

Right of Entry Policy

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Policy owner:	Director Housing and Homelessness

Purpose

To outline the circumstances in which entry to a tenanted property is permitted and the processes required to gain entry, for Unison staff, contractors, emergency services, Police and others.

Scope

This policy applies to all long-term properties, long term tenants, long term housing staff, asset management and maintenance staff and contractors, and any other parties requiring Unison to provide access to tenanted properties, such as Police or Sheriffs.

Principles

Unison will only access, or facilitate access, to a tenant's room/unit/house:

- As permitted under the Residential Tenancies Act (RTA),
- For the purpose of checking on the welfare of a tenant, or
- For the purpose of responding to an emergency situation – e.g. flood or other issue that poses a danger to tenants, household members or neighbours.

Unison will ensure that all parties accessing a tenanted property do so in a manner that is, as far as possible, respectful of the tenant, their possessions and privacy.

Unison may provide access for Police or Sheriffs to common areas where a warrant is provided or rights of entry are demonstrated, such access should only be provided in consultation with a Team Leader or Housing Manager. The only exception is when Unison has been granted an Order of Possession and Police attend to execute the warrant. Under these circumstances, Unison will provide access to individual units/rooms.

Application

Consent from the tenant should always be sought to gain entry to a property, however, urgent access to authorised persons may be provided in the following circumstances:

- There is a possibility of injury or death (in these situations staff should hand the fob/key to the emergency services worker and not enter properties themselves),
- Properties are affected by flooding, fire or a major service issue – e.g. gas leak, or
- Animals or young children are left unattended in a property and their health or safety is in danger.

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Unison Rights of Entry – General RTA

Access to tenant's units/houses under the general provisions of the RTA must be undertaken in accordance with grounds for entry of rented premises (s.86) and will most commonly be undertaken for the following purposes:

1. Routine property inspections (such an inspection can only be undertaken if one has not been undertaken in the previous six months – however, inspections for other purposes, such as those following, may be undertaken during that period), or
2. In order for Unison to carry out a landlord duty under the Act, the tenancy agreement or another Act (see below), including entry to carry out repairs or assess maintenance requirements, or
3. If Unison has reasonable grounds to believe that the tenant is in breach of their tenancy duties under the Act or under the tenancy agreement, or
4. To carry out welfare checks on tenants.

Landlord duties that may necessitate an inspection include:

- Landlord must take all reasonable steps to ensure that the tenant has quiet enjoyment of the rented premises (s.67)
- Landlord's duty to maintain premises (s.68)

Tenant duties that may necessitate an inspection include:

- Tenant must not use premises for illegal purpose (s.59)
- Tenant must not cause nuisance or interference (s.60)
- Tenant must avoid damage to premises or common areas (s.61)
- Tenant must give notice of damage (s.62)
- Tenant must keep rented premises clean (s.63)
- Tenant must not install fixtures etc. without consent (s.64)

Tenant duties under the tenancy agreement that may necessitate an inspection include:

- Not subletting
- Not over crowding
- No pets without permission

Unison Rights of Entry – Rooming House

Access to rooming house resident's room/unit under the rooming house provisions of the RTA must be undertaken in accordance with grounds for entry of rented premises (s.137) and will most commonly be undertaken for the following purposes:

1. Routine property inspections (such an inspection can only be undertaken if one has not been undertaken in the previous four weeks – however, inspections for other purposes, such as those following, may be undertaken during that period),

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2. In order for Unison to carry out a landlord duty under the Act, the tenancy agreement or another Act (see below), including entry to carry out repairs or assess maintenance requirements,
3. If Unison has reasonable grounds to believe that the tenant is in breach of their tenancy duties under the Act or under the tenancy agreement, and
4. To carry out welfare checks on tenants.

Landlord duties that may necessitate an inspection include:

- Rooming house owner must keep room and house in good repair (s.120)
- Rooming house owner must comply with rooming house standards (s.120A)
- A rooming house owner must take all reasonable steps to ensure security for the property of a resident in his or her room (s.123).

Resident duties that may necessitate an inspection include:

- Resident must use the room for residential purposes only (s.110)
- Resident must not use room for illegal purposes (s.111)
- Resident must keep room in clean condition
- Resident must not install fixtures without consent (s.115)
- Resident must notify owner of and compensate for damage (s.116)
- Resident must not keep pet without consent (s.117)

Resident duties under the residency agreement or House Rules that may necessitate an inspection include:

- No cooking with an open flame
- Keep room clean and in a condition which will not create a fire or health hazard
- Not installing fixtures without consent

Police Rights of Entry

Police will be given access to a property if they produce a Warrant however not access to the tenant's room. Police also have the right to enter a property without a warrant under the following Acts/circumstances:

- **Breach of the Peace:** Police may enter private premises to stop a breach of the peace or an anticipated breach of the peace;
- **Crimes Act (Victoria):** Police may enter and search any place, for the purpose of arresting a person they have reasonable grounds to believe, has committed a serious indictable offense or has escaped from legal custody (s.459A);
- **Mental Health Act (Victoria):** Police may enter a premises and use such force as may be reasonably required to apprehend a person who appears to be mentally ill, if police have reasonable grounds for believing that the person has recently attempted,

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or is likely to attempt, suicide or serious bodily harm to themselves or another (s.10(1));

- **Family Violence Protection Act (Victoria):** A police officer may enter and search any premises where the officer believes a person to be, if the officer reasonably believes that person has assaulted or threatened to assault a family member, is in contravention of a family violence order or notice (s.157(1)); and
- **Coroners Act (Victoria):** A coroner who is investigating a death or a fire may authorise a member of the police force to investigate the death or fire by breaking, entering and searching premises, using reasonable force if required (s.39 (1a)).

Sheriff Rights of Entry

Sheriffs have the right to enter and search a property to execute a warrant that authorises the seizure of property (Sheriff Act (Victoria)). As such, with the approval of a Team Leader or Manager, Unison staff may provide fob or key access to common areas. The sheriff may:

- Enter a premises occupied by the person named or described in the warrant or at which the sheriff reasonably suspects there is recoverable property of the person named or described in the warrant; and
- After entering the premises, search for recoverable property for the purpose of seizing it (s.19).

In relation to entering a premises to execute a warrant:

- The sheriff may only enter where they believe on reasonable grounds that there may be recoverable property on the premises (s.22(1));
- The sheriff must request the owner or occupier of the premises for consent to entering the premises (s.22(3)); and
- The sheriff may use 'reasonable force' and assistance to enter the premises (s.21).

Emergency situation and consent not able to be gained

Where it is necessary to gain immediate access to a tenanted room/unit/house and it is not possible to gain consent from the tenant – e.g. in an emergency situation, the following principles should be applied:

- Entry should only be facilitated because an emergency exists or access is essential for safety or related reasons;
- Prior to any visit, a Team Leader or Housing Manager, has made an assessment of the need for the entry to occur and any risks to staff that need to be managed;
- Appropriate notification is left at the property to inform the tenant of the circumstances regarding entry, and their access arrangements where locks have been changed;
- All properties are secured once the purpose for gaining entry has been completed;

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- The tenant's privacy is respected as much as is possible in the circumstances. This includes taking care to avoid any damage to the tenant's belongings or disturbing them, and not remaining on the premises longer than is necessary.

Glossary

Warrant: a document issued by a legal or government official authorizing the police or another body such as a Sheriff's Officer to make an arrest, search premises, or carry out some other action relating to the administration of justice such as seizing goods or property

Sheriff's officers; take action against people who do not comply with their debt-related court orders. They enforce warrants and orders issued by Victorian courts for both criminal (arising from unpaid fines) and civil (arising from orders made following civil disputes) matters.

Review of policy

This policy will be reviewed every three years as delegated by the responsible Director.