



# Property Damage Policy (By Tenant)

<b>Policy Owner:</b>	The Manager Corporate Services is responsible for the review and currency of this policy.
<b>Endorsement:</b>	Endorsed by the Executive Team on 17/12/2024
<b>CEO Approval:</b>	Approved by the Acting Chief Executive Officer on 17/12/2024 This policy is valid from the date of CEO approval and remains in force, as amended from time to time, until such time as formally revoked by resolution at a meeting of the Senior Leadership Group.
<b>Next Review Due:</b>	December 2027

## 1. Purpose

This policy establishes the approach of MASP to clearly define the responsibilities of the tenant and MASP regarding maintenance.

MASP may charge tenants for the cost of repairing tenant-caused damage to a premises or for undertaking services the tenant is responsible for. Tenant caused damage includes unapproved fixtures or renovations and damages caused by children, partners, pets, or any visitors invited into the property by the tenant.

## 2. Scope

This policy applies to all tenants managed by MASP under all relevant programs.

## 3. Policy Statement

This policy should be included in the lease agreement or as an addendum and signed by both the tenant and the landlord.

By signing the lease agreement, tenants acknowledge their understanding and acceptance of this policy and their responsibility to maintain the property in good condition.

### 3.1 Tenant responsibilities

Tenants will

- abide by the terms and conditions of their tenancy agreement.
- take good care of the property and keep it reasonably clean.
- tell MASP as soon as possible if the property has been damaged.
- pay costs for damage resulting from deliberate action, mistreatment by or negligence of a tenant, household member or visitor that has been proven and to comply with orders to pay the cost of repairs or cleaning.
- report to the police any damage that is suspected to have resulted from criminal activity, such as break and enter, vandalism or family violence (if possible); and provide MASP with an event number.
- rectify any alterations carried out by the tenant before handing the keys back.
- return the property to MASP in the condition it was handed over to the tenant in, after allowing for fair wear and tear.
- return all keys to MASP at the conclusion of a tenancy.

### **3.2 Landlord responsibilities**

MASP commits to fulfil its role as landlord under the RTA (Residential Tenancies Act/Agreement/Authority)

MASP will

- ensure the premises is in reasonably clean condition prior to a tenancy commencing, is maintained to a community standard, and never below a habitable standard.
- provides tenants with a written statement setting out the rights and duties of MASP and the tenant under a tenancy agreement.
- Inspect the premises at the initial 3-month mark, then every 6 months thereafter.
- undertake responsive and cyclical maintenance and will conduct a flexible program of upgrades that can take advantage of vacancies.
- ensure all maintenance is undertaken by qualified tradespeople.

### **3.3 Determining responsibility for damage to the premises**

To determine who is responsible for the cost of repairing damage to the premises, MASP will ensure the process is fair, timely and evidence based by:

- inspecting the premises and documenting the damage where appropriate
- considering the condition of the premises at the beginning of the tenancy, as stated in the property condition report and any evidence of work undertaken on the property.
- considering damage due to fair wear and tear, which MASP is responsible to repair.
- considering damage due to an emergency where there was good cause to believe

that the tenant's health and wellbeing was at risk.

- considering whether ill health or inability to maintain the premises has contributed to the damage. In these circumstances the tenant is required to provide evidence.
- considering whether the damage is a result of criminal activity such as family violence, break and enter or vandalism. In these cases, a police report or other relevant evidence should be supplied by the tenant where possible.
- discussing the items of damage with the tenant and recording information the tenant or a third party gives MASP about the possible cause of the damage
- considering the type of damage and any information concerning liability the tenant gives to MASP when reporting the damage.

In circumstances of criminal activity, the tenant is required to provide evidence within 5 days, proving the tenant has reported the matter to the police, such as a police statement or police event number.

Where MASP determines that the damage is a result of intentional damage, mistreatment or neglect, the tenant will be responsible for the cost of repair work.

MASP will seek to recover the cost of repairing the damage from the tenant or, in certain circumstances, for example where the damage is a result of criminal activity.

### **Repayment Agreement**

After responsibility has been resolved, MASP and the tenant will both sign a repayment agreement detailing the costs involved and how it will be paid (lump sum or series of instalments).

Tenants may choose to have third party support in resolving and negotiating the matter. During the negotiation, staff will consider fair wear and tear. Fixtures and fittings at the end of their useable life or programmed for replacement will not be subject to tenant repair charges.

If the tenant accepts liability for the identified damage, the claim should be considered a substantiated tenant repair charge. The tenant may either pay the amount in full or enter into a repayment agreement. The total repayment amount cannot exceed 5% of the household's total income unless approved by the Chief Executive Officer and agreed by the tenant.

If the tenant has vacated the property, the tenant repair charge will be held against the bond.

## Appealing decisions about tenant repair costs

If a current or vacated tenant disputes the amount of the tenant repair charges or denies responsibility for the damage, MASP advises them of their right and the process to lodge an appeal for a review of the decision.

MASP will advise the tenant that they can apply to VCAT to have the condition of the premises and any damage determined by the tribunal (where applicable) as per the RTA

## 3.4 Repair charges

Repair charges for damage and repairs will be sought from tenants in the following circumstances:

### Intentional damage to the property:

- alterations being made without approval.
- alterations carried out by or on behalf of the tenant not conforming to MASP requirements.
- fixtures or fittings installed do not meet the required standards of MASP.
- floor coverings being removed without the consent of MASP.
- malicious damage to the premises
- punctured internal cabinets, doors, and walls.
- sewer and/or drainage blockages caused by items flushed down the toilet, such as sanitary products, wipes, nappies, or toys.

### Neglectful damage:

- broken and damaged clotheslines and hoists
- broken windows
- burns or other damage to carpets that cannot be considered fair wear and tear.
- damage caused by neglect.
- damage to toilets, basins, showers, and bathtubs.
- damaged/missing doors and security screens
- erroneous call outs
- failure to keep the property in a reasonably clean condition.
- failure to take care to prevent damage to the property.
- Presence of Pests and Rodents

## Managing tenant repair charges

If MASP considers that the tenant has breached their responsibilities as outlined in the tenancy agreement or in this or any other applicable policy, MASP may seek repair charges for the costs to repair damage.

MASP will undertake the following steps to seek to recover repair charges:

- inspect the premises and complete a property end of tenancy report ideally with the tenant present
- collect evidence of the damage sustained at the premises, and evidence of how the damage may have occurred, including photos
- detail in a transparent and comprehensive manner to the tenant the repair charges to recover the costs of the repairs and maintenance
- provide the tenant a written notice of the proposed (tenant) repair and maintenance charges. The notice will outline the proposed terms of the repair charges, and will also provide the tenant with the option to negotiate on these terms
- in the interests of transparency and accountability, MASP will provide information relating to how the cost of repairs were determined.

### **3.5 Approach to repair charges**

- Part 2 of the Residential Tenancies Act (RTA) outlines the rights and duties of the tenant and the landlord (general duties of tenants and landlords) which forms the basis of the Tenant Damage Policy.
- A tenant who becomes aware of any damage (whether the damage is caused by the tenant or not) to the rented premises must inform MASP as soon as possible.
- MASP will perform repairs to ensure that the premises are maintained in good repair.
- A tenant must avoid damage to premises or common areas:
  - (a) A tenant must ensure that care is taken to avoid damaging the rented premises.
  - (b) A tenant must take reasonable care to avoid damaging the common areas.
- MASP will seek to recover repair charges from tenants in circumstances where repairs to the premises are necessary as a result of deliberate damage or neglect caused by the tenant, another household member or a visitor who enters the property with the tenant's permission.
- MASP will not seek to recover repair charges for fair wear and tear that occurs to the premises through ordinary day-to-day use of the property by a tenant.
- MASP may not seek to recover repair charges for damage caused by mental and physical health, instances of family violence, or third-party criminal damage.

### **3.6 Compliance with third party instructions:**

- instances where emergency services are required to gain access to the premises, the tenant may be invoiced for the cost of any associated damage.
- a direction from Victoria Police
- a direction from council by-laws [e.g. hoarding]

- a direction from the Metropolitan Fire Brigade or the Country Fire Authority
- the premises being damaged or destroyed by fire as a result of the actions of the tenant, as confirmed by the Metropolitan Fire Brigade or the Country Fire Authority
- a compensation or compliance order from Victorian Civil and Administrative Tribunal (VCAT).

### **3.7 Conclusion of the tenancy:**

- approved alterations being made during the tenancy and the premises not being restored to the condition existing at the start of the tenancy or as at completion of the most recent works undertaken by MASP (fair wear and tear excepted)
- broken locks or where keys have not been returned to MASP at the end of a tenancy
- end of tenancy cleaning
- any costs associated with the removal of tenant property such as furniture, appliances, personal effects, or vehicles left behind at the end of the tenancy.

Prior to taking any action in relation to damage to the premises / tenancy breaches, MASP will investigate and confirm the tenant's responsibility for the damage, including discussing the matter with the tenant.

MASP will undertake a human rights impact assessment before determining whether to issue a tenancy breach relevant to the level of damage at the property.

### **3.8 Breach and Compliance Process**

If an agreement cannot be reached, or an agreement is broken, MASP will pursue the costs through the breach and compliance process under the RTA.

This may include

- issuing a breach of duty notice under s. 208: Breach of Duty Notice for
  - s. 61: Tenant must avoid damage to premises or common areas
  - s. 63: Tenant must keep rented premises clean
  - s. 64: Tenant must not install fixtures, etc. without consent

### **3.9 Communication**

MASP will provide clear information to tenants on this policy and will inform tenants when the policy is being used to recover costs.

### **3.10 Transparency and accessibility**

This policy will be available on the MASP website [www.masp.org.au](http://www.masp.org.au).

#### 4. Roles and responsibilities

Role	Responsibility
Tenant	Tenants are abiding by the terms and conditions of their tenancy agreement.
Landlord	MASP commits to fulfil its role as landlord under the RTA.

#### 5. Definitions

For the purpose of this policy and related policy documents, the following definitions apply:

Applicant	A person who has applied for housing via the VHR or, where permitted by this policy, directly to MASP
DHHS	Victorian Department of Health and Human Services
Director of Housing	Victorian government statutory authority that owns all public housing land in Victoria and which is the principal funding body for community housing
Nomination rights	Arrangements between MASP and third-party support providers where the support provider nominates applicants for certain vacant properties
Public housing	Housing owned and managed by DHHS
Targeted Social Housing	The properties that are considered Targeted Social Housing under agreements between MASP and the Director of Housing.
Transitional Housing	Victorian Government program to provide housing on a short-term basis to people at risk of homelessness seeking housing options
VHR	The Victorian Housing Register, the state-wide common application for people seeking public housing and community housing
VCAT	Victorian Civil and Administrative Tribunal
MASP	Mallee Accommodation and Support Program Ltd
Tenant	The person who signed the Residential Tenancy Agreement
Household members	Other people who have been authorized by MASP to reside at the property

#### 6. Related Documents

This policy is implemented in conjunction with the following related documents:

<p><b>Policies</b></p>	<ul style="list-style-type: none"> <li>• Accessibility Modifications – P&amp;T P&amp;P No 04</li> <li>• Allocations Internal – P&amp;T P&amp;P No 07</li> <li>• Bonds Management – P&amp;T P&amp;P No 11</li> <li>• Code of Conduct – HRM P&amp;P No 12</li> <li>• Conflict of Interest – HRM P&amp;P No 28</li> <li>• Complaints and Appeals – tenants &amp; prospective tenants – P&amp;T P&amp;P No 30</li> <li>• Eligibility – P&amp;T P&amp;P No 10</li> <li>• Inspections – P&amp;T P&amp;P No 42</li> <li>• Maintenance and Repairs – P&amp;T P&amp;P No 08</li> <li>• Privacy and Information Security – P&amp;T P&amp;P No 01</li> <li>• Rent Arrears Management and Evictions – P&amp;T P&amp;P No 09</li> <li>• Rent Setting and Collection – P&amp;T P&amp;P No 05</li> </ul>
<p><b>Instructions and Guidelines</b></p>	<ul style="list-style-type: none"> <li>• Being a Good Neighbor – P&amp;T B&amp;P No 05</li> <li>• Urgent After-Hours Repairs – P&amp;T I&amp;G No 02</li> </ul>
<p><b>Forms and Templates</b></p>	<ul style="list-style-type: none"> <li>• Confidentiality Agreement – Employee – HRM F&amp;T No 53</li> <li>• Information Request – CWG F&amp;T No 44</li> <li>• Authority to Obtain and Release information – CWG F&amp;T No 09</li> <li>• Residential Rental Agreement – P&amp;T ED</li> </ul>

## 7. Legislation and other References

<p><b>Related Legislative Acts and other sources of Authority</b></p>	<ul style="list-style-type: none"> <li>• Housing Act 1983 (Vic) Part VIII Division 5 Subdivision 2 (Dispute Resolution)</li> <li>• Residential Tenancies Act 1997</li> </ul>
<p><b>Related Standards, Guidelines, and other References</b></p>	<ul style="list-style-type: none"> <li>• Performance Standards for Registered Housing Agencies</li> <li>• DHHS Victorian Housing Register Operational Guidelines</li> <li>• Guidelines for Registered Housing Agencies published by DHHS</li> </ul>