

Family violence in a tenancy

Real estate agents and landlords

This fact sheet has information for landlords and agents who have renters experiencing family violence. The topics include:

- responding to family violence safety notices and intervention orders
- changing locks on properties
- changing leases
- goods left behind.

Is someone in danger?

If you are concerned about the safety of a renter or their family, or think they require urgent assistance, call triple zero (000). Complaints about noise and damage may indicate violence has occurred or is ongoing in your rental property.

What is family violence?

Family violence is any behaviour that in any way controls or dominates a family member and causes them to feel fear for their own, or another family member's, safety or wellbeing. It can include physical, sexual, psychological, emotional or economic abuse and any behaviour that causes a child to hear, witness, or otherwise be exposed to the effects of that behaviour.

A person experiencing family violence can apply for a family violence intervention order, or if the person causing harm is not a family member, a personal safety intervention order.

Terms used on family violence notices and orders

An affected family member is a person (and their children) protected by a:

- family violence safety notice
- family violence intervention order (interim or final)
- personal safety intervention order
- domestic violence order.

An affected family member is also known as a **protected person**.

A **respondent** is someone who has had a family violence safety notice, family violence intervention order or personal safety intervention order made against them.

Respondents are also referred to as **excluded tenants** if the intervention notice or order has a condition that prohibits them from entering a property where a protected tenant lives.

Family violence safety notice

Police officers apply for and issue family violence safety notices to provide immediate protection for people experiencing family violence.

A safety notice is also an application by police for a magistrate to make an intervention order. The safety notice stays in effect until a magistrate decides whether to make an intervention order.

A family violence safety notice may have conditions similar to a family violence intervention order.

If the respondent breaks any of the conditions of the safety notice, they can be charged by police with criminal offences and may be fined or imprisoned.

Family violence intervention order

A family violence intervention order is issued by a magistrate to protect family members from violence.

An order can be **interim** or **final** – the word 'interim' will be in the title of interim orders and not in final orders. A magistrate will make an interim order if they think family members are not safe and need immediate protection.

Interim orders usually last until a magistrate decides if they will make a final order. A final order lasts until the date specified on the order, or it is revoked in court, or set aside on appeal. Court and end dates both appear at the bottom of orders.

Interim and final orders may have different conditions. For example, an interim order may not limit a respondent's access to the home, but a final intervention order may ban them from entering the property.

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If the respondent breaks the conditions of either order, they can be arrested by police and may be fined or imprisoned.

Orders issued in other states or territories

Domestic violence orders (DVO) issued in other Australian states and territories on or after 25 November 2017 are recognised in Victoria. If the DVO was issued before 25 November 2017, the protected person can go to their local court to have the order recognised in Victoria.

For more information, visit the National Domestic Violence Order Scheme website ag.gov.au/ndvos

Personal safety intervention order

A personal safety intervention order is issued by a magistrate to protect someone who has fears for their safety caused by someone outside of their family - for example, neighbours or friends.

Maintaining renters' privacy

A landlord can give a copy of the order or notice a renter has provided to their estate agent or legal representative.

An estate agent can give a copy of the order or notice to their landlord or their legal representative.

Landlords and agents cannot give copies of intervention orders or safety notices or show them to anyone else.

A protected person may have moved to a new address and changed their phone number and email address to ensure their safety. Using electronic transactions via RTBA Online (Residential Tenancies Bond Authority) when changing a lease or claiming a bond means a protected person's details cannot be seen by other renters.

Changing the locks

A protected person can change the locks on a rental property without their landlord's or agent's consent, if they have a family violence safety notice or intervention order (interim or final), or a recognised domestic violence order that excludes a co-renter from coming near them and where they live.

To change the locks, a protected person must:

- live at the rental property but does not have to be listed on the lease
- pay for the locks to be changed
- provide a key for any new lock to the landlord or agent and other renters in the property except for the excluded tenant
- give the landlord or agent a copy of the safety notice or intervention order (or a certified extract of it).

Landlords and agents cannot give an excluded tenant keys to the new locks as long as they are under the notice or order. Once an order or notice has expired, if the excluded tenant's name is still on the lease, you can give them the new keys.

Before providing keys to anyone who has been an excluded tenant, ask the protected person if a new order exists and if there is a new one, does it exclude the respondent from entering the property.

Making other changes to a property

Renters must get their landlord or agent's written consent before making other changes to the property - for example, installing a security screen door or alarm system.

Unless their landlord has agreed in writing that the changes can remain, renters must:

- restore the property to the condition it was in immediately before the changes were made, or
- compensate the landlord an amount equal to the reasonable cost of restoring the property to that condition.

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Changing the lease

Both a protected person, and an excluded tenant who is listed on the lease, can apply to the Victorian Civil and Administrative Tribunal (VCAT) to end a fixed term lease early (break the lease).

If an intervention order has been made final – that is, it is not an interim order – and the protected person wants to stay in the property without the excluded tenant, the protected person can apply to VCAT to end the existing lease and start a new lease, even if they are not currently listed as a renter.

See more about interim and final intervention orders in the Family violence intervention order section, above.

VCAT can decide:

- to end the lease early if the severe hardship that would be experienced by the protected person or the excluded tenant would be greater (if the lease continued) than any hardship the landlord or property manager would suffer if the lease ended early
- if a landlord or agent should be compensated due to the lease ending early
- how a bond (if any) will be refunded, and who will be responsible for paying any outstanding expenses on the existing lease (such as repairs or bills).

Fees for breaking a lease

Landlords and agents cannot charge fees for breaking a lease if a VCAT order has been granted.

Changing the lease without VCAT

With the agreement of the protected person, landlords and agents can change the lease without waiting for VCAT to grant an order. Landlords and agents can agree to:

- end a fixed term lease early if the protected person wants to leave
- have a fixed term lease changed to the protected person's name if they want to stay.

Landlords and agents can also negotiate with the respondent to end a lease.

Condition reports

If VCAT decides in favour of a new tenancy agreement, landlords and agents can arrange a property inspection and ask for a new condition report by giving the protected person the required notice.

The respondent can have a representative at the inspection, but is not allowed to attend in person if they have been excluded from the rental property under a final family violence intervention order.

The respondent must give the landlord or agent the name of their representative before the inspection.

Damage to property

Renters are responsible for damage to property caused by family violence. A protected person can apply to VCAT to determine who should pay for repairs. VCAT may decide that the damages, repairs and bills should be paid by the protected person, the respondent or other renters, or all of them.

Goods left behind

If landlords and agents let Consumer Affairs Victoria know that family violence has occurred when requesting an inspection of goods left behind, residential tenancy inspectors can contact support services and liaise with all parties to ensure that the goods left behind are removed quickly and respectfully.

New renting laws

In September 2018, the Victorian Government passed the *Residential Tenancies Amendment Act 2018 (Amendment Act)*, which includes more than 130 changes to the *Residential Tenancies Act 1997*.

The new laws, including reforms concerning family and personal violence, will come into effect progressively with all in place by 1 July 2020.

To view all the changes, visit the Fairer Safer Housing page on the Engage Victoria website engage.vic.gov.au/fairersaferhousing

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Useful contacts

Consumer Affairs Victoria

Phone 1300 55 81 81 (local call)

Family violence resources page
consumer.vic.gov.au/familyviolence

Services from Consumer Affairs Victoria are available regionally.

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.

Resources for renters

Victorian Civil and Administrative Tribunal (VCAT)

Renters who may be experiencing family violence can get help with the VCAT process:

Phone 1300 01 8228 (1300 01 VCAT). Calling this number costs the same as a local call. Additional charges may apply if you call from overseas, on a mobile or payphone

You can also contact a **family violence support worker** during business hours:

Phone (03) 9628 9856

55 King Street, Melbourne

vcat.vic.gov.au/customer-support-at-vcat/family-violence-support

Renters can get legal advice from:

Victoria Legal Aid

Phone 1300 792 387

legalaid.vic.gov.au

Tenants Victoria

Phone (03) 9416 2577

tuv.org.au

Department of Justice and Community Safety

For further resources and support, visit the Family violence section – Department of Justice and Community Safety website

justice.vic.gov.au/safer-communities/protecting-children-and-families/family-violence

Women can get support from:

safe steps

safe steps Family Violence Response Centre provides specialist services to women and children.

Phone 1800 015 188 – a 24/7 family violence response phone line

safesteps.org.au

Renters who have experienced crime can get information from:

Victims of Crime Helpline

The Victims of Crime Helpline can advise on reporting crimes, court processes, and applying for compensation and financial assistance.

The helpline is open from 8am to 11pm, 7 days a week and can be contacted by:

Phone 1800 819 817

Text 0427 767 891

Email vsa@justice.vic.gov.au

victimsofcrime.vic.gov.au