





































## Park rules

An owner may make rules relating to the use, enjoyment, control and management of the park. These rules must be provided to the resident before they enter an agreement.

Park rules may include things such as:

- noise levels
- the keeping of pets
- the use and operation of communal facilities
- car parking.

If an owner decides to change the rules, they must give residents:

- at least **seven days'** written notice before they come into effect
- **14 days** to respond in writing to the proposed changes.

The owner must reply in writing to any written responses received from residents.

Residents who believe a rule is unreasonable may apply to VCAT to hear the matter. VCAT may decide that the rule is unfair and ask the owner to amend or remove it, or find that the rule is reasonable. In this case, the rule will stay in force. An owner must ensure that the park rules are applied fairly and consistently.

## Residents' committees



An owner must allow residents (if they choose) to form and take part in residents' committees. The owner must also provide use of suitable park facilities for committee meetings. A toolkit on residents' committees is available from Consumer Affairs Victoria and Housing for the Aged Action Group. The Victorian Caravan Parks Association can also provide more information. See page 35 for [contact details](#).

## Repairs

Generally, all repairs for a **dwelling** are the resident's responsibility. Any problems with the **site** or **communal park facilities** are the owner's responsibility.

Residents must continue to pay rent while waiting for repairs to be done.

It is important to communicate all information regarding repairs in writing and that copies of all letters, forms and reports are kept for future reference.

If a site tenant or their visitor causes damage to any communal park facility or to a site, the site tenant must either repair the damage or notify the owner and pay compensation for the damage.

Site tenants can use Consumer Affairs Victoria's 'Notice to part 4A site owner' form to notify the owner when:

- there is damage to or a breakdown of communal facilities in the park
- the site tenant or their visitor has caused damage to a site or facility in the park.

### Questions about repairs?

A site agreement should have information about who is responsible for repairs.

Residents should read their site agreements carefully. If residents or owners have any doubt about who is responsible for repairs, they may contact Consumer Affairs Victoria for more information:

[consumer@justice.vic.gov.au](mailto:consumer@justice.vic.gov.au)

1300 55 81 81

## Entry rights

### Entry without notice

An owner (or manager or agent acting on their behalf) may only enter a **site** or **dwelling** without notice:

- if the resident agrees at the time
- in an emergency to save life or valuable property
- if VCAT has made an order stating that the resident has abandoned the site.

### Entry with 24 hours' notice

The owner can enter a **site** for other reasons if they first give the resident at least **24 hours'** written notice stating the reason. This notice can be given to the resident by post, by email or in person between 8am and 6pm.

**Note:** if you choose to communicate electronically (for example, by email), you must have the consent of the resident to do so. Make sure that consent to electronic communication is in writing.

An owner may only enter between 8am and 6pm and not on public holidays.

An owner may enter with 24 hours' notice to:

- show the site to potential new occupants if the resident has already given notice, or has been given written notice to move out
- make a general inspection, once in any six-month period
- carry out any lawful duty
- check a reasonable belief that the resident has not met their legal duties
- show people who are interested in buying the site or lending the owner money on it.

**Note:** If an owner has served a valid notice, the resident must let them enter the site.



### If a person does the wrong thing

Residents and owners can give a 'Breach of Duty' notice to the other person if that person has not met certain duties under the *Residential Tenancies Act 1997*. Once a 'Breach of Duty' has been given, the person who received it must fix the situation. Residents and owners should contact Consumer Affairs Victoria for information about how to issue 'Breach of Duty' notices.

### What an owner cannot do

When visiting, the owner cannot:

- behave unreasonably
- stay any longer than necessary to achieve the purpose of their stay, unless the resident agrees.

PART 3:  
Ending a site agreement



## Ways to end a site agreement

There are four main ways for legally ending a site agreement:

- All parties agree to end it
- The tenancy right is being transferred
- The owner gives a 'Notice to Vacate' to the resident
- The resident gives notice to the owner of their intention to vacate.

We recommend using the official forms available from [consumer.vic.gov.au/forms](https://www.consumer.vic.gov.au/forms) to give notice. Please follow the 'How to serve this notice' instructions on the relevant form.

If a fixed-term site agreement ends and the resident wants to remain on the site, a periodic tenancy automatically arises. This means that the resident is on a monthly agreement until another one is signed; this is unless the original agreement was for less than one month, in which case the new agreement will be for that shorter period.

## Agreement of all parties

The decision to end a site agreement early should be put in writing in case of a later dispute. It should include any agreed terms and conditions and the date the agreement will end.

## When an owner gives a 'Notice to Vacate'

An owner must give the resident the proper amount of time to vacate – this will depend on the reason for giving the notice (see ['Reasons and minimum notice periods when an owner gives a Notice to Vacate'](#) on page 23 for details).

A 'Notice to Vacate' must:

- be written on a valid 'Notice to Vacate' form
- be addressed to the resident
- give a reason or state that no reason is specified
- be signed by the owner
- be given in the correct amount of time
- give the date for the resident to leave
- be sent by registered post, by electronic communication (for example, by email) or given in person. However, if you give notice electronically, you must have the prior consent of the other party to receive notices and other documents in this way. Make sure that consent to electronic communication is in writing.

### Confused about a 'Notice to Vacate'?

If a resident receives a 'Notice to Vacate' and does not know what to do, they should contact Consumer Affairs Victoria:

[consumer@justice.vic.gov.au](mailto:consumer@justice.vic.gov.au)

1300 55 81 81



During the suspension period, the owner may decide to apply to the Victorian Civil and Administrative Tribunal (VCAT) to evict the resident. This extends the suspension period until VCAT deals with the application. The resident has the right to attend the VCAT hearing and tell their side. It is important that residents keep in contact with the tribunal so they can be told the date and time of the hearing.

The resident can return to the site at the end of the suspension period if the owner does not apply to VCAT during this time.

The resident must pay rent for the days they are suspended, unless VCAT decides otherwise.

### Violent situations

If a resident or visitor is being violent or putting anyone in the park in danger, the owner can use one of two official notices – a 'Notice to Leave' or a 'Notice to Vacate'.

#### 'Notice to Leave'

If the owner wants the person to leave immediately, they can give them the official 'Notice to Leave to Resident/s of Managed Premises or Resident's Visitor' form. The notice must be given as soon as it is safe to do so.

The person must then leave the park immediately and is suspended from coming back for **two business days**.

#### 'Notice to Vacate'

A 'Notice to Vacate' given for reasons relating to danger can tell the resident to move out on the day it is given, or a later date.

If the resident does not vacate by the date in the notice, they cannot be forced to leave unless VCAT has made an order telling them to do so. The owner must apply to VCAT within **30 days** of the date they asked the resident to vacate.

## Reasons and minimum notice periods when an owner gives a 'Notice to Vacate'

The table below shows how much notice an owner must give a resident to vacate a site.

Reason an owner can give a 'Notice to Vacate'	Minimum notice period (Allow extra time whether mailing, sending by email/other electronic communication, or delivering by hand. For more information see <a href="#">'Calculating minimum notice periods'</a> on page 26.)
Intentionally or recklessly causing or allowing serious damage in the park, its facilities, or a hired site	Immediately
Putting people or property in the park in danger	Immediately
Serious disruption of peaceful and quiet enjoyment of the park by occupant's visitors	Immediately
Site is being used for illegal purposes	14 days
Breach of VCAT compliance order or compensation order	14 days
Assignment or sub-letting without consent	14 days
End of fixed-term or periodic site agreement	365 days

### When a mortgagee wants a resident to leave

If a park owner has put up a park or site as security for a loan, the lender may have the right to take possession if loan repayments are not kept up.

In this case, the lender (mortgagee) is allowed to give the resident a 'Notice to Vacate'.

If a mortgage over the park was given before an agreement started, the resident must be given at least **90 days'** notice, unless a longer period is set out in the mortgage agreement.

For a park mortgage given after the site agreement started, at least **365 days'** notice must be given – and where there is a fixed-term agreement, it cannot be before the end of the term.

### Reasons a resident can challenge a 'Notice to Vacate'

Generally, residents can challenge a 'Notice to Vacate' if:

- they believe it was not given properly
- they do not agree with the reason given
- they believe that they could not move out without an extension of time.

**Note:** An owner cannot give notice if a resident is using their legal rights, or saying they will do so. If a resident is given notice for this reason, they may apply to VCAT within **60 days**.



### When a resident wants to leave

#### Selling a dwelling and assigning the agreement

If a resident sells their dwelling, their site agreement can be assigned to the buyer, as long as the site owner provides their written consent. We recommend people use an 'Assignment of Site Tenancy Agreement' form, available from Consumer Affairs Victoria.

**Note:** Prospective buyers are advised to confirm that the seller has the site owner's permission to assign the site agreement before buying the dwelling.





When arranging the sale, the resident may use a sales agent. A site owner cannot ask a resident to hire a particular sales agent. If the site owner is the agent, they may only receive a commission if the terms and amount are in the site agreement.

A site owner must not:

- charge a fee for agreeing to a transfer of a site agreement
- interfere with the sale of a dwelling.

If the site owner refuses permission for the transfer and the resident believes this is unreasonable, they can apply to VCAT to hear the matter.

### Notice a resident must give

A resident must give the owner a notice stating that they wish to leave. The notice must be in writing and signed by the resident (or their representative).

Residents may use Consumer Affairs Victoria's 'Notice to Part 4A Site Owner' form to give notice.

A resident must give the owner at least **28 days'** notice that they intend to vacate the site. However, this cannot be before the end of a fixed-term agreement and there are some exceptions.

A resident may give **14 days'** notice if they:

- have been offered public housing from the Director of Housing
- must vacate the site to:
  - live in temporary crisis accommodation
  - receive special or personal care.

When leaving, a resident must pay the rent and any other charges up to the last day.

### How a resident gives notice

A resident may deliver their notice by hand, by electronic communication (for example, by email) or by post. If you give notice electronically, you must have the prior consent of the other party to receive notices and other documents in this way. Make sure that consent to electronic communication is in writing.

If a resident decides to post their notice, they may wish to use registered post so there is proof of when and where the notice was sent.



### Giving notice but not leaving

If a resident gives notice but does not leave, the owner can apply to VCAT for an order for them to move out.

## Calculating minimum notice periods

When giving a notice with a minimum notice period, it is important to also factor in the delivery time it will take to reach the person, either by post, by registered post, by hand or by electronic communication (for example, email). Extra days should be also added for weekends and public holidays that fall within the delivery time.

When calculating when the notice will take effect, the total number of days to be allowed is the sum of the delivery time for that type of delivery, the minimum notice period, and one extra day (which is the day that the notice takes effect).

**Note:** You can send a notice by email or other electronic communication if both parties have agreed to do so. Make sure that consent to electronic communication is in writing.

More detail can be found on the Consumer Affairs Victoria website at [consumer.vic.gov.au](http://consumer.vic.gov.au).

## Eviction

To evict a resident, an owner must apply to VCAT for a warrant of possession.

VCAT deals with applications for such warrants if:

- the notice period given by the resident, a mortgagee, or the owner has run out and the resident is still there
- the owner has given the resident a 'Notice to Leave'.

A resident has the right to attend the hearing and give evidence.

If a resident has been suspended and is therefore not at the park, VCAT may not know where to send information regarding the hearing. Residents should contact VCAT to find out if the owner has applied to evict them and, if so, the time and date of the hearing.

VCAT may find that:

- it was appropriate to suspend the resident and order termination of the site agreement, or
- the suspension was not appropriate and allow the resident to resume their agreement (in such cases, the owner can be ordered to refund the rent paid for the days the resident was suspended).

**Important notice  
for owners:**



You cannot use force,  
or any other method,  
to evict a resident.

Only the police can carry  
out an eviction, and only when  
they are acting on a warrant  
of possession from VCAT.

**Facing eviction?**



If you are a resident  
facing eviction and  
you do not know what  
to do, contact Consumer Affairs  
Victoria immediately. Consumer  
Affairs Victoria can provide  
information, or direct you to  
other organisations that can  
help:

1300 55 81 81

PART 4:  
When a resident leaves



## Final meter readings

Residents who have separate utility meters should let the providers know in advance when they will be moving out. Otherwise, they may be charged for services in the next billing period.

## Goods left behind

Before leaving the site, residents should leave their contact details with the owner, in case the owner needs to contact them about any goods left behind.

If a resident leaves goods or personal documents behind, they should arrange with the owner to collect them as soon as possible. An owner cannot refuse to return belongings, even if the resident owes rent.

A resident may apply to the Victorian Civil and Administrative Tribunal (VCAT) for compensation if they suffered a loss because an owner did not comply with the law.

An owner who incurs costs for removing, storing and auctioning goods left behind may also apply to VCAT for compensation.

## Goods that can be disposed of

An owner can get rid of:

- perishable foods
- dangerous goods
- goods of no monetary value.

Owners can assess whether, under the *Residential Tenancies Act 1997*, the goods can be disposed of or must be stored; or, they can ask Consumer Affairs Victoria to inspect the goods and make a formal assessment.

A 'Request for Inspection of Goods Left Behind' form is available from Consumer Affairs Victoria:



[consumer.vic.gov.au/renting](https://consumer.vic.gov.au/renting)

1300 55 81 81

If VCAT declares a dwelling to be abandoned or if a possession order has been granted in relation to it, the owner may deal with the dwelling as they would any other 'stored good'.

### Goods that must be stored

If a resident leaves goods behind that are not allowed to be disposed of, the owner must:

- take reasonable care of the goods
- store them for **28 days**
- take reasonable steps to notify the resident when and from where the goods can be collected
- let the resident reclaim the goods (after the resident has paid back any reasonable costs the owner incurred in storing them).

### Personal documents

These are documents that it would be reasonable to expect a person to keep. Examples include:

- marriage and divorce certificates
- educational certificates
- birth certificates
- passports
- medical records
- computer hard-drives
- contents of USB memory sticks
- CDs and DVDs
- contents of still and movie cameras
- contents of electronic data storage devices
- photographs
- personal memorabilia.

When personal documents are left behind the owner must:

- take reasonable care of them for at least **90 days**
- let the resident reclaim the documents after paying back any money the owner had to spend to store them.

If an owner complies with the law and the resident does not claim the documents, the owner can dispose of them (although there may be some restrictions on the disposal of documents such as passports – contact Consumer Affairs Victoria for more information). The owner can then apply to VCAT to be compensated for the cost of looking after and removing the documents.

An owner may face penalties for not letting a resident reclaim goods or personal documents if the resident was willing to pay a reasonable amount to cover those costs.



PART 5:  
Solving problems





## What to do if there is a problem

Ideally, residents and owners should solve any problems by coming to an agreement. This should be in writing and signed by all relevant parties.

If the park has a residents' committee, the committee may also be able to help solve a problem.

If a party wants to enforce their legal rights, they usually have to give a formal notice explaining the issue to the other person. The relevant notices are available from Consumer Affairs Victoria.

A notice must state what the resident or owner wants done and by when it must be done. The amount of time to comply with the notice varies and depends on the type of problem.

## Consumer Affairs Victoria

If a problem cannot be solved individually between a resident and an owner, the parties may contact Consumer Affairs Victoria.

Consumer Affairs Victoria can give advice on a range of issues including:

- site agreements
- repairs and maintenance
- rent increases
- rights and obligations of owners and residents
- notice periods
- goods left behind.

Consumer Affairs Victoria can attempt to conciliate a dispute, but cannot force somebody to resolve an issue. The conciliation service is free.

## Dispute Settlement Centre of Victoria

The Dispute Settlement Centre of Victoria (DSCV) can help resolve a wide range of issues without the parties involved having to go to court. The service is free.

The DSCV also provides information and training in resolving disputes.

[DSCV's contact details](#) are on page 36.

Organisations such as the Tenants Union of Victoria (TUV), Housing for the Aged Action Group (HAAG) and Peninsula Community Legal Centre (PCLC) can also help residents who are in a dispute. See the '[Useful contacts](#)' section on page 35 for details.

## Victorian Civil and Administrative Tribunal

The Victorian Civil and Administrative Tribunal (VCAT) is usually less formal than a court. It hears a range of disputes, including those between owners and residents. A person does not need legal representation to appear at VCAT.

Application forms are available from VCAT. When VCAT receives an application, it will advise the relevant parties of the date, time and place of the hearing. Hearings take place in the city, suburbs and country Victoria.

Usually, the only cost involved in the hearing is the application fee. This fee may be waived in rare cases, depending on set criteria regarding an applicant's income and social security status. Contact VCAT for more information.

It is important to be prepared for a hearing. The VCAT member will hear and consider all the evidence presented from both sides. This might include listening to evidence from witnesses or looking at photographs and other documents brought to the hearing.

VCAT's decisions are usually made on the day of the hearing and must be obeyed by both parties. An order to enforce a monetary order must be made with the Magistrates' Court.

VCAT will also consider urgent hearings in cases of extreme hardship. To request one, an applicant must provide a letter outlining the reasons why the matter is urgent when they lodge the application.

### Interpreters at VCAT

VCAT can provide interpreters for parties directly involved in a dispute. If an owner or resident needs an interpreter, VCAT must be told at the time of the application. VCAT will then arrange for an interpreter free of charge. Friends or relatives are generally not allowed to interpret.

[VCAT's contact details](#) are on page 35.

## Useful contacts

### Victorian Civil and Administrative Tribunal (VCAT)

VCAT operates like a court but is not as formal, and deals with a wide range of issues, including disputes arising from the *Residential Tenancies Act 1997*.

[vcat.vic.gov.au](http://vcat.vic.gov.au)

[renting@vcat.vic.gov.au](mailto:renting@vcat.vic.gov.au)

**Phone** 1800 01 8228

55 King Street  
Melbourne VIC 3000

### Tenants Victoria

Tenants Victoria (formerly Tenants Union of Victoria) provides information, advice and advocacy services for Victorian tenants and residents.

[tuv.org.au](http://tuv.org.au)

**Phone** 03 9416 2577

**Fax** 03 9416 0513

55 Johnston Street  
Fitzroy VIC 3065

### 1800RESPECT

1800RESPECT provides a counselling helpline, information and support for people experiencing sexual assault or domestic and family violence. The service is available 24 hours a day, seven days a week.

[1800respect.org.au](http://1800respect.org.au)

**Phone** 1800 737 732

### Victorian Caravan Parks Association

The Victorian Caravan Parks Association can provide information to park owners and managers about issues affecting caravan parks.

[vicparks.com.au](http://vicparks.com.au)

[admin@vicparks.com.au](mailto:admin@vicparks.com.au)

**Phone** 03 9372 3420

**Fax** 03 9376 9794

Unit 8, 88 Dynon Road  
West Melbourne VIC 3003

### Building Unit – Department of Environment, Land, Water and Planning (DELWP)

The Building Unit, DELWP administers legislation dealing with registration and standards of caravan parks and movable dwellings.

[delwp.vic.gov.au/planning/building-policy](http://delwp.vic.gov.au/planning/building-policy)

**Phone** 03 9094 8484

Level 18, 1 Spring Street  
Melbourne VIC 3000

GPO Box 2392  
Melbourne VIC 3001

### **Housing for the Aged Action Group (HAAG)**

HAAG offers information, advocacy and access to accommodation services for older renters.

[oldertenants.org.au](http://oldertenants.org.au)

[haag@oldertenants.org.au](mailto:haag@oldertenants.org.au)

**Phone** 1300 765 178  
03 9654 7389

**Fax** 03 9654 3407

1st Floor Ross House  
247–251 Flinders Lane  
Melbourne VIC 3000

### **Peninsula Community Legal Centre Inc (PCLC)**

PCLC's services include information for park residents, as well as negotiations and representation at VCAT. The service caters for residents in Melbourne's south and south-eastern suburbs.

[pclc.org.au](http://pclc.org.au)

[pclc@pclc.org.au](mailto:pclc@pclc.org.au)

**Phone** 03 9783 3600  
1800 064 784  
(country callers)

441 Nepean Highway  
Frankston VIC 3199

### **Dispute Settlement Centre of Victoria (DSCV)**

The DSCV can help resolve a wide range of issues, without the parties having to resort to legal action.

The service is free.

To find your nearest office, visit the DSCV website.

[disputes.vic.gov.au](http://disputes.vic.gov.au)

[dscv@justice.vic.gov.au](mailto:dscv@justice.vic.gov.au)

**Phone** 1300 372 888

Level 4, 456 Lonsdale Street  
Melbourne VIC 3000

### **Victorian Equal Opportunity and Human Rights Commission (VEOHRC)**

VEOHRC provides information about equal opportunity rights and responsibilities and helps people resolve complaints of discrimination or harassment through its free conciliation service.

[humanrightscommission.vic.gov.au](http://humanrightscommission.vic.gov.au)

[information@veohrc.vic.gov.au](mailto:information@veohrc.vic.gov.au) or  
[complaints@veohrc.vic.gov.au](mailto:complaints@veohrc.vic.gov.au)

**Phone** 1300 891 848

**TTY** 1300 289 621

Level 3, 204 Lygon Street  
Carlton VIC 3053

# Notes

# Notes

# Notes

[consumer.vic.gov.au](http://consumer.vic.gov.au)

1300 55 81 81 (local call charge)



Services from Consumer Affairs Victoria are available in Ballarat, Bendigo, Box Hill, Dandenong, Geelong, Mildura, Morwell, Reservoir, Shepparton, Wangaratta, Warrnambool, Werribee and Wodonga. Our mobile service regularly visits rural communities.

April 2018

#### **TIS**

Translating and Interpreting Service **131 450**

#### **TTY**

Textphone or modem users only, ring the National Relay Service (NRS) on **133 677**, then quote **1300 55 81 81**.

Callers who use Speech to Speech Relay dial **1300 555 727**, then quote **1300 55 81 81**.