



# *Squatting and Sub-letting Policy*

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## 1. FOREWORD

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Winda-Mara Housing Limited ('WMHL') and Winda-Mara Aboriginal Corporation ('WMAC') work together to deliver safe, secure and affordable housing solutions for eligible Aboriginal and Torres Strait Islander community members living in far southwest Victoria.

WMHL's internal governance and strategic objectives are designed to ensure that its practices and service delivery align with the following cultural statement:

Our vision is to create a thriving community where Aboriginal and Torres Strait Islander people have access to safe, affordable, and culturally appropriate housing.

We aspire to empower individuals and families through improved health, education, and wellbeing, fostering a strong sense of identity and pride in our cultural heritage.

Through collaboration and sustainable development, we aim to build a future

## 2. INTRODUCTION

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WMHL does not permit a renter to sub-let or assign their property under any circumstance or at any time during their tenancy.

Where 'unknown' persons are identified as living in a WMHL property, they generally fall into two categories:

- Undeclared occupants – individuals who are permitted by the tenant to live at the property but without the consent of WMHL and in contravention of the signed Residential Rental Agreement that requires all new household members to be approved by WMHL. In some instances, the undeclared occupant may not have vacated when the tenant has moved out or the tenancy has terminated; or
- Squatters – individuals who unlawfully occupy a vacant property as outlined in the Summary Offences Act (1966). Squatters will likely be identified through an inspection of the property at the end of the tenancy or during the temporary absence of a tenant

## 3. PURPOSE

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This policy guides renters about situations where persons are living in a WMHL property without WMHL's permission. This can occur when:

- a person is living in a WMHL property with the renter's permission, but not WMHL's permission;
- a person is sub-letting the whole or part of a property from a WMHL renter;
- a person is remaining at a property after an eviction has been lawfully carried out; or
- a person is squatting in a vacant property.

## 4. SCOPE

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This policy applies to all properties under WMHL's stewardship, whether owned or managed on behalf of other individuals, organisations, or government agencies.

## 5. DEFINITIONS

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Undeclared occupants	People who are permitted by the renter to live at the property, but not permitted by WMHL. This violates the Rental Agreement which states that all adult household members must be added to the Rental Agreement and will impact rental rebates. This may be somebody living with the renter or somebody paying the renter to stay at the property (sub-letting)
Squatters	People who are unlawfully occupying a vacant property. This may occur when the property is untenanted, or the renter is away on a temporary absence.

## 6. MANAGING UNDECLARED OCCUPANTS

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### 6.1 Human rights

The Charter of Human Rights and Responsibilities (2006) is at the forefront of any decisions that result in removing a person from a property.

WMHL will consider the impact of taking action against a person who is in a sub-letting arrangement with a WMHL renter. Staff who are taking action in line with policy will consider whether the proposed action is proportionate and necessary in light of the impacts on the person.

### 6.2 Identifying undeclared occupants

Undeclared occupants, such as a person in a sub-letting arrangement, may be identified through the following:

- notification from a neighbour or support service;
- inspection by WMHL;
- rent reviews which result in rebate adjustments; or
- renter providing the information themselves.

### 6.3 Communication

If a report is received that there is an undeclared occupant at the property, staff will arrange a time to speak with the primary renter and understand the situation.

This may include an inspection of the property, which is permitted if there is a reasonable belief that the renter has not complied with the requirements of their Rental Agreement. A Notice of Entry will be provided to a renter before this inspection occurs.

If an undeclared occupant is found to be living at the property, WMHL staff will ascertain the following information:

- why this information hasn't been communicated to WMHL;
- if there is a sub-letting arrangement;
- the identity of the person;
- the person's relationship to the primary renter;
- the length of time the person has been living at the property;
- the person's circumstances – including whether they are homeless; and
- the person's Victorian Housing Register information.

#### **6.4 Suspected or confirmed sub-letting arrangements**

Sub-letting is an arrangement where a renter transfers part of their interests under a Rental Agreement to another person. Renters are not permitted in any circumstances to assign or sub-let part of whole of their property to another person. This prevents WMHL from fairly allocating social housing stock.

If staff suspect there is a subletting arrangement, they will investigate by:

- speaking with the primary renter and notifying them that sub-letting is prohibited and that WMHL may investigate if it is occurring;
- inform the renter of any evidence gathered that will be considered when making a decision;
- providing the renter with an opportunity to respond to any allegations or evidence within a reasonable timeframe; and
- considering any material provided by the renter.

Staff will support any claims of sub-letting with evidence such as:

- advertisement of the rented property by the primary renter;
- agreement in writing between the primary renter and occupant;
- information from witnesses about who is residing at the property;
- evidence of payments between the primary renter and occupant; or
- evidence of utilities in the occupant's name.

Sub-letting is a very serious situation and failure to remedy can result in a Notice to Vacate being issued. This will only occur after a human rights evaluation, and in consultation with management.

#### **6.5 Undeclared occupants**

If sub-letting is not proven, but the occupant is remaining at the property with the consent of the renter, WMHL will inform the primary renter of their obligation to update WMHL when their household changes. The rental rebate amount will be adjusted to include the new occupant's income.

WMHL will need to arrange an amendment to the Rental Agreement to capture the new household member under the lease arrangement. This can only occur if the new household member is eligible to be placed on the Victorian Housing Register (VHR).

The primary renter is responsible for any behaviour by undeclared occupants, including property damage, causing danger, nuisance and interference with the peace and the condition of property.

### **6.6 Family violence & MARAM**

Renters may feel unable to ask an undeclared occupant to leave if they are at risk of family violence. WMHL staff will carefully assess whether family violence may be indicated between the renter and undisclosed occupant.

WMHL staff will utilise the Multi Agency Risk Assessment & Management Framework (MARAM) to undertake an intermediate risk assessment. If relevant, staff will share information with family violence support services under the Family Violence Information Sharing Scheme (FVISS).

### **6.7 Undeclared occupants after the termination of a tenancy**

If undeclared occupants were present during a tenancy and the primary renter is evicted, the undeclared occupants must also vacate the property. WMHL will provide information about local support services to the renter to assist them in seeking housing support if they require.

If the undeclared occupants refuse to vacate after the termination of the tenancy, WMHL will take action under section 344 of the Residential Tenancies Act 1997 (Vic) to gain possession of the property.

## **7. MANAGING SQUATTERS**

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### **7.1 Legal status of squatters**

It is unlawful for persons to remain on private property without the consent of the owner/occupier, after the person has been notified that they must leave.

### **7.2 Child welfare**

If at any point there are concerns regarding a child's welfare during this process, WMHL staff will contact DFFH Child Protection in line with the Child Information Sharing Scheme to provide them with enough information to assist in protecting the welfare of the child.

### **7.3 Identifying squatters**

Squatters are persons who are staying in vacant properties without WMHL's consent. WMHL staff may identify squatters when inspecting vacant properties and completing maintenance to prepare the property for the next renter. Neighbours or support services may also provide information to WMHL about squatters.

### **7.4 Removing squatters**

Squatters should be removed from the property as soon as possible to minimise the risk of property damage. WMHL staff will take the following steps:

- Notify the squatter that they are not permitted at the property by placing a notice on the front of the door and contacting them if a phone number is available. If it is safe to do so, staff may speak with the squatter directly.
- Squatters will be given a 5-day period to vacate the property and informed that after this period, police will escort them off the premises and locks will be changed.
- The day before the 5-day period, staff will conduct a visit to ascertain if the squatters have vacated.

- If it is determined that the squatters are still there, staff will notify the police to arrange an eviction. Staff will also arrange a locksmith to secure the property at the same time.
- Staff will carry out the eviction with police and ensure the property is secured.

Any abandoned goods will be handled in line with WMHL Goods Left Behind Policy

## 8. REFERENCES

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### **8.1 External or Statutory Requirements**

This policy complies with the following external legislation or requirements:

- Summary Offences Act 1966 (Vic)
- Residential Tenancies Act 1997 (Vic)
- Family Violence Information Sharing Scheme (FVISS)
- Child Information Sharing Scheme (CISS)
- The Charter of Human Rights and Responsibilities (2006)

### **8.2 Internal Requirements and Forms**

This policy refers to the following internal documents, which are available in the WMHL Document Register:

- WMHL Complaints and Appeals Policy and Procedure
- WMHL Goods Left Behind Policy
- WMHL Rent Setting and Review Policy
- WMHL Property Inspection Policy
- WMHL Ending Tenancies and Eviction Policy
- WMHL Sustaining Tenancies Policy
- Notice of Entry Form
- Notice to Vacate Form

## 9. REVIEW

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This policy will be reviewed every two years or earlier if the legal, regulatory, and contractual environment requires.

## 10. AUTHORISATION

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Governing Authority	WMHL Board
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## 11. AMENDMENT HISTORY

Date	Version	Approved by	Amendment Notes
16 April 2024	2	Nicole Stanley	Updated 'WMHLP' to 'WMHL'