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| Pets in public housing |
| Operational guidelinesApril 2022 |
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# Revision history

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# When do these operational guidelines apply?

These operational guidelines apply to:

* residential rental agreements (rental agreements) that commenced from 2 March 2020
* existing rental agreements that acquire a pet from 2 March 2020.

Any tenancies that have a pet prior to the implementation date of Division 5B in Part 2 of the *Residential Tenancies Act 1997* (RTA) 2 March 2020 need only request permission for new pets that join the household from that date.

A pet means any animal except an assistance dog (a dog that is trained to perform tasks that help a person with a disability to reduce the effects of their disability) in accordance with the *Equal Opportunity Act 2010*.

# Introduction

From 2 March 2020, renting laws allow renters to keep pets at a rental property with the written permission of a residential rental provider (rental provider). Refusal of a request for the pet is managed through formal processes at the local office and at the Victorian Civil and Administrative Tribunal (VCAT) within certain timelines.

The Director of Housing (Director) is a social landlord. In making decisions on behalf of the Director, the Department of Families, Fairness and Housing (department) has obligations beyond just tenancy management and should contribute to renter wellbeing. The department accepts that renters may have pets that contribute to renter wellbeing.

Further, as a social landlord, the Director aims to provide well maintained public housing properties suitable to the housing needs of eligible Victorians.

The Director generally allows renters to keep pets at rented properties subject to complying with relevant legislation and these guidelines. The RTA provides that a renter can keep a pet in their home as long as the following are considered:

* the type of pet the renter wants to keep, or is keeping
* the character and nature of the premises the renter is renting
* the character and nature of the appliances, fixtures and fittings in the premises
* other relevant laws (for example, if the pet is prohibited by legislation or a local council law)
* anything else the Victorian Civil and Administrative Tribunal (VCAT) may consider relevant.

A rental provider cannot unreasonably refuse a pet being kept at the rented premises.

Any issues arising from the keeping of pets that result in tenancy or property concerns are managed in accordance with the *Tenancy Breaches operational guidelines*. This may result in action being taken under the RTA or other relevant legislation.

# Human rights considerations

All departmental staff are required to consider the potential impact of any proposed action on the person’s (and their household’s) rights under the [*Charter of Human Rights and Responsibilities Act 2006*](http://www.humanrightscommission.vic.gov.au/the-charter) (Charter) <http://www.humanrightscommission.vic.gov.au/the-charter>.

By taking a human rights based approach, the department is able to ensure the client and renter are at the centre of all decisions made. It does not mean that a renter’s human rights can never be limited. It means that any decisions made that limit the renter’s human rights must be lawful, necessary, logical, reasonable and proportionate.

Staff taking action in line with these operational guidelines must:

* understand the objective and rationale of the actions they are taking
* consider the impact of a proposed action on the person’s human rights (more than one human right might be relevant)
* consider whether the proposed impact is balanced, proportionate and necessary to achieve the objectives for these operational guidelines, and
* choose the least restrictive measure available.

The [Charter of Human Rights and Responsibilities](http://www.humanrightscommission.vic.gov.au/the-charter) <http://www.humanrightscommission.vic.gov.au/the-charter> – A guide for Victorian public sector workers is also available to guide staff and their line management when considering human rights as part of the decision making processes at <www.humanrightscommission.vic.gov.au>.

# Relevant legislation

The main laws relating to pets fall under the *Domestic Animals Act 1994* and the *Private Dog Code.* The domestic animal legislation and related issues fall under the responsibility of Agriculture Victoria which is part of the Department of Jobs, Precincts and Regions, while the regulatory functions are the responsibility of local councils. Local councils have responsibilities relating to enforcing the legislation around dangerous, menacing and restricted breed dogs (see below).

The *Private Dog Code* outlines the responsibility of owners, carers and custodians of dogs and provides minimum standards to maintain the welfare of dogs. It also outlines the minimum standards for housing dogs in terms of enclosures, fencing and treatment of animals with regard to tethering.

The department is also governed by multiple legislative instruments that must be adhered to while managing public housing tenancies. These include, but are not limited to the:

* *Housing Act 1983)*
* *Privacy and Data Protection Act 2014*
* *Residential Tenancies Act 1997*
* *Equal Opportunity Act 2010*
* Domestic Animals Act 1994
* *The Charter of Human Rights and Responsibilities Act (2006)*
* Prevention of Cruelty to Animals Act 1986
* The Private Dog Code

# Pet request process review

Section 71(A-E) of the RTA applies to all tenancies that commenced from 2 March 2020. These provisions generally allow renters to keep pets on their rented premises with written consent from their rental provider.

A renter must seek consent from the rental provider to keep a pet by completing the *Pet Request* form and sending it to the local housing office using methods listed on the form.

## If a renter keeps a pet without consent from 2 March 2020

If the Director believes that a pet is kept on the rented premises without consent from 2 March 2020, a decision can be made to apply to VCAT for an order to exclude the pet from the premises. This can be at any time during the tenancy. Renters must therefore declare all pets to the Director by completing the Pet Request form.

## Rental agreements signed before 2 March 2020

Any tenancy existing prior to 2 March 2020 is exempt from the new pet provisions in the RTA, as these will not apply retrospectively to them for current pets. The new laws will only apply for these tenancies if a new pet is introduced to the household from that date.

However, existing laws will continue to apply in these circumstances. For example, if a complaint is received by the Director regarding an existing pet, the Director may investigate and take action under existing applicable laws.

# The renter’s responsibilities

## Requesting permission to keep a pet

Renters must use the Pet Request form to seek consent from the Director to keep a pet at the rented premises. It is important for the renter to complete all sections of the form to enable the Director to make an appropriate assessment about the suitability of keeping the pet at the premises and whether it is reasonable for the Director to give consent. If a renter submits the form without sufficient information, further information may be required before any decision is made.

Renters are responsible for ensuring that relevant registration and licences are obtained for the pet and for complying with all relevant legislation and codes of practice for keeping the pet. These details should be written on the form. If a renter submits a Pet Request form and does not provide the department’s local office with registration details of the animal, the renter is advised to talk to their local council about their requirements in relation to their pet. This is especially important for restricted breed dogs and other animals that require a special permit.

Before seeking consent, renters should check if the pet complies with local council by-laws and other laws about pet ownership. More information can be found at the [Pets section – Department of Jobs, Precincts and Regions websit](http://agriculture.vic.gov.au/pets)e <http://agriculture.vic.gov.au/pets>.

The Director cannot unreasonably refuse consent for a renter to keep a pet. If the Director does not consent to a renter keeping a pet or seeks to exclude a pet from rented premises, the Director may apply to VCAT for orders to support refusal of the pet request.

A separate *Pet request* form must be completed for each pet that the renter wishes to keep at the premises. The completed form/s is submitted to the department’s local office. A copy of the form/s including the details of the date and how the form is given, should be kept by the renter for their records.

## Sending the Pet Request form

Under the RTA, the Director is taken to have consented to a request to the keeping of a pet on the rented premises unless, within 14 days after being given the request, the Director applies to VCAT for an order.

The 14-day period for the Director to apply to VCAT if the pet request is refused begins the day the form is received. It is important to note that if the form is sent by post, extra days may be needed for the form to be received by the Director and this should be considered.

For information on Australia Post mail delivery options and times, visit the [Australia Post website](https://auspost.com.au/parcels-mail/calculate-postage-delivery-times/#/) <https://auspost.com.au/parcels-mail/calculate-postage-delivery-times/#/>. The form can also be handed in person at a local office – ensure that it is date stamped and signed by the officer. A copy of the form can be requested at this time.

# The Director’s responsibilities

When the Pet Request form is received, it is date stamped the same day it is received as proof. This date is important as the Director must make a decision within 14 days from the date the form is received to avoid deemed consent under the RTA.

Any decision will be reflected on the form and a copy will be sent to the renter.

In deciding whether to consent to a pet request, the Director may have regard to various factors, including but not limited to the following:

* information provided by the renter;
* the factors set out in section 71E(2) of the RTA;
* information about the pet’s age, size, temperament, training or other characteristics;
* whether the premises are suitable for keeping the type of pet (e.g. size of property, outdoor areas);
* whether the pet is permitted or regulated under any Act, regulations or local council by-laws; and
* whether the pet is to be kept inside or outside, or in an appropriate enclosure.

Renters must ensure that all the relevant information is given to the Director to inform the decision-making process. If a renter does not provide the relevant information required, the Director may make a decision regarding consent for a renter to keep a pet based on the information available to the Director at that time.

## Pet request is approved

If consent to the pet request is given, the renter should be notified in writing by returning a copy of the Pet Request form with the relevant section completed. A copy is kept for the tenancy records and a record of the approval noted against the tenancy record.

## Pet request is refused

Under the new pet provisions, consent for a renter to keep a pet on the rented premises cannot be unreasonably refused. If the Director intends to refuse consent, or reasonably believes that a pet is being kept on the rented premises without the Director’s consent, an application to VCAT **may** be made seeking an order that it is reasonable to refuse consent to keep the pet, or an order to exclude the pet from the rented premises. VCAT will hold a hearing and consider the Director’s application and decide what type of order should be made.

If an application is not made to VCAT within the 14-day period, consent is deemed to be granted. Therefore, it is recommended that an application to VCAT is made prior to the expiry of the 14 day period.

The application to VCAT is made pursuant to section 71D of the RTA and is sent to the renter together with a copy of the Pet Request form and a cover letter explaining why the request is refused.

## Director has reasonable grounds to revoke previous consent

If circumstances regarding the keeping of a pet change during the tenancy and the Director considers that it is reasonable to revoke its consent to keep the pet, the renter must be contacted to discuss the proposal or alternatively invited to respond to the proposal in writing.

Once the Director has considered any information given or submissions made by the renter (in addition to other relevant factors), the Director considers whether to revoke consent to the renter keeping the pet, The renter should be notified of the decision in writing, with a copy kept for the tenancy records.

An application may be made to VCAT through the process set out above, seeking orders that it is reasonable to refuse consent for the renter to keep the pet and to exclude the pet from the rented premises.

## VCAT approves pet

If VCAT’s decision is that the Director’s refusal to consent to keep the pet at the premises is unreasonable, the Director notes this outcome for the tenancy and the legal record is updated accordingly. The Pet request form is noted accordingly, and a copy is placed onto the tenancy record with the VCAT order.

## VCAT upholds Director’s decision to refuse consent for the pet

If VCAT upholds the Director’s decision to refuse consent to keep the pet or to exclude the pet, an order is made accordingly. In the case of an exclusion of the pet from the premises, the order will include a date for the renter to comply. The renter must remove the pet from the premises as specified in the order made by VCAT.

## Non-compliance by the renter

If the renter does not comply within 14 days of the date specified in the order, a Notice to Vacate may be served by the Director under new section 91ZZG (*Notice to vacate when pet kept without consent)*. The notice must give a minimum 28 days to vacate after the date on which the notice is given.

The renter should be assisted to engage with local council and support services to meet conditions of the order prior to pursuing action to give a Notice to Vacate and possible eviction.

# Role of local councils

## Council powers over pet ownership

Councils have wide powers under the *Domestic Animals Act 1994* to make laws. Councils can make local laws on how many dogs and cats can be kept and if they are allowed at any premises.

Each council will have its own local by-laws relating to pets which include microchipping, registration and confinement of dogs to owners’ properties, however some rules are the same for all councils. Under the *Domestic Animals Act 1994*, registration of pets is required (including all dogs and cats over three months old), confined to the property and not cause a nuisance. Breach of these rules can result in fines and/or court action by the council. Additionally, if animals are mistreated or not properly cared for, owners can be prosecuted or banned from owning an animal.

Microchipping, registration and confinement of pets are the responsibility of the owner. Councils must keep a register of all registered dogs and cats which is publicly accessible by any person. There are limits however on information that can be accessed about breeders, domestic animal businesses and registered foster carers. Restrictions also apply on who may inspect the register of dangerous, menacing and restricted dog breeds.

Housing staff acting on behalf of the Director do not have a general duty to notify a local council about an unregistered pet in the absence of any information sharing agreement.

Pet owners must ensure that they understand and follow their local council by-laws regarding their pet before seeking permission to keep the pet at their property. By law, a person is considered the owner of a pet even if they are only looking after it for a short time for someone else. It is against the law to let a any pet wander on its own outside a property. Therefore, renters are responsible for any potential nuisance behaviour, injury/damage to persons or property, or damage the pet may cause to their rented property.

## Menacing, dangerous or restricted breed dogs

Restricted breed dogs are defined as dogs that fit the [*Approved Standard for Restricted Breed Dogs in Victoria*](http://agriculture.vic.gov.au/pets/dogs/restricted-breed-dogs/standard-for-restricted-breed-dogs) (standard) <http://agriculture.vic.gov.au/pets/dogs/restricted-breed-dogs/standard-for-restricted-breed-dogs>. Specific requirements apply to the registration of dogs declared menacing, dangerous or restricted breed dogs.

Local councils are authorised to control pets within their area, with authorised officers responsible in ensuring that owners of restricted breeds comply with the law. Authorised officers can deem a dog to meet the standard and they will be declared as a restricted breed. Owners have the right to appeal the council's decision through VCAT.

Owners of restricted breed dogs must comply with a range of requirements, relating to housing, microchipping, de-sexing, and identifying their dog’s classification. Restricted breed dogs must also be muzzled and leashed when being exercised off the property. Under local council laws, an owner of these animals has certain responsibilities to ensure the safety of people around the animal. These include property modifications such as fence height, appropriate signage about the presence of the animal. These property modifications may not be aligned to public housing property/maintenance standards and may affect the Director’s decision to consent to a renter’s request to keep this type of pet at the premises. [Click here for full details of ownership requirements for Restricted Breed Dogs](http://agriculture.vic.gov.au/pets/dogs/restricted-breed-dogs/owning-a-restricted-breed-dog) <http://agriculture.vic.gov.au/pets/dogs/restricted-breed-dogs/owning-a-restricted-breed-dog>.

To find out which local council you should speak to, go to the [*Know Your Council*](https://knowyourcouncil.vic.gov.au) site <https://knowyourcouncil.vic.gov.au/>.

# Owners corporation rules and pet requests

Rules of an owners corporation are binding upon both the lot owner (the Director) and lot occupier (the renter).

Public housing properties situated within estates run by an owners corporation may be subject to special rules governing the keeping of pets at the premises. Renters residing in owners corporation estates must follow these rules regarding pet ownership. The Director must consult the rules of the relevant owners corporation when considering whether to approve a pet request.

Owners corporations may have their own special rules about pets on their premises, including the common property. VCAT generally upholds these rules if valid. Therefore, a renter’s request to keep a pet at a property where the owners corporation prohibits the keeping of pets cannot be approved by the Director and, subsequently will be compelled to make an application to VCAT to exclude the pet. VCAT may make a decision to exclude the pet under section 71E of the RTA after considering any rules made by an owners corporation pursuant to the *Owners Corporation Act 2006.*

If the rules of an owners corporation allow pets and the Director does not approve the pet request, an application can be made to VCAT for a decision. There may be reasonable grounds to refuse a pet request due to the existence of common areas and/or the pet not being suited for the property occupied by the renter.

# Leased properties

The Director leases properties from private owners to supplement the supply of social housing. The Director then subleases the property to public housing renters.

Pet requests are considered by the Director and decisions made without obligation to notify the private owner subject to the terms of any agreement. If the private owner objects to a pet being kept at the premises by the renter, the Director is not compelled to refuse the pet request – a pet request can only be refused if reasonable to do so in accordance with the RTA pet provisions. However, the Director may have regard to the terms of the head lease in assessing a sub-renter’s request to consent to keeping a pet.

Conversely, if the private rental provider allows a pet and the Director believes there are reasonable grounds to refuse the pet, the Director may make an application to VCAT for a decision.

# Offers of housing

## Suitability of the pet for the property

As part of the offer process, prospective renters are informed about the pet provisions and made aware of their rights and responsibilities if they have/will have a pet at the property. The type of pet, and its suitability to the offered property, is discussed at the offer interview and any issues that may lead to a pet request refusal are outlined ahead of the sign-up stage.

This process aligns with the role of a social landlord and transparent processes. By informing housing applicants before they sign up for the property, the client is informed about the requirements of local council to be able to keep their pets and comply with local by-laws.

The issue of pets is again discussed at the sign-up interview and the *Pet Request* form given to the new renter to complete and submit to the office. If the form is not returned to the Director for consent, the renter is contacted by phone or at a home visit (note the initial home visit can be used for the purpose to collect the pet request while allowing the renter to make necessary arrangement to comply with local by-laws such as registration of the pet).

If at any stage from offer to sign-up, it is determined that a declared pet would not be appropriate for the premises or any other issues are identified about keeping the pet at the premises, the concerns are outlined to the client and the sign up proceeds as per the *Public housing allocations operational guidelines*. Then the pet request process will commence, and action taken as outlined in these guidelines.

# Pets and property modifications

A pet request is not approved if non-standard modifications are required that would significantly alter or compromise the Director’s property. If the Director has approved a pet request and the renter wishes to make some modifications to the property required to comply with the local by-laws for the renter to keep the pet, they must submit an *Internal/external works permit* and gain approval to install the proposed modifications at their own cost. The renter must remove these modifications at the end of the tenancy at the renter’s cost.

# Pets and property damage

Any damage caused to the premises by an approved pet due to the negligence or carelessness of the pet owner must be avoided. Property maintenance charges may be pursued in accordance with the *Tenant property damage operational guidelines.*

# Pets and tenancy breaches

A renter is responsible for the behaviour of their pet. Any nuisance behaviour or any incident caused by a pet are managed in accordance with *Tenancy breaches operational guidelines.*

# Animal welfare- responsibilities of pet owners

Pet owners are responsible for the welfare and well-being of their animal as specified in the Prevention of Cruelty to Animals Act 1986.

There may be instances where a neglected animal at a rented premise is reported by neighbours or other parties such as departmental maintenance contractors. The department will attempt to contact the renter by telephone and home visit. If these are unsuccessful, attempts to contact the renter’s authorised representatives or secondary contact persons should be made.

If all attempts at contacting the renter are exhausted and it is determined that there is a risk to the safety of the animal, further action can be pursued to report the potential breach of pet related legislation to the local council.

If the Director suspects that the welfare of a pet is being compromised, the personal information of the renter can be disclosed to the local council for the purpose of detecting, investigating or prosecuting the suspected breach. If the relevant council has no enforcement role in relation to the legislation, the disclosure can be made to the relevant authority for their action e.g. RSPCA

Any action taken in resulting in disclosures are to be used solely for the purposes set out above and must be recorded on the tenancy record.

# Helpful resources for responsible pet ownership

[Animal Welfare Victoria - Information about pet legislation and registration](http://agriculture.vic.gov.au/pets/registration-legislation-and-permits): <http://agriculture.vic.gov.au/pets/registration-legislation-and-permits>

[RSPCA Australia Knowledgebase - Information about choosing and caring for your dog or cat](https://kb.rspca.org.au): <https://kb.rspca.org.au/>

[The Pet Industry Association of Australia (PIAA) - Information about breeders and pet care](https://piaa.net.au): <https://piaa.net.au/>.

# Further information about pet laws

For more information, visit [Consumer Affairs Victoria’s Pets andrenting page](https://www.consumer.vic.gov.au/housing/renting/applying-for-a-rental-property-or-room/pets-and-renting) <https://www.consumer.vic.gov.au/housing/renting/applying-for-a-rental-property-or-room/pets-and-renting> or call Consumer Affairs Victoria on 1300 55 81 81.