



## **Policy: Trinity College Pathways School U18 Shared Accommodation Policy**

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| Policy Type:     | Divisional Policy  |
| Policy Number:   | TCDP04   |
| Date Approved:   | 13 March 2023  |
| Previous Policy: | Trinity College Pathway School U18 Shared Accommodation Policy |
| Review Date:     | July 2027  |

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### **1 OBJECTIVES**

- 1.1 The purpose of this policy is to identify the procedure for shared accommodation for students who are under 18 years of age. This policy should be read in conjunction with the Trinity College Pathways School Student Code of Conduct and the Trinity College Pathways School Complaints Policy and is designed to eliminate complaints concerning shared accommodation.

### **2 SCOPE**

- 2.1 This policy applies to all Trinity College Pathway School students, who are under 18 years of age and living in accommodation approved by Trinity College.

### **3 POLICY**

- 3.1 Trinity College Pathways School acknowledges that from time-to-time disputes may arise between students who are sharing accommodation and between accommodation providers and students.
- 3.2 Trinity College Pathways School does not assume responsibility for personal disputes that arise between students or between the student and the accommodation provider.
- 3.3 Trinity College Pathways School ~~Housing and~~ Accommodation Office will, where possible, assist students to resolve concerns or complaints by providing appropriate advice and a prompt and fair process.
- 3.4 The approved accommodation sharing arrangements are outlined in Schedule A.

- 3.5 The principles of natural justice apply at all stages of the complaint resolution process. Those involved in the complaint resolution process have a duty to act fairly, impartially and without bias. Where there is a risk of a conflict of interest, the matter should be deferred to another party for resolution. Each party must be given the opportunity to understand the complaint against them and to respond.
- 3.6 Trinity College will endeavour to maintain confidentiality where appropriate, unless required to report the matter to appropriate law enforcement bodies or government agencies.
- 3.7 When there is a request for two students to share one room/apartment, the Pathways School recommends that the arrangements do not proceed with one lease, a mutual lease agreement, a head-tenant, a sub-tenant or a co-tenancy.

### **Shared Accommodation**

- 3.8 Trinity College Housing and Accommodation Office recommends that students do not proceed with one lease where the first tenant is called the head-tenant and the second tenant is called the sub-tenant e.g. split lease, mutual agreement. These agreements are referred to as 'Sub-Letting' in the Residential Tenancies Act 1997.
- 3.9 Students are advised that Sub-Letting is where a tenant transfers part, but not all, of their interest under a tenancy agreement to another person. Where a student does proceed with a 'sub lease', it is their responsibility to check.
- 3.10 In the case that Trinity College Pathways School students seek to sub-let a rental property they must get written consent from the landlord.
  - a) The period of the sub-lease is no longer than the head-tenant's lease with the landlord.
  - b) That the head-tenant has written consent from the landlord to sub-let the property.
- 3.11 In the case that Trinity College Pathways School students seek to sub-let a rental property they must get written consent from the landlord.

### **Circumstances justifying no shared accommodation**

- 3.12 Co-tenants are all parties to the one tenancy agreement or lease together with the one landlord. Arrangements outlined below indicate that it may be a subletting situation:
  - a) One tenant signed a written tenancy agreement with the landlord and the other did not,
  - b) One tenant moved in before the other and the later tenant paid bond to the first tenant,
  - c) One tenant collects the rent from the other and pays the landlord,
  - d) One tenant is responsible for all dealings with the landlord (e.g. repair requests,

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giving notice)

None of the above circumstances alone will prove that there is a sub-letting arrangement, as the legal situation depend on the facts in each case. While it is not always clear when a sub-letting arrangement exists, the difference between a sublease and a co-tenancy can be important if dispute arises between a student and another tenant.

### Administrative Procedure

3.13 If an unauthorised subletting situation has occurred, the parents of the student are responsible for the agreement. If a cancellation of a tenancy is needed between students, they will need to follow the cancellation procedure associated with the lease in accordance with relevant legislation.

#### 3.14 Internal Procedure

- a) The parents will need to sign a request for permission, a 'Condition Letter'
- b) The parents will need to agree for their children to move and/or change residency (if applicable)

#### 3.15 External Procedure

- a) Trinity College Pathways Students may take the matter directly to the Dispute Settlement Centre <https://www.disputes.vic.gov.au/about-us/how-and-when-we-can-help>, however, both parties to the dispute must agree to go to mediation.
- b) Students needing legal advice are able to contact the Federation of Community Legal Centre <https://www.fclc.org.au/> who provide free legal advice to eligible clients
- c) The Dispute Settlement Centre will assign a Dispute Assessment Officer (DAO) to manage the case to completion.
- d) The DAO can only conduct mediation if both parties are willing to attend.

## 4 SCHEDULE

| Bedroom Type  | U18 Student Approval/Conditions   |
|---|---|
| Studio Twin Share- Combined Lease                               | Approved if applicants are siblings. Applicants must be same gender   |
| Studio Twin Share- Individual/Split lease                       | Approved but must be same gender. Under 18 & over 18 is allowed   |
| Two bedroom- Combined lease                                     | Approved if applicants are siblings. Applicants must be the same gender unless siblings   |
| Two Bedroom- Individual/Split Lease                             | Approved if applicants are the same gender or siblings  |
| Three bedroom – Combined Lease                                  | Approved if applicants are siblings. Applications made onshore will be considered on a case by case basis. Applicants must be the same gender unless siblings |
| Four bedrooms where each room is a twin Individual/Split Lease) | Approved but must be same gender. Under 18 & over 18 is allowed   |

## 5 ROLES AND RESPONSIBILITIES

| Role / Decision / Action                        | Responsibility   | Conditions and limitations |
|---|--|----------------------------|
| Approving U18 shared accommodation arrangements | Trinity College Pathways School Housing and Accommodation Office |                            |
| Cancellation of Lease Agreements                | Student's parents  |                            |
| Dispute resolution                              | Trinity College Pathways School Housing and Accommodation Office | Advice only                |

## 6 DEFINITIONS

**Assignment:** Transferring the Rights and Benefits of a Contract (Like A Lease) Into Another Person's Name

**Co-tenants:** all parties to the one tenancy agreement or lease together with equal rights and one landlord

**Landlord:** a) the person by whom the premises are let under a tenancy agreement; or  
b) the person by whom the premises are to be let under a proposed tenancy agreement

**Rented Premises:** in relation to a tenancy agreement to which this Act applies means the premises let under the tenancy agreement.

**Resident:** in relation to a rooming house, a person who, with the agreement of the rooming house owner, occupies a room as his or her only or main residence.

**Room:** a room in a building, where the room is occupied or intended to be occupied for the purpose of a residence by a person having a right to occupy the room together with a right to use in common with others.

**Rooming house:** A rooming house is a building where one or more rooms is available for occupancy by four or more people (in return for the payment of rent)

- Four tenants on a mutual lease in the same house is not a rooming house, it is a share house.

**Rooming house owner:** in relation to a rooming house which is leased to a person who conducts the business of operating the rooming house, includes the lessee.

**Rooming house provisions:** any provisions of this Act to the extent to which they apply to a room, a rooming house, a resident of a room in a rooming house, a rooming house owner or a rooming house mortgagee.

**Sub-letting:** when a tenant transfers part (but not all) of their interest under a tenancy agreement to another person. The first tenant is called the head tenant and the second tenant is called to sub-tenant. The agreement between them is called the sub-lease.

**Self-contained apartment:** a portion of a building which forms a self-contained residence, including kitchen and bathroom and toilet facilities, under the exclusive possession of the occupier.

**Tenancy agreement:** an agreement, whether or not in writing and whether express or implied, under which a person lets premises as a residence.

**Tenant:** Residential Tenancies Act 1997 Act No. 109/1997

- the person to whom premises are let under a tenancy agreement; and
- the person to whom premises are to be let under a proposed tenancy agreement TCPS U18 Student Supervision Policy and Procedures

## 7 RELATED DOCUMENTS AND GOVERNMENT DEPARTMENTS

- Education Services for Overseas Students Act 2000 (ESOS Act)
- National Code of Practice for Providers of Education and Training to Overseas Students (the National Code 2018)
- TCPS Complaint Policy and Procedure
- TCPS Student Code of Conduct
- TCPS Student Curfew Safety Policy
- Department of Education and Training (Cth)
- Department Home Affairs (Cth)
- Overseas Students Ombudsman
- Criminal Code Act 1995 (Cth) Crimes Act 1958 (Vic)
- Commission for Children and Young People Act (2012)
- Residential Tenancies Act 1977

## 8 POLICY OWNER

8.1 The Associate Dean (Student Journey) is responsible for the development, compliance monitoring and review of this Policy and any associated procedures and guidelines.

## 9 REVIEW

This Policy is to be reviewed by July 2027.

## 10 VERSION HISTORY

| Version | Approved By                               | Approval Date | Effective Date | Sections Modified                                |
|---------|---|---------------|----------------|--|
|         | Trinity College Pathways School Executive | 05 May 2020   | 05 May 2020    | Policy re-written within new template guidelines |
|         | Trinity College Pathways School Executive | 13 March 2024 | 05 March 2024  | Minor updates                                    |

