

BONDS MANAGEMENT Policy & Procedure

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| QA REFERENCE | P&T P&P No 11 |
| INTRODUCED | 28 th March 2019 |
| LAST REVIEWED | 28 th March 2019 |
| NEXT REVIEWED | 28 th March 2022 |
| RESPONSIBILITY | Property and Tenancy Management is responsible for the review and currency of this policy and associated procedures. |
| APPROVED | Approved by the Chief Executive Officer on 28 th March 2019 <i>This policy and procedure is valid from the date of introduction and remains in force, as amended from time to time, until such time as formally revoked by resolution at a meeting of the Operational Leadership Group.</i> |
| ENDORSED | Endorsed by the Operational Leadership Group on |
| REFERENCES – | |
| Related Legislative Acts and other sources of Authority | <ul style="list-style-type: none"> • Housing Act 1983 (Vic) Part VIIIA – Social Housing • Residential Tenancies Act 1997 |
| Related Standards, Guidelines and other References | <ul style="list-style-type: none"> • Performance Standards for Registered Housing Agencies • DHHS Victorian Housing Register Operational Guidelines • Guidelines for Registered Housing Agencies published by DHHS • Legal agreements between MASP and the Director of Housing relating to the VHR |
| Related MASP Policy and Procedure Documents | <ul style="list-style-type: none"> • Accessibility Modifications – P&T P&P No 04 • Allocations – Internal – P&T P&P No 07 • Allocations – VHR – P&T P&P No 06 • Code of Conduct – HRM P&P No 12 • Conflict of Interest – HRM P&P No 28 • Complaints & Appeals Tenants & Prospective Tenants – P&T P&P No 03 • Eligibility – P&T P&P No 10 • Inspections – P&T P&P No 12 • Maintenance and Repairs – P&T P&P No 08 • Privacy and Information Security – P&T P&P No 01 • Property Damage by Tenant – P&T P&P No 02 • Rent Arrears Management and Evictions – P&T P&P No 09 • Rent Setting and Collection – P&T P&P No 05 |
| Related MASP Instructions and Guidelines | <ul style="list-style-type: none"> • Being a Good Neighbour – P&T B&P No 05 • COVID 19 Maintenance P&T I&G No 01 • Urgent After-Hours Repairs – P&T I&G No 02 |
| Related MASP Forms and Templates | <ul style="list-style-type: none"> • Condition Report – Entry – P&T ED • Condition Report – Exit – P&T ED • Residential Rental Agreement – P&T ED • COVID 19 Health Declaration Contractor Maintenance Worker – P&T F&T No 06 • COVID 19 Health Declaration MASP tenant – P&T F&T No 03 • COVID 19 Letter to contractor or tradesman – P&T F&T No 05 |
| ACRONYMS/DEFINITIONS | |

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| <ul style="list-style-type: none"> • Applicant | A person who has applied for housing via the VHR or, where permitted by this policy, directly to MASP |
| <ul style="list-style-type: none"> • DHHS | Victorian Department of Health and Human Services |
| <ul style="list-style-type: none"> • 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 |
| <ul style="list-style-type: none"> • Public housing | Housing owned and managed by DHHS |
| <ul style="list-style-type: none"> • Transitional Housing | Victorian Government program to provide housing on a short-term basis to people at risk of homelessness seeking housing options |
| <ul style="list-style-type: none"> • VHR | The Victorian Housing Register, the statewide common application for people seeking public housing and community housing |
| <ul style="list-style-type: none"> • MASP • Tenant • Household members | <p>Mallee Accommodation and Support Program</p> <p>The person who signed the Residential Tenancy Agreement</p> <p>Other people who have been authorised by MASP to reside at the property</p> |

PURPOSE

This policy establishes the approach of MASP in relation to rental bonds.

Tenants can expect MASP to comply with the rights and obligations of a landlord under the Residential Tenancies Act 1997.

MASP expects tenants to comply with the terms of their tenancy agreement including meeting all payment responsibilities and maintaining the property to a reasonable standard.

The majority of MASP tenants look after their properties and fulfil these responsibilities. However, some tenants cause property damage or leave their tenancy with outstanding debts including for damage. These outstanding debts can lead to increased costs for MASP. The introduction of rental bonds aims to support the sustainability of social housing by reducing costs for MASP for the repair of properties following tenant damage. It reinforces responsibility for property care and aims to reduce the amount of damage caused by a minority of tenants.

As in the private market, a rental bond is an amount of money paid or payable by the tenant or another person as security against any failure by a tenant to comply with the terms of a residential tenancy agreement such as causing damage to a property or falling into rental arrears.

A bond can apply at the beginning of the tenancy or during the tenancy if one does not already exist.

The intent of this policy is to outline how MASP manages rental bonds for MASP tenancies.

SCOPE

This policy applies to all rental properties owned or managed by MASP under all relevant programs.

POLICY

In accordance with the Residential Tenancies Act 1997, MASP is able to charge a bond to tenants living in MASP managed properties (returning or current tenants).

Under current legislation

- MASP can seek a bond from tenants of up to four weeks market rent as a condition of their tenancy at the commencement of the tenancy agreement.
- MASP is able to charge a bond to current tenants during the term of a tenancy agreement in certain circumstances without the need to terminate or re-sign a lease agreement.
- If payment of a bond is a term of the tenancy agreement, non-payment is a breach of the tenancy agreement.
- MASP may issue a termination notice to a tenant if the tenant fails to pay all or part of a rental bond.

Holding of Bonds

At the time of signing a rental agreement with MASP tenants are required to provide a cheque payable to the Residential Tenancies Bond Authority (RTBA) for the amount of the bond.

MASP will forward the cheque to the RTBA without delay.

Claim BOND via VCAT

Where there is a breach of the tenancy agreement, Victorian Civil and Administrative Tribunal (VCAT) orders can be sought, including performance orders and issuing Notices of Termination. MASP will ensure that any such action will not place children at risk. MASP aims to support tenants to understand their obligations and sustain their tenancies, including through the provision of clear information and referral to support agencies where appropriate.

MASP can claim the bond from Victorian Civil and Administrative Tribunal (VCAT) after a tenancy ends, if the tenant causes damage or has other outstanding tenancy charges such as for rent and water.

Tenants who pay a bond have a vested interest in their bond being returned to them, in full, at the end of their tenancy.

Bond Claims

A bond can be claimed by the tenant or by MASP.

The tenant can submit a claim through MASP or directly with RTBA. Should the tenant have no debt owing to MASP at the end of the tenancy, the tenant will have the bond refunded.

MASP will claim the bond for any outstanding charges incurred during the term of that agreement

For easier and faster bond refund resolution when the tenancy is ending, MASP will encourage the vacating tenant to discuss the claim with a MASP Case Manager / Support Worker and agree on the bond refund amount.

MASP can only claim on the amount of the bond which has actually been paid. If the bond money paid does not cover the full amount of claim (for example, there is \$2,000 worth of tenant damage but only \$800 bond paid) then MASP may seek an VCAT order to recover the remaining tenancy charges.

To ensure a bond refund, the tenant will need to

- Notify MASP in advance of their intention to vacate the premises
- Communicate an appropriate forwarding address, current contact details (such as mobile telephone number, email address) and bank details so that RTBA can arrange any refund in a timely manner

- Return the keys to MASP on the day of vacating the property
- Be available for a property inspection
- Return the property in good order and a clean condition with no remaining possessions or rubbish.

MASP will make tenants aware of the process for claiming their bond when they advise MASP of their intention to vacate, including details of advocacy services that can assist them if required where these are available.

MASP will

- schedule a property inspection (this allows MASP to communicate with the tenant on any outstanding damage or cleaning requirements to help reduce possible tenancy charges, but is dependent on the tenant giving enough notice);
- record the tenant's forwarding address and current contact details;
- calculate any depreciation applicable for tenant charges due to fair wear and tear and discuss the bond refund with the tenant. At the same time, they can request the tenant to complete the bond claim form and agree on any refund amount to be paid to MASP;
- encourage the tenant to have a support person such as a case worker, a tenancy advocate or family member with them to help resolve bond claims on the day.

Claims when both parties agree

When a claim is agreed and signed by both parties, MASP will lodge the claim with the RTBA. RTBA will provide the bond refund to the tenant and/or MASP. The tenant's bond refund will be deposited into the tenants' nominated bank account.

It is important for the tenant to

- provide the correct details for an Australian bank, credit union or building society account. As per the RTBA process, direct deposits cannot be made to credit card accounts or to card numbers;
- provide appropriate contact details on the claim form, which will ensure RTBA can make contact with the tenant should there be any issues with the payment.

Claims when a tenant cannot be contacted

MASP will lodge a claim to RTBA without the signature of the tenant and send a copy of all the evidence relating to the claim to the tenant's last known address, within seven days of lodging the claim.

RTBA will provide the tenant with written notice (to the last known address) that MASP has lodged the claim. The tenant will then have 14 calendar days from the date the written notice was received to apply for an VCAT hearing to dispute the claim using the 'Rental Bond Application' form from VCAT.

If the tenant does not notify RTBA in writing that they are disputing the claim within 14 calendar days, the full claim will be paid to MASP.

Claim disputes

In the case of bond claim disputes, the VCAT will decide how the bond will be paid out for both parties.

If there is no agreement from the tenant on the claim, MASP will lodge a claim with RBTA. MASP must then send a copy of the evidence relating to the claim to the tenant.

RTBA will provide the tenant with written notice (to the last known address) that MASP has lodged the claim. The tenant will then have 14 calendar days from the date the written notice was received to apply for an

VCAT hearing to dispute the claim using the 'Rental Bond Application' form from VCAT. This is the required process with any bond claim, be it in social or private housing.

If the tenant does not notify RTBA in writing that they are disputing the claim within this 14 calendar days, the full claim will be paid to MASP.

Where the tenant lodges a claim for refund that MASP does not agree with, FACS has 14 calendar days to respond and dispute the claim at VCAT, in the same way as a tenant.

Tenants can still apply to VCAT for a refund of all or part of the bond, even if RTBA has paid the claim to MASP. Tenants must apply within six months after the bond has been paid out.

Claims where there is a transfer or change of tenancy

When a tenant is relocating to a new tenancy and they have an existing bond (whether they have made full or part payment), MASP will claim against the bond for any outstanding tenancy debts.

If a bond applies in the relocated tenancy, a new bond account is created. Any remaining bond credit on the former tenancy, after the claim process has been finalised, will be refunded by RTBA to the tenant.

The relocated tenant can choose to make a lump sum payment against their new tenancy bond (at a 20% discount) or commence payment by instalments on the new bond.

The tenant will be allowed enough time to receive the refund of the first bond and apply it to the new tenancy without losing the discount for upfront payment.

Claims when debt exceeds the bond amount

If the total money owing at the end of a tenancy exceeds the bond that can be claimed, then MASP will seek an VCAT order to pursue the remaining tenancy debt.

Appeals and review of decisions

If a tenant has any concerns about decisions relating to rental bonds they are encouraged to speak to their client service officer to seek a resolution of those concerns.

A tenant can appeal a MASP decision relating to a request for a deferral on their rental bond instalments. Rental bond appeals are managed under an accelerated appeal process.

If the tenant disagrees with the instalment plan length, they can appeal the rent subsidy calculation as the instalment plan is based on the household income.

Transparency and accessibility

This policy will be available on the MASP website www.masp.org.au