

Winda-Mara Housing Program (WMHP)

Antisocial or Dangerous Behaviour Policy

Contents

1.	Introduction	2
2.	Scope.....	2
3.	Purpose and Objectives	2
4.	Descriptions.....	2
5.	Principles	3
6.	Positive Neighbourly Behaviour	3
7.	Antisocial Behaviour	3
7.1	Nuisance or Interference with the Peace	3
7.2	Damage to Property.....	4
7.3	Dangerous Behaviour and Serious Acts of Violence	4
7.4	Threats and intimidation	4
7.5	Illegal Use	4
8.	Notifying WMHP of Antisocial Behaviour	5
9.	Investigation and Substantiation	5
10.	Actions Available if Allegations are Substantiated.....	5
10.1	Breach of Duty Notice	5
10.2	Successive Breaches.....	6
10.3	Compensation or Compliance Order.....	6
10.4	Notices to Vacate.....	6
10.5	Alternative pathways for resolution.....	6
11.	Support services.....	6
12.	Criminal Matters at WMHP Properties	7
13.	References.....	7
13.1	External or Statutory Requirements.....	7
13.2	Internal Requirements and Forms.....	8
14.	Review	8
	AMENDMENT HISTORY.....	Error! Bookmark not defined.

WMHP Antisocial or Dangerous Behaviour Policy

1. Introduction

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

The activities, principles, policies and elements that contribute to and regulate the housing schemes of WMAC and WMHL are collectively referred to as the Winda-Mara Housing Program ('WMHP').

The WMHP's policies and procedures are designed so that its practice 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 where every member of our community has the opportunity to flourish and succeed.

2. Scope

This is a Housing Program Policy. It applies to all residential tenancies managed by WMAC or WMHL.

3. Purpose and Objectives

This policy guides renters and stakeholders such as neighbours and other community members about how WMHP responds to antisocial behaviour arising from renters or visitors at WMHP properties. This policy outlines the situations that fall within WMHP's ambit and provides guidance for situations that fall beyond WMHP's scope as a Community Housing Provider.

4. Descriptions

Fair Wear and Tear	Fair wear and tear is the normal deterioration of a property from ordinary, everyday use. Exposure to the elements, time, as well as day to day living can cause fair wear and tear.
Breach of Duty Notice	Used to tell someone they have not complied with certain terms and conditions of the Residential Tenancies Act
NTV	Notice to Vacate
RTA	Residential Tenancies Act 1997 (Vic) - the law that regulates renting in Victoria.

VCAT	Victorian Civil and Administrative Tribunal – resolves disputes and makes decisions.
MARAM	Multi-Agency Risk Assessment and Management – a framework that guides services to identify, assess and manage family violence risk in Victoria.
WMHP	Winda-Mara Housing Program

5. Principles

WMHP is committed to the development of communities where all residents can participate fully in life. Where antisocial behaviour arises, WMHP is committed to:

- providing renters and community members with appropriate opportunities and procedures to have their concerns heard;
- taking available action under the Residential Tenancies Act 1997 (Vic) (RTA) that is timely, fair, reasonable and transparent;
- considering the human rights of all parties when assessing antisocial behaviour and taking formal action at VCAT;
- sustaining tenancies wherever possible and only pursuing eviction as a last resort;
- responding to matters that may be family violence related in a way that is trauma informed and MARAM aligned.

6. Positive Neighbourly Behaviour

Most renters are good neighbours, but the behaviour of some renters can make life in local communities less enjoyable and unsafe for others. Local communities work best when neighbours:

- respect each other's rights and privacy;
- take responsibility for their actions and those of family or friends;
- respect communal areas and others' rights to use these spaces;
- are considerate and tolerant of others;
- keep noise to a minimum, especially late at night.

7. Antisocial Behaviour

Antisocial behaviour is behaviour that negatively impacts other neighbours and interferes with their ability to enjoy their own property or any common spaces. Antisocial behaviour can range from mild and moderate nuisances to violent and threatening situations.

7.1 Nuisance or Interference with the Peace

Nuisance is behaviour that substantially and unreasonably impacts the rights of neighbours of the community. Interference with the peace means unreasonably impacting the quiet enjoyment of neighbours.

Examples of this include:

- excessively loud noise or loud noise for an extended period at inappropriate times;
- bad odours from uncollected rubbish;
- unhygienic enclosures for animals;
- excessive noise from animals or visitors to the property;
- excessively loud noise from visitors entering and exiting the property at inappropriate times.

Section 60 of the RTA confers a duty on renters not to cause a nuisance or interfere with the peace, comfort, or privacy of their neighbours.

7.2 Damage to Property

Damage can mean defacing, marking, removing a fixed object or safety feature or causing it to be broken. Renters have an obligation to notify WMHP of any damage to the premises.

Section 61 of the RTA prohibits renters or their visitors from intentionally or negligently damaging rented premises or common areas.

Section 91ZI of the RTA enables WMHP to serve a NTV where renters intentionally or recklessly cause serious damage to the premises.

Damage is distinct from 'fair wear and tear' and WMHP investigates responsibility for damage in line with the Property Damage by Renter Policy.

7.3 Dangerous Behaviour and Serious Acts of Violence

Section 91ZJ of the RTA enables WMHP to issue a NTV where the renter by act or omission endangers the safety of neighbours, the rental provider or their agent, or a contractor or employee of the rental provider or their agent.

Behaviours that cause an ongoing danger under this section of the RTA warrant an immediate response by WMHP.

7.4 Threats and intimidation

Intimidation can refer to any act that creates fear of physical or mental harm and can include physical as well as non-physical acts such as yelling, screaming, ridiculing, insulting and hostile physical posturing. It can include threats of future harm.

Section 91ZK of the RTA enables WMHP to issue a NTV if a renter has threatened or intimidated WMHP staff or contractors.

7.5 Illegal Use

Renters must not use the rented premises or permit their use by any other person for any purpose that is illegal at common law or under an Act.

Section 91ZO of the RTA enables WMHP to issue a NTV to a renter if the property is used for an illegal purpose. There must be a connection between the illegal activity and the property. For example, if a property is altered to support illegal drug growth or manufacture.

8. Notifying WMHP of Antisocial Behaviour

WMHP may receive reports about renter behaviour from other renters, staff, body corporate, contractors and members of the public, including neighbours who are not WMHP renters.

Only where it is safe to do so, WMHP encourages neighbours to first speak with each other to try and come to a solution and to resolve the issues. This can be helpful as often people are not aware of their behaviour and the impact it has on their neighbours.

Complainants should keep a record of antisocial behaviour that includes the time and date of the incident and the details of what occurred. This can be used as evidence if legal action is required.

9. Investigation and Substantiation

To ensure procedural fairness, WMHP staff will:

- notify the renter, either in writing or verbally, of the nature of the alleged breach that may result in action taken by WMHP;
- inform the renter of information and evidence gathered that will be used in the making of the decision in relation to their tenancy;
- provide the renter with an opportunity to refute the alleged breach or provide a response to the alleged breach, and allow the renter to provide supporting evidence (including evidence related to family violence); and
- fairly consider any material or information provided by the renter when making a decision.

10. Actions Available if Allegations are Substantiated.

Where WMHP confirms that a renter has breached their tenancy through behaviour that is antisocial, destructive, or dangerous, all relevant circumstances will be considered in deciding the most appropriate response. This includes the safety and quiet enjoyment of neighbours and the community and the impact on any property that might be at risk of damage or being used inappropriately. It also includes the impact on the renter and their household and each individual's human rights (see the WMHP Ending Tenancies and Eviction Policy).

Competing interests will be carefully considered before action is taken in response to a substantiated breach.

10.1 Breach of Duty Notice

Where a renter has breached a duty provision of the RTA, WMHP may decide to issue a Breach of Duty Notice. This is a formal written warning to the renter that their obligations under the RTA have not been met.

A notice provides a timeframe for the renter to rectify any breach. If the breach is not fixed within the timeframe, WMHP can apply to VCAT for a Compliance or Compensation Order.

10.2 *Successive Breaches*

Where a renter has breached the same duty provision three times and has been issued with breach notices on the first two occasions, WMHP may issue a NTV on the third breach of that duty.

Please see WMHP's Ending Tenancies and Eviction Policy for more information.

10.3 *Compensation or Compliance Order*

If a Breach of Duty Notice has not been complied with, WMHP may make an application to VCAT for a Compensation or Compliance Order.

A Compensation Order will require the renter to pay for any costs associated with remedying the breach. A Compliance Order requires the renter to comply with their duties under the RTA. If the renter fails to comply with the terms of either order, this may be grounds to issue a NTV.

10.4 *Notices to Vacate*

Where there are grounds under the RTA and WMHP has considered the relevant human rights impacts, WMHP may issue a NTV to a renter. Each NTV will specify the grounds for termination of the tenancy agreement and provide a notice period for the renter to vacate the property. Eviction is treated as the option of last resort and may be often avoided by providing early intervention and referring renters to appropriate support services.

Please refer to WMHP's Ending Tenancies Policy for further guidance.

10.5 *Alternative pathways for resolution*

Disputes between neighbours may also be referred to the Dispute Settlement Centre Victoria for mediation if they are outside the scope of the RTA.

If nuisance is caused by pets, WMHP encourages complainants to contact the local council in the first instance. If the behaviour is criminal in nature, WMHP encourages the witness to contact the police in the first instance.

11. *Support services*

When responding to antisocial, destructive or dangerous behaviour, staff will assess what appropriate support services may be useful in preventing tenancy breaches, helping renters respond to allegations and providing support to sustain tenancies. This may include referrals to:

- Community Legal Centres;

- specialist tenancy support and advocacy services;
- financial counselling services;
- community based mental health services; or
- disability support services.

WMHP will also extend assistance to any WMHP renters who are impacted by antisocial or dangerous behaviour, such as completing referrals for support services.

12. Criminal Matters at WMHP Properties

The police should always be the first point of contact for a renter where there are concerns of a criminal nature at a property or any immediate threats to safety from another person's behaviour. This may occur in the context of assaults, harassment, stalking or sexual harassment perpetrated by one renter against another renter at a property.

Where this occurs, WMHP will implement the above actions under the RTA to assist in creating a safe living environment for any impacted renters.

Where any Intervention Orders such as Personal Safety Intervention Orders (PSIOs) or Family Violence Intervention Orders (FVIOs) are issued against renters to protect other renters, WMHP will take the following steps:

1. Contact the relevant police station to confirm details about the Intervention Order and ascertain whether the respondent is allowed back on the property.
2. Provide police with information to assist in any investigations, including CCTV footage.
3. Encourage renters to contact police if the respondent is excluded from the premises but continues to return.
4. Commence VCAT proceedings to end a tenancy where the respondent is permanently excluded from the property but will not voluntarily relinquish their tenancy.

WMHP have limited capacity to intervene in criminal matters that do not directly relate to a renter's obligations under the RTA but will continue to liaise with police or family violence support services to preserve the safety of the impacted renter.

13. References

13.1 External or Statutory Requirements

This policy complies with the following external legislation or requirements:

- *Housing Act 1983* (Vic)
- *Residential Tenancies Act 1997* (Vic)
- *Residential Tenancies Regulations 2021* (Vic)
- *Equal Opportunity Act 2010* (Vic)

- *Public Health and Wellbeing Act 2008 (Vic)*
- *Public Health and Wellbeing (Prescribed Accommodation) Regulations 2020 (Vic)*
- *Noise (Residential) Accommodation Services*
- *Environment Protection (Residential Noise) Regulations 2018 (Vic)*
- *Environment Protection Act 2017 (Vic)*
- *Environment Protection Regulations 2021 (Vic)*
- *Family Violence Multi-Agency Risk Assessment and Management Framework (MARAM)*
- *Charter of Human rights*

13.2 Internal Requirements and Forms

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

- *WMHP Ending Tenancies and Evictions Policy*
- *WMHP Property Inspections Policy*
- *WMHP Property Damage by Renter Policy*
- *WMHP Pets Policy*
- *WMAC Privacy Policy*
- *WMHP Complaints and Appeals Policy and Procedures*

14. Review

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

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