compensation payments. Some income is not taken into account, eg Mobility Allowance, Child Disability Allowance and some other allowances paid by the government. Only 11% of Family Tax Benefits is taken into account.

The Office of Housing will work out a rental rebate based on your household income. A rental rebate will result in you paying less than the market rent. The amount you end up paying is called the 'rebated rent'.

tip> Your rebated rent cannot be more than 25% of your household income.

tip> If 25% of your household income is more than the market rent, you should only be charged the market rent.

tip> If you are not sure how your rental rebate was worked out, contact your Housing Services Officer or your nearest SHASP provider (see page 39) for more information.

Rent reviews

The Office of Housing will review your household income once a year to ensure that you are receiving the correct rental rebate. They do this by sending you a Rent Review form. It is important that you return the Rent Review form by the date requested. Failure to do so may result in your rebate being cancelled and you may have to pay the full market rent.

If there is a change to your rebated rent because of the information you provided on the Rent Review form, the Office of Housing will inform you in writing.

Changes in household income

If someone moves in or out of your property, or if any member of your household changes benefits, starts working or has a change in income, send the Office of Housing a completed Application for Rebated Rent form. If you have an increase in household income and you do not tell the Office of Housing until you receive your next Rent Review form, you will end up in rent arrears when your rebate is next reviewed.

If your household income drops and you do not tell the Office of Housing, your rebate will not be as high as it should be and you will end up paying more than you should. If you have a drop in household income, send the Office of Housing a completed Application for Rebated

Rent form and if they find that your rebate has been too low, they will repay you.

If your income changes from week to week because you work part-time or do casual work, the Office of Housing may ask you for 13-week income statements so they can work out your rental rebate.

tip> If your income tends to change a lot within any 13-week period, it may be better to hand in Application for Rebated Rent forms more often. This will ensure that your rental rebate matches your income. You can send in Application for Rebated Rent forms as often as you need.

Paying your rent

The Office of Housing asks public tenants to pay rent at least one week in advance.

There are three ways you can pay your rent:

- > direct debit from your Centrelink payments
- > direct debit from your bank account
- > at the post office

Centrelink rent deduction scheme

The Centrelink Rent Deduction Scheme is an automated payment service to help tenants with a poor payment history to pay their rent on time. Under the scheme, rent is automatically deducted from your Centrelink payment (along with any other scheduled payments to the Office of Housing such as rent arrears) and paid directly to the Office of Housing. The advantage of this is that tenants using the scheme can avoid rent arrears and have no need to go and pay their rent at the local Housing Office or post office.

The disadvantage is that if your rent increases, more money will be taken from your Centrelink payment to cover the increase. The Office of Housing should notify you of any rent increase or any other charges before the increased amount is deducted.

tip> Contact your Housing Services Officer as soon as possible if there are any unexplained or increased deductions from your account.

Direct debit service

You can also choose to pay your rent by direct debit from your bank account. This means that your rent payments are automatically paid from your bank account to the Office of Housing. Your Housing Services Officer can help you apply and you can cancel the Direct Debit Service at any time.

The Office of Housing and Centrelink do not charge for a Direct Debit Service and you do not have to be a Centrelink client. However most banks charge fees for direct debits and if you do not have enough funds in your account at the time that a Direct Debit is made, your bank could charge a hefty fee. If you are planning to use the Direct Debit Service, ask your bank to explain all the fees and charges involved.

tip> Allow an extra day for your funds to be transferred so if the bank pays your rent a day late, you will not fall behind. This means that if your bank needs two full days to transfer the funds, you should arrange to have your rent direct debited on the Wednesday before it is due (due on Sunday).

Paying at the post office

The Office of Housing will give you a plastic card at the start of your tenancy. You can use this card to pay your rent at any post office.

Rental account statements

The Office of Housing will send you quarterly rental account statements. The statements will show you how much you have paid in rent and other charges over the last three months (see 'Maintenance charges on your rental account statement' on page 21 for more information).

Rent arrears

The Office of Housing asks public tenants to pay rent at least one week in advance.

tip> If you know that you will not be able to pay your rent on time, you should contact the Office of Housing as soon as possible. If you find yourself in arrears, it is best to pay what you can afford, even if it is not the full amount.

The Office of Housing's response to rent arrears depends on the amount concerned.



Less than 14 days in arrears

If you owe less than 14 days rent, the Office of Housing will send you a letter asking you to pay the amount you owe. The letter will advise you that you can repay the arrears in either a lump sum or by instalments.

tip> Although the Office of Housing cannot take legal action if you owe less than 14 days rent, it is best not to ignore any letters, telephone calls or visits from your Housing Services Officer.

If you repay the arrears in a lump sum, that should be the end of the matter. If you decide to repay the arrears by instalments, the Office of Housing may ask you to sign a Local Agreement. This agreement sets out the amount and number of instalments.

tip> You do not have to sign the agreement if you don't want to. It is quite legal to repay the arrears by instalments without signing a Local Agreement. It is better to pay off the arrears by instalments without a Local Agreement than to sign an agreement that you might have trouble sticking to.

tip> If you are paying off the arrears by instalments, you must also keep paying your normal rent (otherwise you will fall even further into arrears).

tip> The Office of Housing will reduce your rental rebate if your household income increases. If they backdate the rebate to the time that your household income increased, you may find yourself in arrears. In this case the Office of Housing will probably apply to the Tribunal to recover the arrears. They cannot make you sign a Local Agreement. At the Tribunal hearing you will be given the chance to discuss the amount of arrears owed.

More than 14 days in arrears

If you owe more than 14 days rent, the Office of Housing will contact you by phone or visit your home. You will be given the choice of repaying the arrears in a lump sum or by instalments.

If you want to pay off the arrears in instalments, the Office of Housing will ask you to sign a Local Agreement. The agreement cannot ask you to make payments that, together with your rent, are more than 35% of your household income.

If you refuse to repay the arrears in a lump sum, or you refuse to negotiate a payment plan, or you break such an agreement without good reason, the Office of Housing may serve you with a Notice to Vacate. They will also apply to the Tribunal to have you evicted. You should receive a copy of their Tribunal application at the same time you receive the Notice to Vacate.

Tribunal hearings for rent arrears

If the Office of Housing applies to the Tribunal because you are in rent arrears, you must attend the Tribunal hearing. If you don't attend, the Office of Housing will almost certainly be granted a Possession Order.

A Possession Order could lead to the Office of Housing asking the police to evict you.

tip> If you cannot attend the Tribunal hearing, you can apply for an adjournment (see 'Adjournments' on page 34 for more information).

At the hearing, the Office of Housing should ask the Tribunal for an order that you pay off the arrears by instalments. They will show the amount of instalments they think you should pay. If you can show that you cannot afford these instalments, the Tribunal can order that the amount be less than the Office of Housing is asking.

If you have had an earlier Tribunal hearing for rent arrears, the Office of Housing will ask the Tribunal to grant them a Possession Order (see page 29). The Tribunal may or may not grant this. If the Tribunal rejects the Office of Housing's request for a Possession Order, they may still order that you pay off the arrears by instalments.

tip> If the Tribunal grants the Office of Housing a Possession Order under these circumstances, the Office of Housing will send you a letter asking you to contact them within seven days to make arrangements to repay the arrears. If you do not contact the Office of Housing, the eviction will go ahead. If you do contact them and make arrangements for the repayment of the arrears, the eviction may not go ahead.

tip> Never ignore a Notice to Vacate or a notice of a Tribunal hearing, or you could be evicted. If you receive a Notice to Vacate for rent arrears, or you cannot come to an agreement with the Office of Housing about repaying the arrears, you should contact your nearest SHASP provider or the Tenants Union for advice (see 'Notices to Vacate' on page 27 for more information).

Maintenance & repairs

The Office of Housing must keep your public housing property in good condition. At the same time, you must not damage the property or allow other people to do so. You must also report any damage to the Office of Housing.

tip> Maintenance and repair work is done for the Office of Housing by contractors. You should always ask a contractor for proper identification before you let them into your home. If their work is poor, you should inform your Housing Services Officer.

The Office of Housing divides repairs into four categories: urgent, priority, non-urgent and programmed maintenance.

tip> When you are reporting a fault, be as specific as possible so the problem can be put in the correct repair category and the right contractor can be arranged.

Urgent repairs

The following problems are considered urgent:

- > a burst water service
- > a blocked or broken toilet
- > a serious roof leak
- > a gas leak
- > a dangerous electrical fault
- > flooding or serious flood damage
- > serious storm or fire damage



- > a failure or breakdown in the supply of water, hot water, cooking, heating or laundering services supplied by the Office of Housing
- > a failure or breakdown of gas, electricity or water supply
- > a breakdown in water appliances supplied by the Office of Housing which will lead to a substantial amount of water being wasted
- > a fault or damage that makes the property unsafe or not secure
- > a serious fault in a lift or staircase

If the problem is urgent, contact the Maintenance Call Centre on ☎ 13 11 72. This is a 24 hour number.

If you have made reasonable attempts to get the Office of Housing to fix the problem but they have not done so, you can arrange the repairs yourself for the cost of up to \$1000 and have the Office of Housing pay you back. Be aware that the Office of Housing only has to repay you up to \$1000, even if the repair cost more than this.

When the repairs are complete, write to the Office of Housing explaining what work was done and how much it cost. Attach a copy of the receipt as proof that you paid for the repairs (keep the original). If the Office of Housing refuses to repay you, you can apply to the Tribunal for compensation.

If you have made reasonable attempts to get the Office of Housing to fix the problem and they have not done so, and you cannot afford to pay for the repairs yourself (or they will cost more than \$1000), you can apply to the Tribunal for an urgent hearing. The Tribunal can order the Office of Housing to carry out the repairs immediately. Contact your nearest SHASP provider (see page 39) or the Tenants Union for advice.

tip> You cannot simply deduct the cost of repairs from your rent. You must keep paying your rent as usual or you will fall into arrears.

Priority repairs

The Office of Housing regards problems as 'priority repairs' when they are serious but do not present an immediate danger to health or safety (eg a dripping tap). Their policy is to undertake priority repairs within seven days. If the Office of Housing tells you that they regard the problem as a priority repair, but you believe that it is an urgent repair matter (eg the tap is gushing, not dripping) contact your nearest SHASP provider (see page 39) or the Tenants Union for advice.

Non-urgent repairs

Call the Maintenance Call Centre on ☎ 13 11 72 to try to get the repair fixed.

A non-urgent repair is any repair other than an urgent or priority repair (eg a damaged wardrobe). If the Office of Housing does not fix the problem, fill in a Notice to Landlord form (available from your local Housing Office, the Tenants Union or your nearest SHASP provider). The Office of Housing has 14 days to fix non-urgent repairs.

tip> If the problem is not fixed within 14 days, write to Consumer Affairs Victoria to ask them to investigate. Address your request to:

The Director
Consumer Affairs Victoria
GPO Box 123A
Melbourne 3001

Attach a copy of your Notice to Landlord to your letter. A Consumer Affairs inspector will visit your property to examine the problem. They will write a report and send you a copy.

If the report agrees that repairs are needed and they still haven't been carried out, you must apply to the Tribunal within 60 days of receiving the report (or if you haven't received the report within 90 days of the inspection taking place). The Tribunal can order the Office of Housing to carry out the repairs.

Programmed maintenance

Programmed maintenance is the Office of Housing's long-term maintenance plan. For example, you might contact the Office of Housing and ask for your worn out carpets to be replaced, only to be told that this is a programmed maintenance matter, and that it is scheduled to begin in a few months time.

tip> The Office of Housing has a duty to maintain your public housing property in good repair. If the Office of Housing tells you that your repair problem is a programmed maintenance matter, do not be put off. You can use the non-urgent repair procedure (see page 19) if you cannot wait for programmed maintenance work to be done (eg the carpet is threadbare, torn or is a safety hazard).

Special maintenance requests

The Office of Housing also considers requests from tenants for major changes or improvements to their property or estate. If you or a member of your household has particular needs (eg you develop a physical disability and you need a wheelchair ramp installed), you can make a Special Maintenance Request. Your Housing Services Officer can help you with this.

tip> Put your request in writing. Clearly state what you want and why. Include medical or other relevant evidence to support your case such as a report from your doctor or an occupational therapist.

Damage caused by the tenant

If you damage the property, the Office of Housing will ask you to pay for the cost of repairs. The Office of Housing calls these repayments Maintenance Charges Against Tenant or 'MCAT'.

If the Office of Housing believes you have caused the damage, they will send you a Notice

for Compensation. This notice should include details of the damage and the cost of repairs. If you agree to pay for the repairs, that should be the end of the matter.

You should not pay if you believe the damage is the result of fair wear and tear (eg worn out carpet) or the damage was caused by a visitor or someone else (see 'Damage not caused by the tenant' below for more information).

tip> If you think the Office of Housing is asking you to pay too much, you think you will have trouble paying, or you do not agree with the charges, contact your nearest SHASP provider (see page 39) or the Tenants Union. If you cannot reach an agreement the matter will have to be decided at the Tribunal.

Maintenance charges on your rental account statement

Maintenance or MCAT charges should not appear on your quarterly Rental Account Statement without a compensation order from the Tribunal. Such charges should be listed separately on your Rental Account Statement. If unusual charges appear on your statement, contact your Housing Services Officer as soon as possible.

tip> Maintenance or MCAT charges are not counted as rent. You cannot be evicted for failing to pay these charges.

Damage not caused by the tenant

You are not responsible for Maintenance or MCAT charges if the damage was caused by someone else (eg a burglar or a vandal). If your property has been burgled or vandalised, you should call the police and make a formal report. Ask the police for a Victim Report or a report that clearly states that the damage was caused by someone other than you.

If the Office of Housing believes you have caused the damage they will send you a Notice

for Compensation, which includes details of the damage and the cost of repairs.

If you refuse to pay for the repairs, the Office of Housing will apply to the Tribunal. They cannot do this until 14 days after they have served you with a Notice for Compensation. At the Tribunal hearing you will be given a chance to put your side of the story (see 'Preparing for the hearing' on page 34 for more information).

Neighbourhood disputes

If problems arise between you and another tenant, try to resolve the problem as soon as possible. Start by trying to talk to the other tenant.

tip> You can also contact your local SHASP provider to discuss any dispute you have with your neighbours. Your SHASP provider can help you try to resolve the dispute.

tip> If you think mediation might help, you can contact the Dispute Settlement Centre of Victoria on ☎ 9603 8370. This is a free service.

tip> Talking to your neighbours can be difficult when you are having a dispute. The Dispute Settlement Centre of Victoria suggests the following tips:

- > if possible, discuss the issues face to face
- > don't start off by blaming your neighbour



- > choose a time when you are both likely to be more comfortable
- > make a follow-up appointment to discuss any arrangements that you have made with your neighbour

tip> Make sure you get all agreements in writing and keep a copy.

Unfortunately, the Tenants Union cannot help you with a dispute with another tenant or neighbour, as we can only advise on matters involving tenants and landlords (including the Office of Housing) under the *Residential Tenancies Act 1997*. However your SHASP provider can help you make a formal complaint to the Office of Housing.

Pets

If you want to keep a pet, you must get consent from the Office of Housing. It is a good idea to get their agreement in writing. If your property is part of a body corporate you must abide by the body corporate rules in relation to pets.

If your pet causes a nuisance or damages the property, the Office of Housing can serve you with a Breach of Duty Notice. If this happens to you, contact your nearest SHASP provider (see page 39) or the Tenants Union for advice.

Utility & service charges

Utility charges

If your property is separately metered, you are responsible for the payment of all utility charges (electricity, gas and water). A separately metered property is one that has meters to measure your household's utility consumption (ie usage), and only your household's consumption. Your supply company can tell you if your property is separately metered.

If your property is separately metered, you should inform the utility supply companies

before you move in or out of the property. Otherwise you could be held responsible for the previous tenant's usage or for paying bills after you move out.

If your property is not separately metered, the Office of Housing is responsible for the payment of these utilities.

You are responsible for the payment of telephone calls made from your property.

tip> Sometimes the water meter for a new dual-occupancy unit is found in between the old and new buildings, not out the front with the old water meter.

Service charges

Your Tenancy Agreement may state that you are responsible for the payment of charges related to heating, water, laundry and other shared services provided by the Office of Housing. These charges are called 'service charges'. Service charges only apply to walk-ups or high-rise estates, or in places where it would be difficult to instal separate meters.

Transfers & mutual swaps

Transfers

Public tenants can apply for a transfer to a different public housing property. After an initial transfer, tenants can only transfer once every five years unless there are special circumstances. Your Housing Services Officer can help you apply for a transfer. If your application is approved, you will need to wait your turn for a property to become available in the area you want to live in.

The Office of Housing can rush through your transfer application if you have an urgent need. This is called an Early Housing Transfer. Common reasons for needing an Early Housing Transfer include domestic violence, health problems and overcrowding. Your Housing

Services Officer or nearest SHASP provider (see page 39) can help you apply.

Be aware that the Office of Housing may not allow you to transfer to another property within your region.

tip> You can appeal any Office of Housing decision regarding transfers (see 'Appeals against Office of Housing decisions' on page 36).

Mutual swaps

After one year in the same property, eligible tenants can swap their public housing property with other public housing tenants.

You can choose to swap within or outside your existing waiting area. Your Local Housing Office may have a notice board where you can put up a notice and find other people's notices about swapping properties.

When you have agreed to a swap with another tenant you must apply to the Office of Housing for approval. Applications for mutual swaps must meet the eligibility criteria for rental housing size.

tip> When you apply for a transfer or mutual swap you will be entering into a new Tenancy Agreement. If your circumstances have changed, this may affect your rental rebate.



Relocations

The Office of Housing may ask you to move (relocate) to another public housing property if major renovations or redevelopment is planned for your property or estate. Your Housing Services Officer will discuss any relocation plans with you and your neighbours before work begins. If you have any concerns about this, contact your nearest SHASP provider (see page 39) or the Tenants Union for advice.

tip> You can appeal any Office of Housing decision regarding relocations. (See 'Appeals against Office of Housing decisions' on page 36 for more information.)

Ending your tenancy

The Office of Housing must give you a Notice to Vacate if they want to end your public tenancy. If you want to end your public tenancy, you must give the Office of Housing a Notice of Intention to Vacate (see 'Notice of Intention to Vacate' on page 29 for more information).

Notices to Vacate

There are several different Notices to Vacate, ranging from an Immediate Notice to a 120-day Notice to Vacate. The amount of notice given depends upon the reason for the notice being served. There are several possible reasons.

In some cases, the Office of Housing must give you a Breach of Duty Notice before they can serve you with a Notice to Vacate. The Breach of Duty Notice will state how you have failed to live up to your responsibilities (eg your dog is creating a nuisance). The notice will give you 14 days to fix the problem. If you fix the problem, that should be the end of the matter. However, if you receive two more Breach of Duty Notices for the same problem, you may be served with a 14-day Notice to Vacate.

Rather than going into detail about Notices to Vacate (ie how much notice is required for each different situation), we will make the following important points:

- > if you receive a Notice to Vacate and you do not want to move out or you need more time, contact the Tenants Union or your nearest SHASP provider (see page 39) as soon as possible
- > if you receive a Notice to Vacate, you do not have to move out on the termination date unless you want to. If the Office of Housing still wants you to vacate after this time, they

must apply to the Tribunal for a Possession Order (see 'Possession Orders' on page 29 for more information)

- > it is illegal for the Office of Housing to personally evict you. Only the police can evict you when acting on a warrant and a Possession Order from the Tribunal
 - > never ignore a Notice to Vacate or a notice of hearing from the Tribunal. If you receive one of these notices, contact the Tenants Union or your nearest SHASP provider (see page 39) as soon as possible for advice
- (See 'Tribunal hearings for rent arrears' on page 16 for more information.)



When the tenant dies or vacates the property

If you are a resident (ie you are over 18 but you are not named on the Tenancy Agreement) and the tenant (ie the person named on the Tenancy Agreement) has vacated the property or died, the Office of Housing will probably want you to move out.

tip> If you want to stay in the property, contact the Tenants Union or your nearest SHASP provider (see page 39) for advice before telling the Office of Housing about the tenant's death or departure. In some cases it is possible to appeal the decision or to apply to the Tribunal to remain on the property.

Illegal occupants

If a person moves into a public housing property without the Office of Housing's consent, the Office of Housing may claim that the person is an 'illegal occupant' and will probably want them to move out.

tip> It is not always clear whether a person is an illegal occupant or a tenant. If the Office of Housing asks you to leave because they claim you are an illegal occupant, you should contact the Tenants Union for advice. You may have a legal right to stay on the property.

Possession Orders

The Office of Housing cannot evict you without a Possession Order from the Tribunal. For the Office of Housing to be granted a Possession Order they must prove to the Tribunal that they had a good reason for serving you with a Notice to Vacate.

At the Tribunal hearing you will be given the chance to dispute any claims made by the Office of Housing. However, if you do not attend the Tribunal hearing it is likely that the Tribunal will grant the Office of Housing a Possession Order and you will be evicted.

Notice of Intention to Vacate

If you want to move out, you must give the Office of Housing 28 days written notice.

When you move out you must remove all your belongings and leave the property in a reasonably clean condition. If you do not remove all your belongings from the property when you move out, the Office of Housing may, under certain conditions, dispose of your goods. If you have damaged the property or you leave it in a mess, the Office of Housing may claim compensation from you (see 'Compensation' on page 31 for more information).

If you made additions or alterations to the property (eg if you had an air-conditioning unit installed) the Office of Housing may ask you to remove it. Ask your Housing Services Officer for advice if you think there may be a problem. (You must get the Office of Housing's permission in writing before making any alterations to the property to avoid any problems at the end of your tenancy.)



Compensation

If the Office of Housing does not live up to its legal duties you can apply to the Tribunal for compensation or a Compliance Order, which requires the Office of Housing to act in accordance with the *Residential Tenancies Act 1997* (see 'Public housing & the law' on page 3 for more information).

If the Office of Housing has breached a duty under the *Residential Tenancies Act 1997*, you must serve the Office of Housing with a Breach of Duty Notice before applying to the Tribunal. These notices are available from the Tenants Union, Consumer Affairs Victoria or your nearest SHASP provider (see page 39). If the Office of Housing has breached a term of the Tenancy Agreement you can apply directly to the Tribunal.

Be aware that the Office of Housing can also apply to the Tribunal for a Compliance Order, for compensation, or take you directly to the Tribunal for breaching a term of the Tenancy Agreement if you do not live up to your legal responsibilities.

tip> If you receive a Breach of Duty Notice, or if you want to apply to the Tribunal for compensation or a Compliance Order, contact your nearest SHASP provider (see page 39) or the Tenants Union for advice.



The Tribunal

The Victorian Civil and Administrative Tribunal hears disputes between public tenants and the Office of Housing.



Applications

To lodge an application to the Tribunal you must complete an application form. The form is available from the Tribunal, the Tribunal's website at www.vcat.vic.gov.au, your SHASP provider (see page 39) or the Tenants Union. Attach a copy of any relevant documents and keep the originals in a safe place as you must provide them to the Tribunal on request.

If you need help filling in the application form, contact your nearest SHASP provider (see page 39) or the Tenants Union.

You can lodge your application in person at the Tribunal together with the application fee of \$32.50 (at the time of printing) or by fax or email from the Tribunal's website.

tip> If you are on a low income you can apply to have the application fee waived. You will need to fill out a separate application form and attach a copy of your Health Care Card (if you have one) as well as any supporting documents such as an ATM printout of your current bank balance.

The Tribunal is located at:

Victorian Civil and Administrative Tribunal
Residential Tenancies List
7th floor, 55 King St
Melbourne 3000
☎ 9628 9800
☎ 1800 133 055 (Freecall)
Fax 9628 9822

tip> If you live more than 40kms from Melbourne GPO you can lodge your application with the Registrar of the Magistrates' Court in your area.

You must send a copy of your Tribunal application to the Office of Housing within seven days of sending it to the Tribunal. Likewise, if the Office of Housing applies to the Tribunal you must be given a copy of their application. Their application will state the reason for applying (eg rent arrears) and what they are applying to the Tribunal for (eg a Possession Order).

You will be sent a Notice of Hearing. This will tell you the time and location of your hearing. If you live in country Victoria, the hearing should be held as close to your home as possible. Contact the Tribunal if there is a problem with the location of the hearing. If your problem is urgent (eg you need an urgent repair), tell the Tribunal when you make your application.

If you need an interpreter, inform the Tribunal before the hearing date. This is a free service.

Your nearest SHASP provider (see page 39) or the Tenants Union can help you prepare for your Tribunal hearing. In certain circumstances we can also represent you at the hearing.

tip> If you receive a Notice of Hearing you should contact your nearest SHASP provider (see page 39) or the Tenants Union as soon as possible, as the notice usually arrives just a few days before the hearing.

Adjournments

If it is impossible for you to attend the Tribunal hearing (eg you are in hospital), you can ask for the hearing to be adjourned. You should put this request in writing and send it to the Tribunal at least two days before the date of the hearing. Attach a copy of your medical certificates or other relevant documents.

tip> If there is not enough time to request an adjournment by mail, send your request by fax. The Tenants Union can help you send a fax to the Tribunal. If all else fails, you should phone the Tribunal directly.

tip> The Tribunal member is the only person who can grant an adjournment for a hearing.

Preparing for the hearing

Work out what you want to say at the Tribunal before the hearing. Gather together all the documents that are relevant to your case (eg your Tenancy Agreement, Condition Reports, rent receipts, photos, medical certificates etc) and make copies.

Once you have done this, ask yourself the following questions:

- > are there any witnesses who could support my case?
- > do my witnesses know when and where the hearing is taking place?
- > do they know what evidence I need them to provide?

You will also improve your chances of success if you get advice from the Tenants Union or your nearest SHASP provider (see page 39) as soon as possible before the hearing.

Attending the hearing

Make sure you arrive at the Tribunal on time. If you are late, the hearing will go ahead without

you. Plan to get there at least 15 minutes before the hearing time.

At the hearing, each party will have the chance to tell their side of the story. It is important to stay calm, even if you think the Office of Housing or one of the witnesses is not telling the truth. After all, the reason you are at the Tribunal is because you are having a dispute. Keep your arguments clear and to the point and make sure you are given the chance to mention everything that you think is relevant to your case.

Review hearings

If you were unable to attend the Tribunal hearing for good reason (eg you never received a Notice of Hearing or you were in hospital or interstate), you can apply for a review hearing.

You must apply for a review within 14 days of becoming aware of the order.

Contact the Tenants Union or your nearest SHASP provider (see page 39) for more information.

Appeals against Office of Housing decisions

Public tenants can appeal internal Office of Housing decisions on matters that cannot be heard by the Tribunal. You can appeal Office of Housing policy decisions on matters such as:

- > allocations
- > transfers, relocations and swaps
- > bond assistance
- > rental rebates
- > special maintenance requests
- > car parking matters
- > anti-social behaviour

You can appeal internal decisions if you believe they do not match Office of Housing policy or they are unfair, unjust or biased. There is no fee for making an appeal. Appeal forms are available from your local Housing Office. The Tenants Union or your nearest SHASP provider (see page 39) can help you fill in the form.

Your appeal will go to the Housing Services Manager of the local Housing Office where the initial decision was made. From there it goes to the Office of Housing's Appeals Office in Melbourne.



You should provide as much evidence as you can to support your appeal (eg documents, statutory declarations, receipts, photos etc).

You can attend the Appeals Office hearing in person to tell your side of the story and you can have someone represent you. Contact the Tenants Union or your nearest SHASP provider (see page 39) for more information.

You cannot use the appeals process for the following situations:

- > recovery of rent arrears
- > evictions
- > Notices to Vacate
- > legal agreements
- > urgent repairs
- > charges the Office of Housing wants you to pay for
- > transfer of tenancy

You need to take these matters to the Tribunal (see page 32 for more information).

Making a complaint

If you (or someone who is acting on your behalf) want to make a complaint about an experience you have had with the Office of Housing, there is a complaints process you can follow.

Your complaint may be about something the Office of Housing has done or it may involve something they have failed to do (eg not providing a service). It may also be about a member of housing staff.

Start by taking your complaint to your local Housing Office. You can make your complaint in writing (letter or email), by phone or in person. Make sure you give as much detail as possible, including dates. You should receive a letter acknowledging receipt of your complaint within three working days and hear back from the local Housing Office within 20 working days.

If you are not happy with the response from your local Housing Office, or if your complaint is very serious or complicated, it will be passed on to an independent manager.

If you are still not happy with the outcome, you can request that your complaint go to the Complaints Management Unit ☎ 9616 7777.

If you want to make a complaint, contact your nearest SHASP provider (see page 39) or the Tenants Union for more information.

Making a complaint is a separate process to appealing an Office of Housing decision (see page 36), although you can do both at the same time.

tip> If you want to make a complaint about your SHASP provider, tell them that you would like to make a complaint and ask how this is done. If you are still not satisfied after making your complaint with the SHASP provider, you can request that your complaint go to the Complaints Management Unit ☎ 9616 7777.

SHASP providers

The following is a list of Social Housing Advocacy and Support Program (SHASP) services by region. SHASP services provide free and confidential advice and assistance to public housing tenants in Victoria.

Statewide

Tenants Union of Victoria ☎ 9416 2577 or
☎ 1800 068 860 (freecall)

Inner North Region

HomeGround Services ☎ 9417 2500

North & West Region

Wombat Housing and Support Services Inc
☎ 1800 887 775

Eastern Region

Wesley Eastern Homeless Crisis Service
☎ 9879 5344

Southern Region

WAYSS Limited ☎ 9791 6111

Hume Region

Rural Housing Network Ltd ☎ 02 6024 7146

Barwon Region

Bethany Community Support Inc ☎ 5278 8122

Barwon South West Region

Community Connections Victoria
☎ 1300 361 680

Grampians Region (Ballarat)

PACT Community Support ☎ 5333 1351

Grampians Region (Horsham)

PACT Community Support ☎ 5382 6300

Gippsland Region

Quantum Support Services Inc ☎ 5120 2000

Loddon Mallee Region

Advocacy & Rights Centre ☎ 5444 4364

Public Housing Tenant's Handbook

This handy guide outlines the rights of Victorian public tenants. It also provides useful tips on how to protect your rights.

It covers:

- > appeals
- > compensation
- > complaints
- > maintenance & repairs
- > neighbourhood disputes
- > Notices to Vacate
- > pets
- > public housing applications
- > relocations
- > rents & rent reviews
- > tenancy agreements
- > the Tribunal
- > transfers & mutual swaps
- > utility & service charges
- > waiting lists