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| Home visits and inspections in public housing  Operational Guideline |
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Department of Health

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| Home visits and inspections in public housing |
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# Definitions

| Term | Definition |
| --- | --- |
| CIS Scheme | Child Information Sharing Scheme established under Part 6A of the *Child Wellbeing and Safety Act 2005* (Vic). |
| Complex Needs Co-ordinators | Support for High Risk Tenancies (SfHRT) provides an escalated service response following HSO or Tenancy Plus involvement. This service response includes a higher level of coordination and/or intervention. |
| Department | Department of Health and Human Services established under the *Public Administration Act 2004* (Vic)*.* |
| Director | Director of Housing as appointed under the *Housing Act 1983* (Vic). |
| Event driven home visit | A delegate of the Director will visit a tenant’s home, or a tenant in response to an event occurring which requires the tenant to be contacted, the property assessed or a duty to be fulfilled. |
| Family Violence | Has the meaning set out in section 5 of the *Family Violence Protection Act 2008* (Vic) which summarises any behaviour that occurs in family, domestic or intimate relationships that is physically or sexually abusive; emotionally or psychologically abusive; economically abusive; threatening or coercive; or is in any other way controlling that causes a person to live in fear for their safety or wellbeing or that of another person.  In relation to children, family violence is also defined as behaviour by any person that causes a child to hear or witness or otherwise be exposed to the effects of the above behaviour.  This definition includes violence within a broader family context, such as extended families, kinship networks and communities. |
| FVIS Scheme | Family Violence Information Sharing Scheme established under Part 5A of the *Family Violence Protection Act 2008* (Vic). |
| Home visit | A visit to a tenant’s home. |
| Initial home visit | A visit to meet tenants in their home in the first six to ten weeks after the commencement of a new tenancy. |
| Inspection | A visit where a Director owned property is to be inspected. The property may be tenanted or vacated. |
| ISE | Information sharing entity authorised to share information under the Family Violence Information Sharing Scheme and the Child Information Sharing Scheme. |
| MARAM Framework | The Family Violence Multi-Agency Risk Assessment and Management Framework. |
| Notice to enter | In some circumstances staff may issue a notice to enter to gain lawful entry to a Director owned property under s86 of the *Residential Tenancies Act 1997* (Vic). |
| Participating Registered Agency | A registered agency that is declared by the Director under s 142F(2)(b) of the *Housing Act* *1983* (Vic) to be a participating registered agency. |
| Person centred | In the context of Social Landlord, staff are guided by the framework of the principles of a social landlord and model litigant guidelines when making decisions regarding tenants and households. |
| Public Housing | Long-term rental accommodation owned by the Director and managed by the department on behalf of the Director. |
| Reasonable Excuse | A threshold is applied to enter a property in special circumstances when housing staff consider that there is an immediate and serious risk to a tenant or that of other person or property inside the tenant's premises. |
| Residential Tenancies Act | *Residential Tenancies Act 1997* (Vic). |
| Risk Identification and Screening | Recognising through observation or enquiry that family violence risk factors are present, and then taking appropriate actions to refer or manage the risk. Screening is the use of questions to explore the possibility of family violence being present, due to concerns through observation or other assessment. |
| Social Housing | Means both public housing and housing owned, controlled or managed by a Participating Registered Agency. |
| Social Landlord | A landlord with a social responsibility. In the context of these guidelines, the Director acts as a social landlord when visiting properties. The department assists the Director in this role. The Director owns and manages public housing for people on low incomes who have difficulty affording and securing housing in the private market. |
| Tenant participation home visit | A visit to a property with a focus on the person’s well-being to sustain a tenancy. |
| Triennial visit | A visit to a Director owned property which includes a property inspection to assess the property condition, which is conducted once every three years. |
| Tenancy condition report | A Tenancy Condition Report (TCR) is a record of an agreement between the tenant and the Director about the condition of the rented property.  A TCR is completed so that there is a record of the condition of the property, including the fixtures and fittings, at the start and end of each tenancy.  The condition of the property will also be assessed during a tenancy to ensure the property is maintained according the Director’s obligations and managed according to tenant duties. |
| Tenant(s) | An applicant or household member who has signed a residential tenancy agreement with the Director to enable them to let the property. |
| Tenancy Plus | A program funded to provide social welfare and case managed support to Social Housing tenants. |
| Tenancy Plus Providers | An agency funded to provide social welfare and case managed support to Social Housing tenants. |
| Victim Survivor | Has the same meaning as the words ‘a *primary person’* (adult or child)  in the *Family Violence Protection Act 2008* (Vic) (FVPA). The FVPA provides a person is a primary person if an information sharing entity reasonably believes there is risk that the person may be subjected to family violence. |

# Introduction

The purpose of these guidelines is to outline the intent, principles and processes by which the Department of Health and Human Services (the department) on behalf of the Director of Housing (the Director) manages visits to people in their public housing homes.

The Director is a social landlord. In making decisions on behalf of the Director, the department has obligations beyond just tenancy management and should contribute to tenant wellbeing. This is done by setting rents at affordable levels, promoting tenant wellbeing and participation, neighbourhood upkeep and community vitality.

Further as a social landlord the Director is to ensure that the department provides well maintained public housing properties suitable to the housing needs of eligible Victorians.

The department is also governed by multiple legislative instruments that must be adhered to while managing public housing tenancies. These include the:

* *Housing Act 1983* (Vic)
* *Residential Tenancies Act 1997* (Vic)
* determinations made by the Director pursuant to s 142E of the *Housing Act 1983* (Vic)
* *Privacy and Data Protection Act 2014* (Vic)
* *Health Records Act 2001* (Vic)
* *Charter of Human Rights and Responsibilities Act 2006* (Vic) (the Charter)
* *Financial Management Act 2006* (Vic)
* *Wrongs Act 1958* (Vic)
* *Occupational Health and Safety Act 2004* (Vic)
* *Family Violence Protection Act Vic 2008* (Vic) *(Part 5A and Part 11)*
* *Child Wellbeing and Safety Act 2005* (Vic) *(Part 6A)*

The aim of these operational guidelines is to provide instruction to staff to help balance their personal safety with the needs of people living in Director owned homes while undertaking home visits and inspections to manage tenancies and the condition of properties.

# When do these operational guidelines apply?

These operational guidelines, as well as other relevant operational guidelines and departmental policies, seek to assist staff to comply with the Residential Tenancies Act 1997 and the Occupational Health and Safety Act 2004.

When staff conduct home visits and property inspections, these operational guidelines apply when:

* preparing or undertaking to visit a tenant in their home
* preparing or undertaking a home visit or inspection to a tenanted property
* assessing risks to staff safety in preparation for and undertaking home visits or inspections.

# Director of Housing’s objectives

The Director has the responsibility as the largest social landlord in Victoria to house vulnerable people. To ensure the Director meets his obligations under the Residential Tenancies Act, home visits and property inspections are a necessary requirement in managing public housing tenancies and properties.

Under the objects of the Housing Act, the Director has an obligation to provide well-maintained public housing of a suitable quality. Home visits and inspections are required to assist the Director maintain Public Housing to the required standards.

As a Social Landlord the Director has an obligation to combine responsibilities for property management and tenant well-being. Some of the Social Landlord principles that are relevant for home visits and inspections are:

* to actively visit tenants to consider the repairs or works needed so their properties are maintained to a reasonable standard
* where underlying causes for tenancy issues are understood or risks to a person’s well-being are identified (for example during home visits), the best efforts are made to arrange referrals to relevant services.

# Purpose of home visits and property inspections

Home visits and property inspections are undertaken by staff as part of their function as delegates of the Director. There are different reasons for visiting tenanted and vacated properties and there will be a particular focus for the visit depending on the circumstances. Sometimes a visit will include one or all of the reasons listed below:

* to assist a person in managing the transition into public housing or to sustain a tenancy when issues are identified
* making or establishing contact with tenants regarding an identified issue or concern
* inspections of the property to complete a property assessment, reported maintenance or investigating a breach of the tenancy agreement.

It is important for staff to be aware of the purpose of a visit before conducting a home visit or inspection to ensure appropriate decision-making processes occur and compliance with legal requirements. Staff are to identify the focus for any home visit or inspection.

## Person focus

A home visit has a person focus when the aim is to assist the person to sustain a tenancy. It may be appropriate to initiate referrals depending on the needs of the person.

## Tenancy focus

A home visit will have a focus on tenancy matters when there is an event that requires contact with a tenant or household regarding a tenant responsibility and/or duty such as:

* outstanding information required for a rebate
* arrears or
* respond to breaches of tenancy.

## Property focus

A property inspection is focussed on the Director’s obligation as a landlord to manage the condition of the property. It is undertaken to identify any tenancy condition concerns and maintenance matters. For example, staff can establish the current condition of the property during a property assessment in a triennial visit.

Regardless of whether staff are completing home visits or undertaking property inspections, a person-centred approach is important when staff are entering a person’s home.

# Wrongs Act 1958

The potential liability of the Director in negligence is based on the duties he owes, as landlord, at common law and under the Wrongs Act 1958 (Vic).  At common law, the Director has a duty to take reasonable steps to prevent the foreseeable risk of injury.  Under the Wrongs Act, the Director, as landlord, owes a duty of care to any person on the premises to ensure, as far as is reasonable in the circumstances, that the person on the premises is not injured due to the condition of the premises.  A breach of either of these duties that causes injury or loss will provide a basis for a tenant to bring a claim for damages for economic and non-economic loss.  In order to bring a claim for non-economic loss arising out of personal injury, the tenant must successfully cross the "significant injury" threshold set out in the Wrongs Act.

The Wrongs Act also contains provisions as to the application of the principles of negligence in various scenarios, including where claims are brought against public authorities.  In some cases, the Director's obligations under the Residential Tenancies Act and the Charter will also be relevant.

# Decision Making under this guideline

Staff should be aware that while the *Home visits and inspections operational guideline* set out considerations that should be taken into account, a decision will be unlawful if it is made contrary to the Residential Tenancies Act and the Charter and may be unlawful if it is made without having specific regard to the individual circumstances of each case.

# Discretion in decision making

In determining whether to use discretion to complete a home visit or carry out an inspection the Director and staff must be aware of the requirements of the Residential Tenancies Act and their obligations under the Charter so that any relevant human rights are also considered.

A decision to enter a tenant's property must be done in accordance with the Residential Tenancies Act, however, staff do not have to exercise their right to enter the tenant's property.

While there might be a legal right to enter in the circumstances, engagement with tenants should be managed with care and consideration and it may be that a less invasive option such as a telephone call may be more appropriate in the first instance. Where appropriate, consideration can be given to how the inspection is conducted, for example, does the tenant want a support person at home during the visit or should two staff attend the visit or inspection.

Staff should therefore consider the tenant's, their household’s circumstances and the situation as a whole before carrying out any home visit or inspection in accordance with the Residential Tenancies Act.

It is an offence to enter a tenant's property, without reasonable excuse, otherwise than in accordance with the Residential Tenancies Act.

# Home visits and inspections

Home visits and inspections differ in regard to their intent and purpose.

The intent of a home visit is generally to meet with tenants to understand how they are managing an aspect of their tenancy or other issues related to their well-being or neighbourhood concerns. Home visits can be pre-arranged with the tenant. Where there has been difficulty making prior contact, a home visit can be unannounced where the reason is to make contact with the tenant. In these circumstances staff will only enter the person’s home with the tenant’s consent.

An inspection is a visit with the intention of entering the property or private outdoor space with a tenancy or property focus such as to ensure the:

* tenant duties are met
* landlord obligations are fulfilled
* property condition is maintained.

Examples of when inspections typically occur are:

* the tenant has requested an inspection in regard to a property related matter, for example when requesting work to be completed
* there is information received about the poor condition of the property from a third party, such as a support worker or a neighbour
* a triennial visit.

In the first instance, consent should be sought for a visit or inspection. If consent is refused, housing staff need to consider whether entry without consent will be exercised by way of a notice to enter under s 85(b) of the Residential Tenancies Act . In some circumstances the intent and purpose to undertake a home visit or inspection may determine the processes staff use to gain access to a property. There are also legal requirements to consider when decisions are made while home visiting or inspecting public housing properties.

# Types of home visits and inspections

## Initial home visit

An initial home visit is conducted to meet tenants in their home for all new tenancies.

During an initial home visit staff are to focus on the person and their household, the tenancy and the property. The following aims will guide staff actions during an initial home visit:

* + assist the household transition into a new home, area and community, which may include making a referral to support services such as Tenancy Plus.
  + develop trust between staff and household members
  + ensure the property is up to date and any identified maintenance issues to be addressed in a timely manner
  + ensure the tenancy condition report is completed and signed off by both parties
  + address any tenancy matters with information and/or appropriate action
  + identify any potential areas of concern.

Staff must conduct an initial home visit within 10 weeks of the tenancy start date with the consent of the tenant. The tenant must provide their consent in order for housing staff to enter the property to conduct the initial housing visit.

If part of the purpose of the initial home visit is to request that the tenant return the signed tenancy condition report, housing staff should only request the signed tenancy condition report at the initial home visit if the tenant:

* is informed prior to the visit that part of the purpose of the initial home visit is to request that the tenant return the signed tenancy condition report to housing staff and
* has given their consent to housing staff to enter the property to conduct the initial home visit for this purpose.

Similarly, the other purposes of the initial home visit should also be disclosed to the tenant when seeking their consent.

### What if the tenant does not consent to an initial home visit?

An initial home visit has other purposes than that of inspection and a notice to enter will not authorise the broader aims of an initial home visit.

If required, an inspection at the end of the first three months of the tenancy for new tenancies can be conducted under s86(1)(f) of the Residential Tenancies Act for inspection purposes only as outlined in s86(1).

Where, after reasonable attempts to obtain the tenant's consent, an initial home visit has not been conducted within the first 10 weeks of sign-up, housing staff cannot rely on a purpose under s 86(1) of the Residential Tenancies Act to issue a notice to enter.

## Tenant participation home visit

A tenant participation home visit is conducted to build trust in tenancy relationships and to promote sustainable tenancies for people living in Public Housing. The primary focus of a tenant participation home visit is on the tenant's needs and capacity to sustain a tenancy. It allows the tenant to actively participate in establishing and maintaining a successful tenancy.

In identifying reasons for recommending a tenant participation home visit to a tenant, staff may consider:

* the person's past departmental tenancy history
* the need for early intervention and support
* the assistance required to sustain the tenancy
* maintaining the property condition

Tenant participation home visits must only be conducted when an agreement between staff and the tenant has been made. Tenant participation home visits are conducted according to a schedule to which a tenant agrees. The context and frequency of the visits are intended to help minimise risks to a person’s tenancy and to provide a pathway to support services when needed.

The schedule by agreement can be set on a three- or six-monthly frequency and will last for as long as is determined as necessary to assist the person in minimising their tenancy risk. In cases where the risk is not minimised, the schedule may cease to allow other action to be taken or could be extended by agreement with the tenant.

For example, during an initial home visit staff may identify that the tenant has outstanding rental and maintenance charges from a previous tenancy. Staff raise this as part of a conversation with the tenant and on that basis may recommends a quarterly home visit for the first year of the tenancy (a home visit to occur at three-month intervals over the next nine months). These quarterly home visits would allow housing staff to monitor the condition of the property and consider the needs of the tenant and make referrals to any supports as required.

These visits only continue with the consent of the tenant and are not arranged by using a notice to enter under s86 of the Residential Tenancies Act. If a series of visits are agreed to such as in the case of quarterly visits, housing staff must reconfirm the tenant’s consent and the date and time of the visit, within seven days of each scheduled visit.

## Event driven home visits

Event driven home visits are conducted when there is an obligation under a legislative or departmental requirement, to address a tenancy or property issue. This may include visits in response to neighbourhood complaints, rental arrears or property concerns.

Home visits that are in response to an event may be scheduled or may be actioned immediately. This will depend on the urgency of the situation. Event driven home visits do not include initial home visits, or tenant participation home visits.

Not all home visits will require entry, particularly if the visit is to either establish contact. For example, to discuss arrears or to have a form signed.

Events that may require entry to a property will include:

* a transfer of tenancy between household members
* a transfer to another property
* a tenant providing a notice of intention to vacate
* entry for a purpose set out in s 86(1) of the Residential Tenancies Act, including when housing staff are required to carry out a duty under the Residential Tenancies Act (s 86(1)(c) or when the Director reasonably believes that the tenant has failed to comply with their duties under the Residential Tenancies Act (s 86(1)(e))
* any type of maintenance request.

## Triennial (periodic) visits

A triennial (periodic) visit is a departmental responsibility to enable the Director to fulfil responsibilities under the Housing Act and the Residential Tenancies Act to maintain properties to a reasonable and safe standard. Triennial visits must be conducted once every three years for every property.

To conduct a triennial visit, housing staff may undertake the following actions:

* inspect the property for repairs, maintenance and damage
* confirm all the household members and if changes are identified complete a rebate application.

Other considerations may arise such as a need to sustain a tenancy with referrals to support services or to discuss other tenancy matters including but not limited to arrears, rebates, disputes, or maintenance. Housing staff may include these as part of the triennial visit, especially if the tenant initiates these conversations.

A triennial visit may also provide an opportunity for staff to:

* build trust with the tenant
* acknowledge evidence of positive behaviour that sustains tenancies
* identify concerns and provide referrals to support services.

As part of a triennial visit, housing staff should conduct a property assessment by confirming with the tenant that,

* amenities are working
* minimum Residential Tenancy Act maintenance standards are met
* any noticeable health and safety risks are identified
* any items that are identified as a concern should be recorded in the Housing integrated information system (HiiP).

The purpose of checking basic property conditions is to manage:

* damage
* maintenance and repairs to the property.

Housing staff can only legally request a property assessment as part of a triennial visit if they have:

* informed the tenant prior to the triennial that part of the purpose of the inspection is to conduct a property assessment
* obtained the tenant's consent to enter the property to conduct the triennial visit for this purpose.

In circumstances where consent has not been provided for a triennial inspection, an inspection can be conducted using a notice to enter under s 86(1)(f). Tenant permission is not required to conduct a property assessment when a notice to enter under s86(1)(f) is used to enter the property.

See Appendix for a table to describing

*See* [*Property condition assessment*](https://providers.dhhs.vic.gov.au/maintenance-manual-property-condition-assessment-word) <https://providers.dhhs.vic.gov.au/maintenance-manual-property-condition-assessment-word> and [*Signing the Residential Tenancy Agreement*](https://providers.dhhs.vic.gov.au/chapter-3-signing-residential-tenancy-agreement-word)<https://providers.dhhs.vic.gov.au/chapter-3-signing-residential-tenancy-agreement-word>

See [*Rent setting and rebate operational guidelines*](https://providers.dhhs.vic.gov.au/rent-setting-and-rebate-operational-guidelines) *<*https://providers.dhhs.vic.gov.au/rent-setting-and-rebate-operational-guidelines>

To successfully complete a home visit or inspection the following steps should be considered.

* **Preparation:** initial decision making, including consideration for basis of seeking entry to the property and conducting a human rights assessment.
* **Organising:** either contacting the tenant by telephone to arrange the visit or inspection, or alternatively undertaking lawful steps where inspection is necessary, including obtaining consent within 7 days before the entry is scheduled to occur, or that a notice to enter has been issued to a tenant for a s 86(1) at least 24 hours before housing staff wish to enter the property. An assessment of worker safety should also be undertaken.
* **Conducting:** attending the property to carry out the home visit or inspection

Accessing Public Housing properties may require housing staff to make properly considered decisions and take extra steps, especially where unexpected outcomes arise such as where a tenant refused to allow access after the housing staff have issued a notice to enter.

# Preparing for home visit or property inspection

Before organising and conducting a home visit or inspection a decision-making process must be undertaken by staff to ensure the proposed home visit or inspection is:

* undertaken in a lawful manner, particularly where entry is required to complete the home visit or inspection pursuant to the Residential Tenancies Act; and
* planned to provide the best opportunity for a successful completion.

## Visit purpose

Staff must understand the focus for the home visit or inspection. This is a first step to ensure the proposed actions are appropriate to the situation.

Once the focus is understood, housing staff are to consider whether they have a right to enter the property under the Residential Tenancies Act. For example, this will be by consent or by relying on a purpose in s86(1) of the Residential Tenancies Act.

Housing staff need to consider whether the visit or inspection requires:

* tenant contact only, for example, for the purpose of signing a form or
* entry to the property, for example, to view a maintenance request.

### Tenant contact only visits

Where housing staff have unsuccessfully attempted to contact a tenant in relation to a matter that may not require entry to the property, for example to sign a rebate form, a home visit may be conducted without the need to enter the property. The purpose for the visit is to contact the tenant, and a discussion can be held at the entrance to the property.

For example, when arrears are first identified and attempts to contact the tenant via telephone calls, SMS texting or mailed letters have not resulted in contact, housing staff may try to engage the tenant by attending the property.

Where possible housing staff are to notify the tenant via a telephone call, SMS texting or a letter when they plan to visit the property and why they are attempting to contact the tenant, such as to discuss arrears or a rebate application.

### Entry to the property

Where entry to the property is a requirement of the home visit or inspection, staff will need to consider if the tenant has given consent or if a formal notice to enter can and should be issued.

Both approaches have time frames and other requirements that need to be considered when preparing the home visit or inspection.

## Support requirement

During the decision-making process, housing staff must decide whether it is appropriate to conduct the home visit or inspection with a tenant’s support worker before seeking the tenant's consent to home visit or inspect the property.

When contacting a tenant’s support worker housing staff are to ensure the tenant has provided consent consistent with information sharing guidelines

In cases where an emergency situation has arisen, housing staff are to contact police for a welfare check.

# Supports

When staff identify support needs or complex issues during home visits or inspections they are to refer cases to appropriate support services.

## Tenancy Plus

Many people rely on support to sustain their tenancy and live independently. With this in mind, the department funds the Tenancy Plus program to provide support to tenants so they can sustain tenancies and reduce their risk of homelessness.

When housing staff have identified support needs, the first referral point is to the local Tenancy Plus Provider. The primary point of entry into the program is through a tenant’s social housing provider. Information regarding the program and how to refer are at <https://providers.dhhs.vic.gov.au/tenancy-plus-tenancy-support-operational-guidelines>.

## Support for High Risk Tenancies (SfHRT)

Support for High Risk Tenancies enables the provision of a coordinated response for people with multiple and complex needs whose tenancies are at risk. Complex Needs Coordinators do not work directly with public housing tenants but can provide secondary consultation and service coordination once all other support avenues have been unsuccessful. The target group for SfHRT are predominantly public housing tenants, however services are also offered to tenants in community housing:

* whose tenancies are at imminent risk of failure
* who are not responding to multiple intervention attempts from housing support services or the tenancy support service provider
* whose circumstances make it difficult for them to establish their tenancy and there are no other service options. These tenants will have complex behaviours that prevent them from engaging with support services
* who have complex support needs including but not limited to mental health, drug and alcohol and behavioural issues that require intensive support from a range of programs and services to assist them to maintain their tenancy.

Complex Needs Coordinators use established networks to achieve a more person-centred and flexible approach to resolve tenancy issues.

Not all tenancies will need this level of assistance and the local office is to work with local supports through the Tenancy Plus program as a starting point.

Where a service provider cannot provide a timely response to a tenant, and housing staff have determined that all tenancy management options have been attempted or exhausted, referrals can be made to Complex Needs Coordinators.

Contact your local Complex Needs Coordinator for information regarding the program and how to make a referral.

# Organising a home visit or property inspection

## Arranging the home visit or inspection

Before the tenant has provided their consent, housing staff must contact the tenant prior to the home visit or inspection to:

* discuss the reason or requirement for the home visit or inspection
* determine who will be present during the home visit or inspection
* outline what will occur at the home visit or inspection, for example, topics that will be discussed, the areas that will be inspected and the information that will be recorded
* determine any communication needs of the tenants, for example whether an interpreter is required
* confirm a suitable day and time to undertake the home visit or inspection.

When tenant consent is given for a home visit or inspection, housing staff will send a letter to the tenant confirming the agreed day and time of the home visit or inspection.

If it is not possible to achieve a home visit or inspection by consent, for example if a tenant is not engaging with housing staff, a notice to enter under s86(1) of the Residential Tenancies Act can be issued. In this circumstance it may not be possible to inform the tenant of the reason for the visit, before issuing a notice to enter. Housing staff should take reasonable steps to inform tenants of expected home visits and inspections.

A notice to enter under s86(1) of the Residential Tenancies Act will include:

* the reason(s) for the entry
* the date and time of the proposed entry

A cover letter can be attached to the notice to enter to:

* ask the tenant to inform housing staff who will be present on the day of the entry
* ask the tenant if an interpreter is required
* inform the tenant that photos may be taken during the visit.

## Staff safety

Under s 26 of the Occupational Health and Safety Act 2004, the Director, as a manager or controller of a workplace must ensure so far as is reasonably practicable that the workplace and the means of entering and leaving it are safe and without risks to health. Under the Occupational Health and Safety Act 2004, all employees whilst at work also have a duty of care for their own health and safety and the safety of people at work. The department considers this a shared responsibility between line managers and staff. The department takes very seriously the safety of staff at work.

To enable the Director and other duty holders to comply with their duties of care under the Occupational Health and Safety Act 2004, line managers and staff must proactively identify, assess and control risks to health and safety in the workplace.

Line managers are to work with their staff to ensure that when risks are identified that the appropriate risk control measures are put in place and that over time, the risk control measures remain adequate. Staff are required to communicate any risks to their safety to their line managers.

## Worker safety assessment

All staff are required to follow procedures to assess whether there are risks to their safety when preparing for and undertaking a home visit or inspection. Most home visits or inspections do not pose a risk to staff.

Staff are to undertake a worker safety assessment as part of organising a home visit or inspection and to work with line managers to control identified risks.

Housing staff are to assess any risks to staff safety before a home visit or inspection is conducted. Staff are to identify any potential risks or hazards with regards to:

* work environment
* individual behaviour
* property condition
* reports from third parties that may indicate risk to housing staff
* communication procedures
* information, training and instruction.

Where risks and hazards are identified, staff are to consult with their line managers (VPS 4 and above) so risk control measures can be implemented. Identified alerts are to be recorded and updated as necessary.

## Before leaving the office

Staff must ensure that they notify their line management of all home visits or inspections they are undertaking and ensure that they maintain regular and ongoing communication whilst on home visits or inspections. The following information should be provided to their line manager:

* mobile contact number
* details and purpose of the home visits or inspections
* any identified risks and strategies for controlling risks as part of the worker safety assessment
* anticipated time of arrival
* anticipated time of completion.

If staff are delayed on home visits or inspections, they must contact their line manager to inform them of the delay and the new expected completion date/time.

# Conducting a home visit or property inspection

After a home visit or inspection has been arranged and the tenant has provided their consent or the appropriate notice to enter has been served, it is expected that the entry to the property will occur where this is the purpose. For example, during an initial home visit or triennial visit.

If the tenant is not home, housing staff are to leave a calling card with their contact details including name, phone number and a reason for the home visit.

When the tenant is home, staff are to explain the purpose of the home visit and what actions are required to resolve the situation. It is important to try and establish trust especially if the tenant has had no prior contact with the staff member.

In circumstances where the home visit is for tenant participation purposes to sustain a tenancy, or as a result of an attempt to contact the tenant, or for an event driven reason such as rental arrears, entry is not expected but may be offered by the tenant. Staff are to consider the situation and assess whether it is appropriate to enter the property.

For example, if staff consider it unsafe, unnecessary to carry out the purpose of the visit, or there is not enough time to enter the property, they are to arrange another time to visit where entry can be planned, especially where maintenance issues have been raised.

When making the decision to enter staff are to consider whether:

* they feel safe to enter
* time is available and will not impact on other work activities
* it will engage the tenant and build goodwill or
* it will resolve an issue, such as a maintenance request.

## Staff

The Residential Tenancies Act provides that staff:

* will only enter a tenanted property between the hours of 8.00am and 6.00pm unless the tenant has provided their consent to a time outside of these hours under s 85 of the Residential Tenancies Act.
* should not enter the tenant's property on a public holiday unless the tenant has provided their consent under s 85 of the Residential Tenancies Act.
* staff will behave respectfully and reasonably when they enter the tenant’s home.

Typically, home visits and inspections will occur during office hours which fall within the times outlined in the Residential Tenancies Act.

Housing staff must not stay or permit other to stay at the property for longer than is necessary to achieve the purpose of the entry without the tenant's consent under s 87(b) of the Residential Tenancies Act.

## Tenant

When housing staff are exercising a right of entry in accordance with s 89 of the Residential Tenancies Act, the tenant has a duty to allow housing staff to enter the property.

## Photos

At times it may be necessary for staff to take photos during a home visit. For example, when a repair or maintenance has been identified during a home visit or inspection. Before the photos are taken, housing staff are to provide to the tenant the following information:

* the purpose of the photos, for example, to assist in providing information regarding what is to be repaired
* the purpose of recording the property condition
* if a decision is made to pursue a property damage claim for repairs, the photos may be used as evidence of the damage
* that they will have an opportunity to discuss their individual circumstances **before** any decision is made by the Director to pursue a claim for repairs.

When a tenant has given their consent to a home visit or inspection, if staff require to take photos this is to be communicated to the tenant at the time the tenant gives their consent and not more than seven days before the home visit or inspection is conducted.

When a notice to enter under s 86(1) of the Residential Tenancies Act is issued, it should be stated a cover letter to the notice to enter that only photos relevant to any identified damage may be taken.

# Accessing the property

Once staff identify the need to enter a property, depending on the situation decisions will need to be made in establishing the most appropriate pathway to access the property.

Access to a tenanted property can occur as a result of:

* a tenant providing consent within seven days prior to a home visit
* notice to enter under s 86(1) of the Residential Tenancies Act and the tenant allows access
* a notice to enter with VPS6 approval where there is a duty of care response required and the tenant refuses access
* welfare check
* emergency access

## Home visits and inspections by consent under the Residential Tenancies Act

Gaining entry by consent is always the preferred method of entering a tenanted property as it may build trust, helps sustain the tenancy and housing staff are not constrained by the limited purposes of entry under s 86(1) of the Residential Tenancies Act.

Staff are able to conduct home visits and inspections when the tenant has provided their consent within seven days before the entry is to occur at a time agreed between the tenant and housing staff under s 85(a) of the Residential Tenancies Act.

The purpose of the home visit or inspection must be made clear to the person before the home visit or inspection is conducted so they can decide whether or not they want to provide consent.

Home visits or inspections by consent:

* are not limited by how many or how often they have been undertaken
* are limited by a person not agreeing to or withdrawing their consent for the visit
* must be conducted in a reasonable and respectful manner under s 87(a) of the Residential Tenancies Act
* do not permit housing staff or others to stay at the property for longer than is necessary to achieve the purpose of the entry under s 87 (b) of the Residential Tenancies Act
* aim to build trust and engage tenants

The person may refuse entry to the public housing property or withdraw their consent. In circumstances where consent is withdrawn, staff are to seek to engage the person in another way or at another time that is suitable to both parties. For example, both the person and staff agree to return on another day with support.

Housing staff may wish to enter a property for multiple reasons on the same occasion that the tenant has provided their consent. For example, housing staff may wish to discuss property damage during a triennial inspection. Housing staff can only conduct both purposes on the same occasion where the tenant has provided their consent. Housing staff should attempt to seek the tenant's consent prior to entry for both the property damage and to conduct the triennial visit.

In cases where tenants consent to home visits or inspections, the following steps are to be taken:

* housing staff will discuss the reason or requirement to access the property
* inform the tenant who will be present, for example a contractor for maintenance or another housing worker
* establish if supports are required such as a tenancy plus worker or an interpreter for translation purposes
* obtain the tenant's consent to access the property
* confirm a suitable day and time to access the property not more than seven days in advance
* the home visit **must** occur within seven days of the initial consent being granted by the tenant or a new agreement of consent will need to be sought from the tenant.

After agreement is reached and consent is granted by the tenant for staff to access the property, staff will send a letter or SMS text to the tenant confirming, the purpose of the visit and the agreed day and time of access.

## Home visits and inspections without consent under the Residential Tenancies Act - Notices to enter

The Director may require lawful access to tenanted properties for different reasons during the course of a tenancy. There are only limited circumstances when the Director can enter the property without the tenant's consent under s 86(1) of the Residential Tenancies Act.

The main reasons for which access or entry to the premises is required by housing staff include:

* + the landlord is fulfilling a duty
  + the landlord has reasonable grounds to believe the tenant has failed in their tenancy duties, which is likely to be related to event driven home visits
  + an inspection of the property and entry for that purpose has not been made within the last six months.

When access is required and tenants have not provided consent for housing staff to enter, a notice to enter the property may be issued under s86 of the Residential Tenancies Act in limited circumstances. The type of notice to enter issued to the tenant will depend on the circumstances and why the Director of Housing requires entry to the property.

If the tenant does not provide their consent for part or the whole purpose of the visit, housing staff should not automatically then issue a notice to enter. For example, where the home visit is for tenant participation purposes and the tenant has stopped participating staff would consider whether it is appropriate to then issue a notice to enter. Housing staff can only issue a notice to enter for a purpose outlined in s 86(1) of the Residential Tenancies Act.

In circumstances where staff can issue a notice to enter under s 86(1), staff need to consider whether it is appropriate and necessary to issue the notice to enter. The consideration should include a tenant's human rights under the Charter and staff should document this consideration.

If housing staff have to rely on a notice to enter, for example, under s 86(1)(f) of the Residential Tenancies Act to inspect the property, the purpose of the visit can only be the stated reason on the notice to enter. For example, the purpose of the triennial visit must be solely to conduct an inspection in order to issue a notice to enter under s 86(1)(f).

Housing staff may enter Director owned and managed property under s 86 in the following circumstances:

* if before giving notice of entry, a notice to vacate or a notice of intention to vacate the rented premises had been given, and entry is required to show the premises to a prospective tenant under s 86(1)(a) of the Residential Tenancies Act. This right of entry may only be exercised in the period of 14 days before the termination date specified in the notice to vacate or notice of intention to vacate under s 86(2) of the Residential Tenancies Act.
* if entry is required to enable the Director to carry out a duty under the Residential Tenancies Act (such as carry out repair works to keep the property in good repair), the tenancy agreement or any other Act ((s 86(1)(c)).
* if the Director or his agent has reasonable grounds to believe that the tenant has failed to comply with his or her duties under the RTA or the tenancy agreement (s 86(1)(e)).
* if entry is required to enable inspection of the property and entry for that purpose has not been made within the last 6 months (s 86(1)(f)). However, where there is a new tenancy agreement this right of entry may be exercised after the end of the first 3 months of the tenancy (s 86(3)).
* if entry is required to enable inspection of the property for the purposes of proceedings arising from or relating to an application made under s 233A (3) of the RTA (s 86(1)(g)). This is not a general right of inspection. An application under s 233A(3) is an application that is made against the tenant by protected person (being a person who has obtained a final family violence intervention order - see s 233A(1) of the RTA) for an order terminating the existing tenancy agreement and requiring the Director to enter into a tenancy agreement with the protected person (and others as provided by the "final order"). The excluded tenant may have a representative present at the inspection. If the excluded tenant wishes to have a representative present at the inspection, the must provide to the Director before the inspection the name and contact details of the representative (s 86(4)).

The following table describes the duties and other circumstances requiring a Notice to enter:

|  |  |  |
| --- | --- | --- |
| Access reason | Division 5 – General duties of tenants and landlords | Section under the Residential Tenancies Act 1997 |
|  | s 68(1) - to maintain the property |  |
| **Landlord duty** | s 69 - replacement of water appliances which one that has an A rating | Section 86(1)(c) |
|  | s 67 - take reasonable steps to ensure tenant has quiet enjoyment |  |
|  | s 70 - to change locks |  |
|  | s 60(1) - a tenant must not use the property or permit the property to be used in a way that causes a nuisance |  |
| **Tenant duty** | s 61 - a tenant must ensure care is taken to avoid damaging the property and take reasonable care to avoid damaging the common areas | Section 86(1)(e) - only if housing staff have reasonable grounds to believe that the tenant has failed to comply with a duty |
|  | s 63 - a tenant must keep the rented premises in a reasonably clean condition |  |
|  | s 64(1) - a tenant must not install fittings without consent |  |
| Other access reason | Division 8 – Rights of entry | Section under the Residential Tenancies Act 1997 |
| **Inspection** | Entry is required to enable an inspection of the property and entry for that purpose has not been made within the last six months. | Section 86(1)(f) |

Once the subsection of s 86(1) of the Residential Tenancies Act is chosen according to the circumstances of the tenancy, a Notice to enter is required to be completed and then sent to the tenant. Staff are to ensure the Notice to enter is lawfully issued. The requirements are as follows:

* the notice must be in writing
* the notice must set out a reason specified in s 86(1) of the Residential Tenancies Act and state the relevant subsection of s 86(1)
* the reasons for the entry are correctly and clearly identified and are relevant to the subsection of s 86(1) which is relied upon in the notice
* the time for entry is stated to be a time between 8am-6pm on any day except a public holiday

Staff are to serve the Notice to enter on the tenant as follows:

* at least 24 hours prior to entry
* by post or by delivering it personally to the tenant between 8am-6pm

If housing staff want to gain entry pursuant to s 86(1)(g) of the Residential Tenancies Act, then the Notice to enter issued to the tenant must also state the name of the excluded tenant's representative if the Director has been given these details under s 88(d) of the Residential Tenancies Act.

## Complying with a Notice to enter

When a notice to enter has been served, for example, under s86(1)(f) for an inspection purpose, the tenant has a duty to permit entry to the property under s 89 of the Residential Tenancies Act.

If the tenant refuses to grant access, they are in breach of the duty in s89 of the Residential Tenancies Act.

If the tenant is not home when housing staff attend the property to gain entry, when a notice to enter has been issued under s86(1) of the Residential Tenancies Act, housing staff should leave a calling card and arrange another time to attend. It is recommended that housing staff only enter when a tenant is home to let them in. In some circumstances, entry may be considered appropriate when valid notices to enter have been issued and the tenant is not at home.

Housing staff may consider what is the most appropriate course of action in the circumstances such as to:

* seek agreement from their manager (VPS6 and above) to enter the property without the tenant’s consent pursuant to the notice to enter, and/or consider whether to pursue this in circumstances where the tenant is not home. When deciding to enter, considerations are listed below that staff need to be taken into account.
* seek agreement from the tenant to enter the property on another day and time
* issue another notice to enter on another day and time
* issue a breach of duty notice and pursue a compliance process at the Victorian Civil and Administrative Tribunal (VCAT), when housing staff do not wish to enter a property by relying on a notice to enter. For example, where tenancy management processes have been unsuccessful and staff cannot enter a property due to safety concerns for themselves and the neighbourhood, the appropriate response may be to pursue a breach of duty notice for a breach of granting access to housing staff (breach of s 89 of the Residential Tenancies Act). Staff are to note that this process may lead to an order of possession and warrant process.

Individual circumstances need to be considered by housing staff before a breach notice is issued after a tenant fails to allow entry. For example, the tenant may be unavailable at the time of the notice to enter.

Legally, housing staff can enter the property without the tenant’s consent if they are relying on a valid notice to enter. However, in practice housing staff must seek approval (VPS6 and above) before entering a tenant’s property without a tenant’s consent even in cases where a notice to enter has been issued. This is a requirement imposed by the department.

Seeking approval will require housing staff to inform their line management (VPS and above) via memorandum. If approval is given to enter the tenant’s property when the tenant is not home, then housing staff must re-issue the notice to enter to the tenant (for a new date and time) and note in the department’s record keeping systems that approval (VPS6 and above) has been granted to enter the tenant’s property pursuant to that re-issued notice to enter, even if the tenant is not at home.

Considerations include:

* where entry presents a threat to the safety or wellbeing of housing staff. For example, where the tenant is making threats to housing staff.
* where the tenant is unable to engage with housing staff and there are tenant well-being concerns. For example, where mental health issues prevent the tenant from engaging appropriately with housing staff and the property has not been checked to ensure it is safe, staff may choose to pursue entry for duty of care or welfare check reasons. This process is to be followed where a breach process is thought to be inappropriate given the tenant’s individual circumstances.

## Director responsibilities and tenant’s rights

The Director acknowledges the tenant's rights to privacy and quiet enjoyment of the property.

The Director has a number of obligations as landlord including an obligation to ensure the tenant’s safety, health and/or well-being are preserved in circumstances where these matters are in the Director's control. The Director must ensure that the property is maintained in good repair.

Staff are to balance the tenant's rights against the Director's duties and take the appropriate action.

## Impact assessment

The purpose of an impact assessment is to ensure staff adequately consider impacts a decision or action may have on a person when deciding whether to enter a tenant’s property and under which grounds the entry can be made.

The impact assessment must be prepared prior to the decision being made for cases where tenant does not give their consent to housing staff to enter their property. This will assist staff in determining any limitations to a tenant’s and any other occupier’s human rights and to ensure compliance with the Charter.

## Management oversight when tenant has not allowed entry

Where access is not provided by the tenant staff are to follow this three-step process:

#### ****Step 1****

Undertake a decision-making process in which all of the circumstances are considered when deciding to enter a property where the tenant is not able to grant access because they are not home but only if housing staff are relying on a valid notice to enter. Housing staff must not enter the property without the tenant’s consent or valid notice to enter.

**Step 2**

Follow a process which is reasonable, transparent and fair according to model litigant guidelines and any human rights considerations

**Step 3**

Record in writing the decision-making process which includes:

* information about the impact to the tenant if entry is made when the tenant is not home (pursuant to a valid notice to enter),
* impact to the tenant if entry is not made,
* impact to the Director and reasons as to why entry is required if the tenant is not at home.

The delegation to approve entry when a tenant is not at home pursuant to a notice to enter is a t VPS6 level or equivalent.

When a VPS6 level manager provides approval to enter a property pursuant to a notice to vacate when a tenant is not at home, staff will provide a letter to the tenant on the day that entry has been made outlining the circumstances that required the housing staff to access the property.

The letter will also inform the tenant of:

* the date and time that housing staff entered the property pursuant to the relevant notice to enter,
* that the Director was legally entitled to enter the property, pursuant to the notice to enter, even though the tenant was not at home and did not provide access by consent.

The letter can be left at the property when the entry was made or in circumstances where this is not possible staff must send a letter to the tenant on the day that entry has been made.

## Emergency access

Circumstances may arise when the department needs to facilitate access for authorised persons such as emergency services officers to enter where those persons are authorised to enter. In these circumstances the department may not have an opportunity to obtain the consent of the tenant or to provide a notice to enter. It is likely that these circumstances would be covered by a 'reasonable excuse' under s 91A of the Residential Tenancies Act described above.

For example, entry may be required due to a suspected or actual emergency or in order to protect or prevent damage to the premises or adjoining properties. Reasons for entry may include:

* + - * + the possible injury or death of a tenant or other person in the property
        + where there is a risk or real possibility that the property will be affected by flooding, fire or a major service issue e.g. a gas leak, dangerous electrical fault etc.
        + where the Police or other emergency services workers are legally authorised to enter a property
        + where household members are locked inside or outside of the rented property
        + where animals or young children are left unattended in a property and their health or safety is in danger.

**Note: If there is an immediate concern for the safety of a person, staff will contact Victoria Police on triple zero (000).**

[*Access to director owned properties tenancy management manual*](https://providers.dhhs.vic.gov.au/access-director-owned-and-managed-properties-chapter-13-tenancy-management-manual-word)<https://providers.dhhs.vic.gov.au/access-director-owned-and-managed-properties-chapter-13-tenancy-management-manual-word>

# Other circumstances

## Family violence

The Family Violence Multi-Agency Risk Assessment and Management (MARAM) Framework aims to increase the safety of people experiencing family violence and ensure perpetrators are kept in view and held accountable for their behaviour.

MARAM establishes a system-wide understanding of family violence, by ensuring all relevant services are effectively identifying, assessing and managing family violence risk. MARAM recognises a wide range of risk factors for Aboriginal and diverse communities, children and young people and older people across many identities, family and relationship types.

The MARAM Framework is legislated under Part 11 of the *Family Violence Protection Act 2008.* A range of organisations and services, including DHHS Housing, are prescribed under MARAM and have responsibilities under MARAM.

The [MARAM Victim Survivor Practice Guidance](https://www.vic.gov.au/maram-practice-guides-and-resources) supports workers to understand their relevant responsibilities under the MARAM Framework. Housing staff who undertake home visits and property inspections should utilise *Responsibility 1: Respectful and Sensitive and Safe Engagement* and *Responsibility 2: Identification of Family Violence* to identify and screen forfamily violence risk*.*

Additionally, housing staff should also refer to *Responsibility 9 & 10: Contribute to coordinated risk management and collaborate for ongoing risk assessment and management.* This guidance will support housing staff to work with other organisations across the service system and to understand the role of ongoing risk management.

The Family Violence Information Sharing Scheme enables the operation of the MARAM Framework. It has been established under Part 5A of the *Family Violence Protection Act 2008,* enabling relevant information to be shared between prescribed information sharing entities (ISEs) to assess and manage family violence risk.

The Child Information Sharing Scheme, established under Part 6A of the *Child Wellbeing and Safety Act 2005*, enables prescribed ISEs to share information with each other in order to promote the wellbeing and safety of children.

Housing staff should refer to *Responsibility 5 and 6: Information sharing with other services including secondary consultation and referral* for information on sharing information relevant to family violence risk, under both schemes, how to respond to information sharing requests from other services and how to conduct an internal and external referral. E.g. Referrals to Tenancy Plus.

Supporting resources are being developed to support housing staff to meet their obligations under MARAM and the information sharing schemes.

## Encountering unattended minors

During a home visit if staff become aware of a situation (for example, antisocial behaviour, tenancy breach) in a Public Housing property where a child is present, they must determine, if not already established, the impact of the situation on the child’s safety and wellbeing and respond to the concerns.

**Note: If there is an immediate concern for the safety of a child, Public Housing staff will contact Victoria Police on triple zero (000).**

In circumstances where housing staff identify situations where there are significant concerns for the safety or well-being of a child, they may consider making a report to Child Protection or a referral to Child FIRST or to the Orange Door.

For further information regarding the reporting of significant concerns for the safety or well-being of a child see [*Exchange of Information between Child Protection, Aboriginal Community controlled Organisations (ACCOs) and Public Housing operational guidelines*](https://www.cpmanual.vic.gov.au/advice-and-protocols/protocols/intra-dhhs/housing)<https://www.cpmanual.vic.gov.au/advice-and-protocols/protocols/intra-dhhs/housing>

# Appendix

**The following table describes the types of home visits or inspections that may occur during a public housing tenancy.**

|  |  |  |  |
| --- | --- | --- | --- |
| Home visit or inspection type | Focus | Description | When due |
| Initial | Person focus – Home visit | Visit at the start of a new tenancy. Requires tenant consent. | Within the first 10 weeks of the new tenancy commencing |
| Tenant participation | Person focus – Home visit | Throughout the tenancy. Requires tenant consent. | When scheduled – e.g. quarterly or as agreed |
| Event driven | Person focus – Home visit | Welfare check  Keeping in touch  May not require tenant consent if can enter for a purpose set out in s 86(1) of the Residential Tenancies Act. | Immediate response |
| Event driven | Tenancy focus – Home visit, inspection or both | Arrears – Order of possession  Arrears – Future Tenancy Plan  Rebate  Transfer of tenancy between household members  Transfer to another property (TRP)  Tenancy Breaches  Tenant providing a notice of intention to vacate  May not require tenant consent if can enter for a purpose set out in s 86(1) of the Residential Tenancies Act. | Notices and time frames |
| Event driven | Property focus – Inspection | Maintenance – Client request  Maintenance – Occupational therapist  May not require tenant consent if can enter for a purpose set out in s 86(1) of the Residential Tenancies Act | When information or a request is received from tenants or a third party |
| Triennial visit | Tenancy and property focus | Enter pursuant to s 86(1)(f) to inspect (but cannot require TCR)  Property assessment | Once every three years |