



COMMUNITY HOUSING
Industry Association Victoria

Practice Guidance for Community Housing Organisations
Managing Rooming Houses

Notices to leave



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Purpose

The purpose of this guide is to support community housing Rooming House Operators (RHOs) to understand the requirements for issuing a notice to leave in rooming houses.

It is guided by the requirements outlined in the Residential Tenancies Act 1997 (Vic) (RTA).

Should you have any questions or comments on the information in this guide, please email leadingpractice@chiavvic.com.au.

Key resources

The key resources referred to in this guide can be found below.

Key resources	Links
Consumer Affairs Victoria – Forms and publications (Renting)	Forms and publications - Consumer Affairs Victoria
Residential Tenancies Act 1997 (Vic) (RTA)	RESIDENTIAL TENANCIES ACT 1997 (austlii.edu.au)
Residential Tenancies Regulations 2021	RESIDENTIAL TENANCIES REGULATIONS 2021 (SR NO 3 OF 2021) (austlii.edu.au)

Definitions

The definitions for common terms used in this guide are set out below.

Term	Definition
Consumer Affairs Victoria (CAV)	A Victorian Government agency responsible for regulating accommodation under the RTA and other consumer protection laws.
Danger	A resident or their visitor, by act or omission, endangers the safety of neighbours, the RHO, or their employee or contractor.
Managed premises	Managed premises are defined as caravan parks, rooming houses, Part 4A parks, and 'managed high-density buildings', which are buildings that contain two or more rented premises and have an onsite manager.
Manager	Manager of a managed premises, which includes an onsite manager, rooming house owner, caravan park owner or site owner.

Notice to Leave (NTL)	A legal notice to a rooming house resident in cases of serious violence which immediately suspends the tenancy and requires them to leave the premises.
Notice to Vacate (NTV)	A legal notice to a resident that the rooming house operator wants them to vacate the room by a certain date, issued in accordance with the RTA.
Onsite manager	A person whose duties include the security of the building, day to day operational responsibility for the building, and are present at the building or available to be present at least 7 hours a day, 5 days a week.
Prescribed form	The form that is required to be used when issuing a notice or providing information to renters as defined by Victorian rental law.
Resident	A person who occupies a room in a rooming house under a rooming house agreement.
Residential Tenancies Act (RTA)	The Residential Tenancies Act 1997 (Vic). The principal legislation governing rental housing in Victoria.
Residential Tenancies Regulations 2021 (Vic) (RT Regs)	The Regulations contain supporting details for the Residential Tenancies Act 1997 (Vic).
Rooming house	A building where 4 or more people can live in rented rooms, some of which might be shared with communal facilities, or which has been declared a Rooming House under s19 of the RTA.
Rooming House Operator (RHO)	A Rooming House Operator (formerly owner) who runs a rooming house.
Victorian Civil & Administrative Tribunal (VCAT)	A legal institution set up to administer several Acts. For residential tenancies, the Tribunal administers the Residential Tenancies Act 1997 (Vic).

Background

Under the Residential Tenancies Act 1997 (Vic) (RTA), there are special powers for Rooming House Operators (RHOs) to protect the safety of other residents and RHO employees and contractors.

The RTA contains specific provisions relating to violence on 'managed premises'. Managed premises are defined to include rooming houses and 'managed high-density buildings', which are buildings that contain two or more rented premises and have an onsite manager.

Under [s368](#) of the RTA, a manager of a managed premises may give an immediate Notice to Leave (NTL) for serious violence, instead of a Notice to Vacate (NTV) for danger under [s142ZC](#).

A NTL can only be issued where there are reasonable grounds to believe that the resident or their visitor has committed a serious act of violence on the premises, or that the safety of any person on the premises is in danger from the resident or their visitor.

A NTL is different to a NTV. Once a NTL is given, it is an offence for the person receiving it to remain on the premises.

Assessing grounds to issue

Under [s368A](#) It is an offence to give a NTL without reasonable grounds to do so and there are duties of care to use these powers responsibly and in a manner that protects the safety of others.

This duty could be breached by issuing a notice inappropriately or by failing to issue a notice when such action is necessary for the protection and the safety of other residents.

RHOs should also consider the reputational damage and possible legal action that could result from failing to protect residents, or inappropriately evicting a resident.

Staff with powers to use these notices should ensure they are familiar with these issues and responsibilities. Organisations should ensure that there are processes in place that guide when, why and how NTLs can be served.

Factors to consider when determining whether the incident meets reasonable grounds to issue a NTL, include:

- Is the danger ongoing?
- Did the incident occur on the premises?
- Was the incident caused by a resident or their visitor?
- Will the NTL be issued as soon as safely possible to do so from when the incident occurred?
- Is immediately suspending the resident's tenancy right proportionate to the incident that occurred?
- Are there other alternative actions available that would be more appropriate and would keep everyone safe?
- Has a NTV for danger under [s142ZC](#) already been issued in relation to the incident?¹

¹ In accordance with [s377A](#), it is prohibited to issue a NTL, if a NTV for danger under [s142ZC](#) has already been issued in respect of the same act or omission.

- Does the incident relate to a visiting family member who endangered the safety of the resident under circumstances of family violence?²
- Has the decision to proceed with issuing a NTL been assessed and approved by an appropriately authorised member of the organisation?

Issuing the notice

Under [s368\(4\)](#) a notice to leave must be given as soon as it is possible for the RHO to safely do so after the serious act of violence has occurred or the safety of a person on the premises has been endangered.

Significant delay delivering the notice may result in the notice being deemed invalid by the Victorian Civil & Administrative Tribunal (VCAT).

Where possible, the notice should be personally delivered to the resident, generally on the same day that the incident occurred, or the following morning in cases where the incident occurred overnight.

Service by registered post may be considered as an interim measure in circumstances where the resident is unable to be located for personal service. In these cases, it will be harder to show at VCAT that the NTL has been given as soon as possible.

A NTL must be in the prescribed form (Form 24) as detailed under [Regulation 92](#). A template in this format is provided in [Appendix A](#), and an example cover letter is provided in [Appendix B](#).

The notice to leave form is not available to generate through the [VCAT Residential Tenancies Hub](#), therefore a manual notice must be issued, which is available to download from CAV [Notice to leave to resident of managed premises or their visitor](#).

Where a manual notice is issued, a manual VCAT application must also be completed, the form is available for download from VCAT [General application - Residential tenancies](#).

Serving notices safely

When serving an NTL, where possible it should be personally delivered to the resident. If the resident is at a known location away from the premises (e.g. in police custody), the notice should be given to them at that location (provided it can be safely served).

Given the potential safety concerns of issuing a NTL to a resident, RHOs must consider safety considerations for staff, including:

- Arranging for multiple staff to attend when serving the notice; and
- Utilising police presence.

Upon service, RHOs should attempt to obtain current contact information from the resident to ensure the resident receives any notifications about the VCAT hearing.

² In accordance with [s368\(5\)](#) of the RTA, where a visitor who is a family member commits family violence against a resident, a notice to leave cannot be given.

Immediate suspension

The notice immediately suspends the person's right to remain at the property ([s369](#) and [s370](#)), they must leave immediately, and the suspension remains in force ([s371](#)):

- Until the end of 2 business days after it commences; or
- If an urgent application is made to VCAT under [s374](#), until VCAT has heard and determined the application.

Collecting personal belongings

Where a resident has been suspended or evicted, and cannot return to the rooming house, under [s372A](#) they can nominate someone to collect their personal belongings and make arrangements with the RHO for them to be collected.

Enforcement of notice to leave

Under [s377](#), if the person given the NTL does not leave immediately, or they return to the property during the suspension, they are committing an offence.

Where a notice to leave has been issued and the resident is failing to comply, police should be asked to assist.

The Minister for Police has confirmed that police will offer assistance to community housing organisations in these circumstances. Refer to [Appendix C](#) which details correspondence with Vic Police.

VCAT application

In most cases, an urgent VCAT application will be made. Although there is no duty to proceed with making an application to VCAT to seek possession. If an incident is serious enough to lead to a NTL being served, it will usually be serious enough to seek to end the residency.

If an application is not made, the suspension ends, and the resident may return to the property and resume their tenancy at the end of two business days from the date of the notice.

Notifying the VCAT principal registrar

Under [s373](#), RHOs must notify VCAT's principal registrar in writing that the NTL was given, regardless of whether an application to VCAT is made, no later than the end of the next business day after the day on which the NTL was given.

Written notice can be given by email to renting@courts.vic.gov.au.

Urgent application to VCAT

An urgent VCAT application for possession must be made under [s374](#) within two business days of issuing the NTL (before the two day suspension period ends).

Documents and evidence must be sent to VCAT right away.

VCAT should hear the application within 2 business days after the application is made ([s375](#)). In circumstances where a hearing is not scheduled by VCAT within the expected timeframe, this can be followed up with VCAT by emailing renting@courts.vic.gov.au.

The suspension period remains in force until the matter is determined by VCAT ([s371](#)).

VCAT orders

Under [s376](#), when considering the application, VCAT will determine whether the NTL was appropriate or not.

The decision is subject to the reasonable and proportionate test as set out in [s330A](#).

If VCAT find the NTL was appropriate, they may decide to make an order terminating the residency agreement, as at the date of the order. Possession is automatically granted, without any need to execute a warrant.

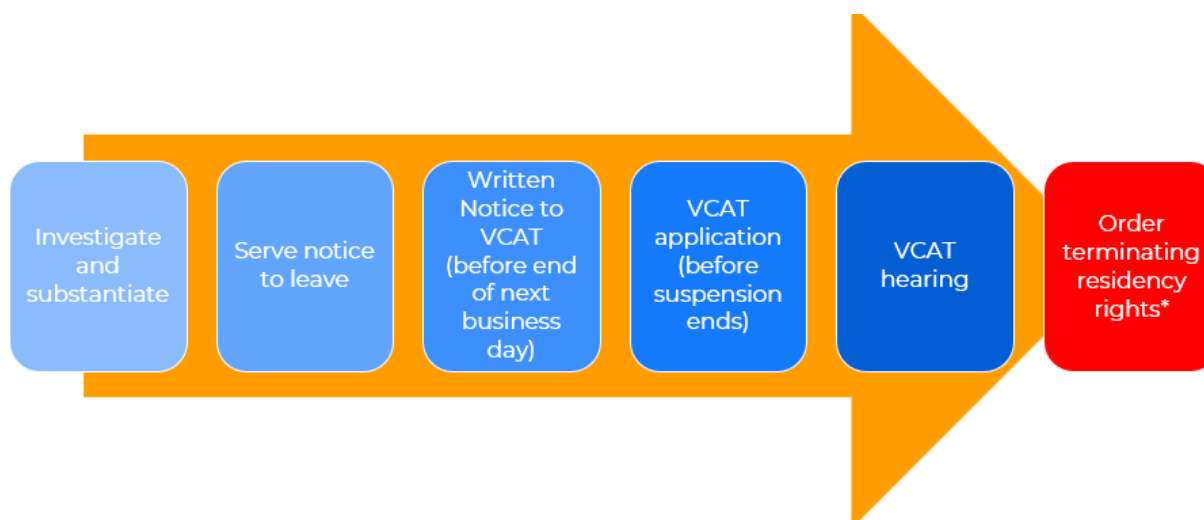
If VCAT find the NTL was not appropriate, they must order that:

- The resident is no longer suspended, and they can move back in;
- The resident does not have to pay rent for the time that they were suspended; and/or
- The RHO must pay compensation to the resident.

VCAT have authority to make any ancillary or incidental orders they see appropriate, regardless of whether they see the NTL to be appropriate or not.

Process steps

The below diagram details the process steps for issuing a notice to leave and proceeding to VCAT to seek possession.



Appendix A: Notice to leave

Notice to leave to resident of managed premises or resident's visitor



Residential Tenancies Act 1997 Section 368(3)

Residential Tenancies Regulations 2021 Regulation 92

Part A – Information for the resident or visitor

If you are a resident

- This notice suspends your right to live in the managed premises.
- After receiving this notice, you must leave the premises immediately.
- It is an offence for you or your visitor to fail to leave the property, or return to the property, during the suspension.
- You may arrange with the manager of the premises for someone to collect your personal items from the premises. This includes things you might need during the suspension, such as food, clothing and medicine, or evidence for a VCAT hearing.
- You must pay rent during the suspension unless the Victorian Civil and Administrative Tribunal (VCAT) finds that you should not have been given this notice. If that happens, any rent you pay during the suspension must be paid back to you, in addition to reasonable expenses you incur during the suspension.
- If you receive this notice, you should urgently contact VCAT on 1300 018 228 to determine whether an application to VCAT to terminate your residency has been made.

When you may return

- If the manager does not apply to VCAT-
You can return at the end of 2 business days from the date of this notice, which is (insert date).
- If the manager applies to VCAT-
You must not return until after VCAT hears and decides that application.

Attending your VCAT hearing

- If the manager applies to VCAT to end your residency, it is important that you attend the hearing and get legal advice.
- VCAT cannot make an order terminating your housing unless it decides that is reasonable and proportionate to do so, after considering the circumstances.
- You may want a lawyer to represent you at this hearing (see Help or Further Information, below).

Getting Help

Consumer Affairs Victoria can provide you with more information on 1300 55 81 81. You can also seek legal advice from one of the community legal organisations listed on our website www.consumer.vic.gov.au/renting.

If you require crisis accommodation, call the 24-hour statewide toll-free number 1800 82 59 55 for assistance.

If you are a visitor who is given this notice

It is an offence to remain on or enter the premises after being given a notice to leave and to enter or re-enter the premises while the suspension is in force.

Part B – Information for the manager

The manager of a managed premises must use this form to instruct the resident of a managed premises, or the resident's visitor, to immediately leave the premises.

'Manager' includes residential rental provider, rooming house operator, caravan park owner and Part 4A park owner

The manager may only give this form if they have **reasonable grounds** to believe that the resident or visitor has committed a serious act of violence on the premises or the safety of any person on the premises has been endangered or that the resident has caused, counselled or permitted their visitor to do the same.

It is an offence to give this notice without reasonable grounds.

This form must be given as soon as it is safe to do so.

This notice cannot be given if a notice to vacate has already been given under sections 91ZJ, 142ZC, 206AR or 207X of the *Residential Tenancies Act 1997* in respect of the same act or omission.

The manager must not give the resident this notice for the actions of their visitor in instances of family violence (i.e. where the violence or threat to safety is family violence and the visitor is a family member of the resident).

The manager may apply to VCAT for an order to terminate the residency right or site agreement before the end of two days after the suspension.

Part C – Details

This notice is given to the:

- ☐ Resident
☐ Resident's visitor

Address of managed premises

	Postcode
--	----------

Resident/Visitor details (if known)

Full name

--

Address for serving notices (If a visitor is being given notice to leave, this must be the visitor's address)

	Postcode
--	----------

Contact details

Business hours

--

After hours

--

Email address

--

Manager details

Full name of manager

--

Address for serving documents

	Postcode
--	----------

Contact details

Business hours

--

After hours

--

Email address

--

Reason to leave

As manager, I am giving you notice to leave the premises immediately because I have reasonable grounds to believe that you have:

- ☐ committed a serious act of violence on the premises
☐ placed another person on the premises in danger
☐ caused, counselled or permitted your visitor to commit a serious act or violence on the premises
☐ caused, counselled or permitted your visitor to place another person on the premises in danger

More details (manager must fill this in explaining the reason for giving notice)

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I will give written notice to the Principle Registrar of VCAT of the fact that I have issued a Notice to Leave. I will do this by no later than the end of the next business day after which this notice is given.

Delivery of this notice

The notice period begins when the resident or visitor is estimated to receive this notice.

For information on postage times from different locations please refer to the Australia Post website

(<https://auspost.com.au/parcels-mail/calculate-postage-delivery-times>)

If sending by post, the manager must allow for the delivery time in calculating the proposed termination date.

If sending by registered post, manager should keep evidence of the mail delivery method used to send this notice.

This notice was sent on: (insert date)

This notice has been delivered:

☐ personally, for example by hand

☐ by registered post Expected delivery time (please see the Australia Post website)

Registered post tracking number (if applicable)

☐ by email (if consent has been provided by the resident/resident's visitor)

Email address resident/resident's visitor

Signature of manager

Signature

Date of notice

Suspended until

(The end of 2 business days from the date of this notice)

Appendix B: Cover letter notice to leave

[Note: This is a template letter for community housing organisations and should be tailored to the specific needs of the organisation and linked to appropriate policies and procedures.]

[Date]

[Resident name]

[Postal address]

[Suburb, State, Postcode]

Dear [Resident / Resident's visitor]

Re: Notice to leave

Enclosed is a Notice to Leave as we have reasonable grounds to believe that [you / your visitor] has [acted violently / endangered the safety of someone at the rooming house].

What you must do immediately

[You / your visitor] must leave the property immediately.

What happens next

Your residential agreement is immediately suspended. During this period, [RHO] may apply to VCAT to seek an eviction order. If we proceed with making an application to VCAT, you must not return to the property until after VCAT hears and makes a decision.

You can only return to the property after the hearing if VCAT decides that you can move back in.

If you do not leave immediately or return to the property before you are allowed to, you may be arrested and/or fined.

We will attempt to contact you to advise whether an application for a hearing has been made. Please ensure that you provide your current contact details so that you can be told the date and time of the hearing.

You can also contact VCAT directly on 1300 018 228, within 2 business days to check if a hearing has been scheduled.

Personal belongings



If you need to collect personal belongings from the property during the suspension period, you can nominate someone to attend the property to collect these for you. Please contact your Tenancy Manager to make arrangements.

Crisis accommodation support services

If you are in urgent need of somewhere to stay, below is a list of crisis support services you can contact. If you need help with a referral, please contact your Tenancy Manager.

Crisis accommodation support services

Victorian Statewide Homelessness Support Line (24 hours, 7 days)

P: 1800 825 955

W: <https://services.dffh.vic.gov.au/getting-help>

The service will direct you to nearby support programs staffed by housing and support workers. If the call is outside business hours, it will be directed to Salvation Army Crisis Services.

A full list of local homelessness support services can be found on the website.

Homelessness Statewide After-Hours Service

P: (03) 9536 7777 or 1800 825 955 or 1800 627 727

Operates from 5pm to 9am Monday to Friday, and all day and night on weekends and public holidays.

Opening Doors (24 hours)

P: 1800 825 955

If you need emergency accommodation, or are at risk of homelessness and need help, you can call Opening Doors to speak with a housing and support worker.

Askizzy

W: <https://askizzy.org.au/>

An online tool to search for support services.

For any further information, you can contact your [Tenancy Manager], [Name] on [contact details].

[Rooming House Operator]



Appendix C: Vic Police enforcement



Minister for Police

8 Nicholson Street
East Melbourne Victoria 3002
Telephone: (03) 9637 9854
DX: 210098

Our ref: 22026513

Mr Jason Perdriau
Acting Chief Executive Officer
Community Housing Industry Association Victoria
1/128 Exhibition St
MELBOURNE VIC 3000

By email: Jason.Perdriau@chiavvic.com.au

Dear Mr Perdriau

VICTORIA POLICE ENFORCEMENT OF NOTICE TO LEAVE

Thank you for your correspondence of 23 February 2022 regarding Victoria Police's enforcement of Notices to Leave under the *Residential Tenancies Act 1997*.

I acknowledge your concerns regarding Victoria Police's enforcement of Notices to Leave, given the significant risk to safety and wellbeing of other occupants of a property.

Victoria Police has advised that where a Notice to Leave has been issued and the recipient is failing to comply, attending police are required to act in those circumstances as an offence is being committed. To ensure this possible misunderstanding is resolved, Victoria Police has circulated messaging throughout the organisation to provide clarity to all police members.

If you wish to discuss this matter in further detail, please contact Mr William Jones, Managing Principal Lawyer of the Legal Services Department in Victoria Police, on (03) 8335 7187 or alternatively via email at William.C.Jones@police.vic.gov.au.

I trust this information is of assistance and thank you for raising this important matter.

Yours sincerely



Hon Lis Neville MP
Minister for Police

20/4 / 21

