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| Fencing Work Operational Guidelines |
| February 2025 |
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| More InformationTo receive this publication in an accessible format contact Homes Victoria enquiries@homes.vic.gov.au.This guideline contains some links to internal resources which will not be accessible for external parties reading this document.Authorised and published by the Victorian Government, 1 Treasury Place, Melbourne.© State of Victoria, Department of Families, Fairness and Housing, February 2025.ISBN 978-1-76130-763-8 (pdf/online/MS word) |
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#  Revision history

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| --- | --- | --- | --- |
| Version | Amended Section | Effective  | Details |
| 0.1 | -  | February 2020 | * Date of Issue
* Incorporation of version control table
 |
| 0.2 | Throughout | February 2024 | * Removal of ‘Pool fencing’ in line with the Homes Victorias no swimming pool policy.
* All sections have been restructured and rewritten to enhance readability and improve the logical flow of information.
* New sections have been introduced to provide updated and relevant guidance.
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# Definitions

| Term | Definition |
| --- | --- |
| Dividing fence | Dividing fence means a fence that:* is located on the common boundary of adjoining lands (whether or not it is continuous or extends along the entire length of the adjoining lands), or
* is not located on the common boundary of adjoining lands, but the purpose of which is to separate adjoining lands (whether or not it is continuous or extends along the entire length of the adjoining lands);
 |
| Fence | Under the *Fences Act 1968* a fence means a structure, ditch, or embankment, that encloses or bounds land, and:* includes the following:
	+ any gate, cattle grid, or apparatus necessary for the operation of the fence
	+ any foundation or support built solely for the support and maintenance of the fence.
* does not include the following:
	+ any retaining wall
	+ any wall that is part of a house, garage, or other building.
 |
| Fences Act | The *Fences Act 1968* is the legislation thatgoverns the management of fencing in Victoria. |
| Fencing notice agreement | An agreement between owners of adjoining land about fencing works to be undertaken. |
| Inspect and Report | An Inspect and Report (I&R) is a work item raised in HiiP Repairs for the head contractor to report and quote on the works required to repair an item at a premises. |
| Head contractor | A head contractor has a Property Management Service Contract (PMSC) with the Superintendent to carry out all responsive repairs on properties owned by Homes Victoria. |
| Notice to Fence | A Notice to Fence sets out a proposal for construction or repair of a dividing fence in accordance with s.13 of the Fences Act. It includes the proposed works, type of fence and the financial contributions from each owner. |
| Pre-Inspection request | A request raised for local office staff to inspect an item at a premises to determine the repair works required.  |
| Schedule of Rates | Schedule of Rates (SORs) detail the agreed work items and their associated costs within the contracts between Homes Victoria and head contractors.  |
| Simple Works | A works order used when an adjoining owner initiates fencing repairs and the department agrees to use a private fencing contractor. |
| Urgent Fencing Notice | A notice under s. 24 of the Fences Act issued to recover costs for urgent works after they are completed. |
| Urgent Fencing Works | Section 23 of the Fences Act defines when a dividing fence can be urgently replaced without giving notice to another owner; for example, where the fence has been damaged or destroyed by a falling tree, fire, or flood. |

# Overview

Homes Victoria has responsibilities under the *Fences Act 1968* to:

* maintain or replace fencing that needs repair, and
* contribute to the repairs or replacement of shared fencing with private owners.

Homes Victoria also has duties under the *Residential Tenancies Act 1997* and the *Wrongs Act 1958* to ensure renters reside in premises that are:

* well-maintained, and
* safe to live in.

To fulfill these responsibilities, Homes Victoria must:

* **Share costs:** Generally, costs for repairing or replacing a dividing fence are divided equally between property owners, unless otherwise agreed or ordered by the Magistrates' Court.
* **Provide notice:** Issue a Fencing notice (intention to fence) to adjoining private owners, outlining the proposal, costs, and timeline.
* **Resolve disputes:** Address disagreements about the fence through dispute resolution processes, such as mediation.
* **Ensure compliance:** Make sure the fence meets local council requirements as well as the standards specified by Homes Victoria and the Fences Act.

The Department of Families, Fairness and Housing (the department) manages fencing works on behalf of Homes Victoria.

# Standard fencing type, height, and variations

Typically, Homes Victoria installs timber paling fences at a standard height of 1650mm. When a fence requires replacement, the new fence should usually match the existing fence in height and other characteristics. In certain situations, variations in height may be approved primarily due to:

* the type of fencing in the neighbourhood
* local council requirements, and
* the management of tenancy or privacy related issues between occupiers.

Alternative fencing may also include:

* Picket
* Vertical board screen
* Coloured chainmesh
* Horizontal board or
* Colourbond.

If a fencing type is not included in the Schedule of Rates (SORs) or any agreed rate, staff must use the Not on Schedule (NoS) quotation process. In this case, staff and/or private owners are required to obtain two quotes from the department’s head or casual fencing contractors.

# Fencing work requests

Public housing renters or private owners may report the need for fencing works to the Housing Call Centre (HCC) or directly to the local office. When the HCC is contacted, they may either:

* request staff inspect the fence via a pre-inspection in HiiP Repairs, or
* initiate minor or urgent works.

If the call is made directly to the local office, staff generally arrange an inspection to assess the condition of the fence.

If the fence adjoins another public housing property, staff can independently determine the necessary works with support from a Field Services Officer or through an Inspect and Report via the head contractor. They can then initiate work orders in HiiP Repairs for the head contractor to address. However, if the fence adjoins a privately owned property, staff must seek agreement with the private owner and follow a different process, as outlined in [Section 8 Privately Owned Properties Adjoining Public Housing.](#_Toc174096921)

# Assessing for repairs

Fencing repairs may be suitable in the following scenarios:

* **Minor Damage:** The fence has damage that can be easily fixed, such as:
	+ Replacing damaged panels and posts
	+ Fixing loose palings
* **Cost-Effectiveness:** Repairs are more economical than replacement and can restore the fence's functionality without significant investment.

# Determining the need for replacement

Replacement of fencing may be necessary under specific circumstances, including:

* **Substantial Damage:** The fence is so damaged that it cannot be repaired effectively.
* **Quotations or Notices:** Fencing quotations or a fencing notice have been received from an adjoining private owner indicating a need for replacement.
* **Legal Requirements:** Homes Victoria is legally ordered to replace the fence by the Magistrates’ Court.
* **Health and Safety Concerns:** The condition of the fence has deteriorated to a point where it poses health and safety risks to occupants.

# Privately owned properties adjoining public housing

If a fence inspection determines that repairs or replacement is necessary, staff will attempt to discuss the required works with the private owner or the real estate agent if a property manager is involved.

If no one is home at the adjoining property during the inspection, staff will leave a calling card requesting contact. This calling card serves as a notification of the visit and includes essential contact information for follow-up.

A Fencing Calling Card can be accessed on the Public Housing Resources [Fencing](https://dhhsvicgovau.sharepoint.com/sites/Publichousingresources/SitePages/Fencing.aspx) page at <https://dhhsvicgovau.sharepoint.com/sites/Publichousingresources/SitePages/Fencing.aspx>.

## Identifying the owner

If there is no response to the calling card, s.14(2) of the Fences Act allows local councils to provide the private owner’s name and address.

## Fencing works initiated by private owners

When private owners initiate fencing works, they must:

* serve the department with a Fencing Notice or
* seek agreement from the local office before repairing or replacing a shared fence.

Additionally, they are required to provide two quotations from their preferred casual fencing contractors to facilitate the decision-making process.

The local office will generally approve the lowest quotation submitted by the private owner, unless:

* the department can provide a more competitive quotation from its head contractor.
* the private owner requests that the department obtain a quotation.
* the private owner does not respond to attempts to contact them.

To request a quotation, staff should raise an Inspect and Report (SOR CI005) in HiiP Repairs. This will provide staff with:

* a detailed report outlining the necessary fencing works
* cost estimates for both repair and replacement options.

## Casual fencing contractors

Casual fencing contractors engaged by private owners must:

* be registered builders and
* have a minimum $10 million public liability insurance cover.

If a contractor is not registered in HiiP Repairs, staff will

* fill out the Creation of HiiP Repairs contractor registration form, available on the [Public Housing Resources SharePoint](https://dhhsvicgovau.sharepoint.com/sites/Publichousingresources?xsdata=MDV8MDF8fDQwNWQ1OTgzZTA5ZDQ1NzlhN2U2MDhkYTgwYzEzODcyfGMwZTA2MDFmMGZhYzQ0OWM5Yzg4YTEwNGM0ZWI5ZjI4fDB8MHw2Mzc5NjM4NjQ1OTA0MjgxMzR8R29vZHxWR1ZoYlhOVFpXTjFjbWwwZVZObGNuWnBZMlY4ZXlKV0lqb2lNQzR3TGpBd01EQWlMQ0pRSWpvaVYybHVNeklpTENKQlRpSTZJazkwYUdWeUlpd2lWMVFpT2pFeGZRPT18MXxNVGs2TURabE5HSTRaalV0Tm1JM1l5MDBOVFprTFRneE0ySXROV1E0TVdVNVlUWmxNVE5pWHpjek56QmpPV1ZtTFRCbU1UZ3RORFV3T1MwNE5tVmhMV1UyTUROalpXVmtabVl4TmtCMWJuRXVaMkpzTG5Od1lXTmxjdz09fHw%3D&sdata=TTVRMGZJeTBPVmluWTI1QjVvK0lhY2gxelVteDQ3a0NzL3FEd2FPRkJQND0%3D&ovuser=c0e0601f-0fac-449c-9c88-a104c4eb9f28%2CRebecca.Favata%40homes.vic.gov.au&OR=Teams-HL&CT=1665536799152&clickparams=eyJBcHBOYW1lIjoiVGVhbXMtRGVza3RvcCIsIkFwcFZlcnNpb24iOiIyNy8yMjA5MDQwMDcxMiIsIkhhc0ZlZGVyYXRlZFVzZXIiOmZhbHNlfQ%3D%3D) Maintenance page, and
* submit the form via the department's online [OurService](https://ourservice.support.vic.gov.au/) portal at <https://ourservice.support.vic.gov.au/>.

Registration is essential to create a Simple works order and ensure timely payment upon work completion.

## Additional fencing costs

Private owners are generally responsible for any additional costs that exceed their required 50 percent share when they request fencing that differs from either:

* the existing standard fencing
* Homes Victoria’s fencing specifications (for example, a paling fence higher than 1650mm)

This responsibility is outlined in Section 8 of the Fences Act, which mandates owners to cover any extra costs for a fence that exceeds the price of a sufficient dividing fence, as defined in Section 6 of the Fences Act.

## Preparing a Fencing notice

Section 13 of the Fences Act requires a Fencing notice to be served on the adjoining private owner. Fencing notices provide essential details such as:

* the type of works
* contractor information
* cost estimate
* completion deadline, and
* proposed contributions from each party.

### Notice requirements

The notice must include:

* the date of the notice
* the name and contact details of the notifying owner (Homes Victoria)
* a statement that the notice is a notice under s. 13 of the Fences Act
* the boundary line on which the fencing works are proposed to be carried out
* a statement detailing any parts of the common boundary where a dividing fence is not required because a waterway or other obstruction is on, or forms, the common boundary
* the type of fencing works and any subsidiary works proposed to be carried out, including the type of fence to be constructed or the nature of the repairs or maintenance
* the name and contact details of any person who may be engaged to undertake the fencing works and any subsidiary works proposed to be carried out
* if the notifying owner requires the adjoining owner to contribute:
	+ an estimate of the cost of the fencing works and any subsidiary works proposed to be carried out and an explanation of the basis of that estimate.
	+ the proposed proportion of the estimated costs that each owner is to contribute.
	+ the estimated amount that the adjoining owner will be required to contribute.
	+ a copy of the quote from the fencing contractor.

A response to the notice is required within 30 days from the date the fencing notice was received. Negotiations may extend the acceptance period if the private owner requests additional time.

## Serving a Fencing notice

Staff must serve the Fencing notice by using registered and normal mail, along with:

* a covering letter
* a copy of the quotation, and
* Agree to Pay Fencing Works form

Fencing templates, including a covering letter and the ‘Agree to Pay for Fencing Works’ form, are available on the Public Housing Resources SharePoint [Fencing](https://dhhsvicgovau.sharepoint.com/sites/Publichousingresources/SitePages/Fencing.aspx) page <https://dhhsvicgovau.sharepoint.com/sites/Publichousingresources/SitePages/Fencing.aspx>.

## Fencing notice is accepted

If the private owner agrees to the fencing works, they must sign the Agree to Pay Fencing Works form. Once the form is signed and the works have been raised in HiiP Repairs, staff will:

* upload a copy of the signed form to the relevant tenancy record, ‘General’ documents tab
* create a file note in HiiP Repairs linked to the associated job number, confirming that the private owner has agreed to the fencing works and has signed the ‘Agree to Pay Fencing Works’ form.

## Monitoring and verifying completion of fencing works

After the job has been raised, staff will monitor the progress of the fencing works. This involves:

* maintaining communication with contractors to address any issues or delays, and
* conducting a final inspection to confirm the fence meets the required standards and specifications.

## Fencing notice is not responded to

If, 30 days from the date the fencing notice was issued:

* the private owner does not respond to the fencing notice, or
* cannot be contacted after reasonable attempts are made
	+ staff may proceed with the fencing works and any additional works specified in the notice.

Reasonable contact attempts include:

* leaving a calling card at the owner’s property
* sending the correspondence to the private owner’s registered address
* attempting to contact a real estate agent if the owner uses a property manager.

After raising the fencing works in HiiP Repairs, staff may make a final effort to notify the private owner.

## Fencing notice is disputed

Stall should engage in negotiations with the private owner if they respond to the Fencing notice but dispute the proposed fencing works regarding:

* their necessity
* fence line location, or
* type of fence

Staff can attempt to resolve these disputes through discussions aimed at:

* clarifying the reasons for the proposed fencing works and addressing any concerns raised by the owner
* exploring alternative solutions or adjustments to the type of fence that may be acceptable
* discussing cost-sharing arrangements or other financial considerations related to the fencing works
* reviewing any relevant documentation, such as reports on the fence's condition or alternative quotes, to support the discussion.

The Dispute Settlement Centre of Victoria is also available to support the negotiation process with private owners.

# Urgent fencing works

Section 23 of the Fences Act provides examples of fencing works that may be considered urgent. The examples include when a fence was damaged or destroyed by:

* a falling tree or branch, or
* fire or flood.

The department may also consider fencing works urgent when:

* large or dangerous dogs can breach the fence, and/or
* there are serious personal safety concerns for occupiers.

If urgent fencing works are identified, staff may consult with their Team Manager and Legal Service Branch, while attempting to contact the private owner.

If is agreed the works are urgent, a job may be raised in HiiP Repairs for the fence to be replaced immediately (without first issuing a Fencing notice).

## Preparing an urgent Fencing notice to recover costs

To recover costs after the urgent fencing works are completed, staff will issue an urgent Fencing notice to the private owner. The notice must include:

* the type of fencing works that were completed
* an invoice, and
* the reasons for the urgency of the works.

The urgent Fencing notice is sent by registered and normal mail.

If there is no response from the private owner within 30 days of receiving the notice, it may be necessary to initiate a complaint at the Magistrates Court. Before proceeding, this course of action must be approved by the Client Support and Housing Services Manager.

The urgent Fencing notice is available on the Public Housing Resources SharePoint [Fencing](https://dhhsvicgovau.sharepoint.com/sites/Publichousingresources/SitePages/Fencing.aspx) page <https://dhhsvicgovau.sharepoint.com/sites/Publichousingresources/SitePages/Fencing.aspx>.

## Ad hoc invoice request

To generate and attach an invoice to the urgent Fencing Notice, staff must submit an ‘Invoice Request’ through the department's [OurService](https://ourservice.support.vic.gov.au/) portal <https://ourservice.support.vic.gov.au/> under Accounting Services.

The online form includes an Invoice Request template that must be completed and attached, along with the following supporting documentation:

* a copy of the urgent Fencing Notice
* the completed job order from HiiP repairs.

# Pursing action in the Magistrates’ Court

When a private owner fails to agree to replace a fence, or the department wishes to recover costs for completed works, initiating a complaint in the Magistrates’ Court (Form 5A – Complaint) under the Fences Act may become necessary.

Before proceeding with any action in the Magistrates’ Court, staff must:

* discuss and obtain approval from their Client Support and Housing Services Manager, and
* consult with the Legal Services Branch.

To consult the Legal Services Branch staff will prepare and provide the following:

* when the private owner fails to agree to replace the fence after receiving a Fencing notice:
	+ the background outlining the negotiations with the owner and the outcomes
	+ photographs with a report detailing the condition of the fence
	+ a copy of the Fencing notice and all correspondence sent to the owner, including details of the registered mail
	+ copies of the most recent fencing quote (dated within the last six months)
* to recover costs after fencing works are completed:
	+ the background outlining all attempts to contact the owner and the outcomes of any negotiations
	+ photographs with a report detailing the condition of the fence before it was replaced
	+ copy of the Fencing notice (or urgent Fencing notice) and all correspondence sent to the owner, including details of the registered mail
	+ documentation confirming the completion of the fencing works, including an invoice and photographs.

# Invoicing and payment management

The costs for fencing works are divided equally (unless a different amount is negotiated etc). An order from the Magistrates’ Court may also require an owner to pay more than an equal share.

## Casual contractor invoice payments

After the fencing works are completed and an invoice is received, the department will pay the amount agreed to the casual fencing contractor.

Approval of payments is made by staff delegated by the Housing Act – Instrument of Delegations and in line with local office processes. Payments are processed in the HiiP system.

## Payment by instalments

If a private owner encounters financial hardship and is unable to make a payment in full, staff may explore arranging payments by instalments.

To arrange payments by instalments, the private owner must sign the Agreement to Pay Fencing Costs by Instalments form. Once signed, staff must:

* complete an Invoice Request via [OurService](https://ourservice.support.vic.gov.au/ourservice?id=sc_cat_item&sys_id=1318a4ae1b353910af5d98ef0d4bcb02) portal <https://ourservice.support.vic.gov.au/> under Accounting Services.
* complete the Invoice Request template, which can be downloaded directly from within the online form, and attach the following required documents:
	+ the Agreement to pay fencing costs by instalments form (signed by the private owner), and
	+ a copy of the completed job order.

The Agreement to Pay Fencing Costs by Instalments form is available on the Public Housing Resources SharePoint [Fencing page](https://dhhsvicgovau.sharepoint.com/sites/Publichousingresources/SitePages/Fencing.aspx) <https://dhhsvicgovau.sharepoint.com/sites/Publichousingresources/SitePages/Fencing.aspx>.

The Finance Team will monitor the payments made by the private owner. If they fail to make a payment, the Finance Team will inform the local office.

# Damaged fencing

Private owners or their renters will be responsible for the costs to repair or replace a fence in line with s. 9(1) of the Fences Act when it was caused by a negligent or deliberate act.

Homes Victoria has the same responsibility if its renter damages or destroys a fence. The department may consider recovering costs from renters by pursuing a maintenance claim against the renter.

# Dividing fences and works programs

## Programme works

If it is determined fencing works are required during the scoping of programmed works, the project manager from Asset Management Branch will have discussions with the local office.

If it is decided the fencing works will form part of the scheduled program, the contract documentation will require the successful contractor to take responsibility for:

* preparing and issuing the Fencing notice to the owner
* providing a certificate of currency for public liability insurance, and
* communicating with public housing renters about the proposed works and anticipated timelines.

Local office staff also refer all issues relating to fencing to the Asset Management Branch project manager.

## New housing

When new fencing is required, the project manager leading the construction or acquisition project will include in the scope of works:

* Homes Victoria’s standard specifications for fencing
* the need to tender for fencing works associated with the project
* the successful fencing contractor provides a certificate of currency for public liability insurance
* the contractor will be responsible for serving a Fencing notice on any private owners, and
* the contractor will communicate with public housing renters about the works and anticipated timeframes.

If an owner fails to agree to the fencing works by the end of 30-day period specified in the Fencing notice, the successful contractor will refer the matter to the Asset Management Branch.

Local office staff also refer all issues relating to fencing to the Asset Management Branch project manager.

## Vacant land

When fencing works are required for a dividing fence between a private owner and Homes Victoria owned vacant land, the local office will consult with Asset Management Branch.

Asset Management Branch will assess whether the vacant land is earmarked for future development.

The local office and Asset Management Branch will decide if the fencing works are actioned as:

* minor repairs
* minor capital works for complete replacement, or
* included in a works program.