

Squatting & Sub-letting Policy



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1. Purpose

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

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

2. Definitions

Persons living in WHL properties without WHL's consent fall into two categories:

- Undeclared occupants – people who are permitted by the renter to live at the property, but not permitted by WHL. 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.

WHL does not permit a renter to sub-let or assign their property under any circumstances during their tenancy.

3. Managing undeclared occupants

3.1 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.

WHL will consider the impact of taking action against a person who is in a sub-letting arrangement with a WHL 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.

3.2 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 WHL
- Rent reviews which result in rebate adjustments

- Renter providing the information themselves

3.3 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, staff will ascertain the following information:

- Why this information hasn't been communicated to WHL
- 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
- The person's VHR information

3.4 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 WHL 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 WHL 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
- 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
- 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.

3.5 Undeclared occupants

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

WHL 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 new household member would be formally offered the property and removed from the VHR if they are remaining at the property.

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.

3.6 Family violence & MARAM

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

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

3.7 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.

WHL 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, WHL will take action under s 344 of the Residential Tenancies Act 1997 (Vic) to gain possession of the property.

4. Managing squatters

4.1 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.

4.2 Child welfare

If at any point there are concerns regarding a child's welfare during this process, 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.

4.3 Identifying squatters

Squatters are persons who are staying in vacant properties without WHL's consent. 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 WHL about squatters.

4.4 Removing squatters

Squatters should be removed from the property as soon as possible to minimise the risk of property damage. 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 WHL's Goods Left Behind Policy