**The Renters' Rights Rundown: New rights for young renters***Questions on notice*

**Legal note: This document provides general information only. It is not a substitute for specific and formal legal advice.**

**Shape

Description automatically generated with low confidenceCan the RRP/Agent ask you to do extra cleaning / flea control if you have a pet?**Not otherwise than in accordance with the usual rules and principles in relation to maintenance and cleanliness of the property, and the reasonable standard of cleaning required when vacating. This means, for example, that worn/faded carpet caused by pet foot traffic would likely be considered fair wear and tear, but carpet stains caused by pet urine would likely be considered damage which the renter must rectify or pay to rectify.

Note also that there are new rules in relation to professional cleaning clauses in agreements, found in s 27C RTA and r 12 RT Regs.

See Director’s Guidelines 1 to 3 for helpful guidance on this topic: <https://www.consumer.vic.gov.au/housing/renting/changes-to-renting-laws/resources-for-practitioners> (bottom of the page).

The guidelines include specific reference to pets and cleaning, and the new rules on professional cleaning (including how the latter apply transitionally).

**In the case of family violence, if the perpetrator is leaving the property and wants to be removed from the lease, does the AFM (if staying in the property) have to provide a copy of the IVO if asked by the real estate agent?**

In short – no.

There is no specific rule about negotiating with the RRP (via the agent) in this situation. If the AFM wants the perpetrator removed from the lease, and the RRP is willing to do this if the AFM provides a copy of the IVO, the AFM can choose to provide this if they wish.

However, the AFM does not need to do this, as they have the right to apply to VCAT anyway to terminate the existing lease and have a new lease created in their name (s 91V RTA). VCAT must hear such an application within 3 business days, and the applicant does not need to have an FV IVO in place for this application (although VCAT will consider whether this is the case).

Tenants Victoria’s Family Violence Protection Tenancy Kit is an excellent resource on this topic: <https://cdn.manula.com/user/5556/7616_8092_en_1458708113.pdf?v=20210222155845>.

**I work in the LGBTQIA+ community and some of the young people that come through do not have identification (birth certificates, ID) that matches their gender identity or their preferred name. When applying for a lease or trying to rent would they have to use the identifiers that are on their ID or birth certificate?**

Great question – this is likely to be a difficult area to navigate in practice.

This answer will cover some legal and practical points, but it should be acknowledged that often the options available to trans and non-binary people to navigate these situations are unsatisfactory and can put them at risk of not just discrimination, but also emotional and physical harm.

Essentially, they would probably have to use or explain the legal name on their ID at some point throughout the application process. The formal documents created for the tenancy, such as the agreement, bond lodgement record etc., would likely need to contain their legal name. Gender identity, however, should be irrelevant.

Gender identity is a protected attribute under s 6 of the EO Act, so the rental reforms in relation to discrimination would apply here. This means that agents and RRPs should not be asking applicants to disclose their gender identity unless they provide a written reason for requesting this information. It is difficult to see any lawful reason why an agent/RRP would need to know someone’s gender identity when renting a property. They also cannot discriminate against an applicant by refusing to let a property because of the applicant’s gender identity.

Unfortunately, this is an area where documentation requested as part of a rental application is likely inadvertently to disclose this information.

Agents and RRPs set their own rules about what documentation they require for a rental application; there is no legal requirement that applicants must provide certain types of documentation. Applicants could refuse to provide identification which discloses their gender identity, but practically this is likely to disadvantage them as against other applicants.

For the sake of coherence, applicants may need to provide an explanation if their names on different documents do not match, but agents/RRPs should not ask any more questions than are required to clarify this narrow point. It seems best for applicants to try and keep the information they volunteer to a minimum, to avoid potential discrimination. For example, an applicant could explain to an agent that their legal name is X, but their preferred name is Y, and ask the agent to refer to them as the latter in correspondence. Again, such a conversation may inadvertently disclose more information than an applicant may wish (about their gender identity, for example), but it is difficult to see a way to avoid this. Preferably this conversation would be postponed until after an applicant is accepted for the property.

Most agents and RRPs are unlikely to understand the difficulties and complexities involved in changing name and gender on official documentation (including for those with identification from other countries). There is likely a high risk of discrimination occurring in this context.

If applicants in this position are being treated unfavourably or less favourably than other applicants, and this can be tied to their gender identity, they should seek legal advice about their options.

Applicants in this situation may feel more comfortable accessing a specialised legal service like the LGBTIQ Legal Service: <https://lgbtiqlegal.org.au/>.

**What about reference checks? If someone has no rental history?**

Unsure exactly what this question is referring to – if you mean are agents/RRPs prohibited from asking questions about this, then the answer is no. Rental history in general is not a protected attribute under discrimination law (although note the prohibition on questions about prior legal action or bond history in r 14(a) & (b) RT Regs), so agents/RRPs are entitled to do checks and ask for references, and to refuse an applicant for a property if they have no rental history.

However, it is worthwhile still bearing in mind the discrimination protections here, as the reason for someone’s lack of rental history could be connected to a protected attribute – e.g. perhaps they have a disability and have no private rental history as they have previously lived with family. It would be best to be alert for any behaviour in the application process which may cross into the area of unlawful discrimination/prohibited questions.

Please let us know if this does not answer your question.

**When applying for a single room apartment and an agent learns that applicate is pregnant, can they deem that the apartment is not suitable and decline application?**

Most likely, no. This would likely be an instance of unlawful discrimination.

Pregnancy and parent/carer status are both protected attributes under s 6 of the EO Act. It is unclear from the question why exactly the agent has deemed the property unsuitable for the pregnant applicant, but it is difficult to think of any lawful reason why this would true.  A renter in this position should seek legal advice about their options.

**What to do when a renter pays for urgent repairs and the rental provider will not reimburse them?**

If a renter has carried out urgent repairs themselves in accordance with section 72:

*The renter should then give the rental provider written notice of the repairs done and the cost incurred (section 72(2)).*

If the rental provider does not pay within 7 days - the renter can apply to VCAT under section 73(2). This hearing, like other urgent repair hearings, must be listed by VCAT within 2 business days.

So the time frame is the same as urgent repairs except you have to first give the rental provider 7 days’ notice before applying to VCAT.