

Lodgers, Subletting and Tenancy Fraud Policy

1.0	SCOPE
	Purpose
1.1.	<p>This document sets out whg’s Policy towards tenants who take in lodgers, sublet part of their home or sublet their entire home. It also explains how whg deals with tenancy fraud where we discover:</p> <ul style="list-style-type: none"> • false statements on applications for housing, mutual exchange or Right to Buy/Right to Acquire. • statutory overcrowding.
1.2.	The Policy aims to protect our assets, support our customers to sustain their tenancy, achieve best use of stock and prevent tenancy fraud from occurring.
1.3.	This policy applies to whg tenants.
	Legal and regulatory framework
1.4.	Housing Act 1985 Part X: statutory overcrowding levels, exemptions from overcrowding, and the penalties for both occupier and landlord for contravention.
1.5.	Immigration Act 2014 (updated 2016): liability of landlords to check the immigration status of subtenants and lodgers.
1.6.	Prevention of Social Housing Fraud Act 2013: criminal subletting of social housing has maximum penalty of £50,000 fine/two years in prison. Local authority has statutory powers to prosecute someone for tenancy fraud, the evidence of which is admissible in civil proceedings, should whg apply for possession of the property. whg as landlord can apply to court for possession and take civil action to recover any profit and costs under an Unlawful Profit Order.
1.7.	Housing Act 1985 S15A: loss of assured tenancy status if a tenant parts with

	possession of the property or sublets whole of the property.
1.8.	Regulator of Social Housing Tenancy Standard: 2.2.6 “Registered providers shall make sure that the home continues to be occupied by the tenant they let the home to in accordance with the requirements of the relevant tenancy agreement, for the duration of the tenancy, allowing for regulatory requirements about participation in mutual exchange schemes.”
2.0	POLICY STATEMENT
	Definitions
2.1.	For the purposes of this Policy specific terms are defined as: Lodger: someone who does not have exclusive possession of any part of the property (i.e. the customer can access their room). Subtenant: someone who has exclusive possession to part of the property (i.e. the customer cannot access their room without permission).
2.2	Lodgers or subtenants left in occupation following the end of tenancy are defined as Unauthorised Occupiers and managed under the Unauthorised Occupiers policy. It is whg’s ambition not to evict into homelessness
	Consent – Subletting and Taking in Lodgers
2.3.	If their specific tenancy agreements allows, a tenant may sublet part of their property or take in a lodger. In most circumstances, they will require whg’s written consent to do so, depending on their tenancy agreement. We will not give consent to sublet or take in a lodger if: <ul style="list-style-type: none"> • it would mean there is overcrowding in the property; • the lodger or subtenant would breach our Restricted Access to Housing Policy; • the lodger or subtenant would breach any age or other criteria for occupation of the home determined by us (acting reasonably) from time to time; or • we have reasonable cause to believe that the lodger or subtenant has committed, or allowed a visitor or household member to commit, antisocial acts of a type set out in the conditions of tenancy.
2.4.	whg will not give consent for a tenant to sublet the whole of the home to another person and move out of the property.

2.5.	If the tenant leaves, any lodger or subtenant must also leave. If they do not, they will be classed as an unauthorised occupier and we will apply for possession of the property.
2.6.	Tenants must tell us the name, age and gender of any lodger or subtenant. Tenants must also obtain evidence from the lodger/subtenant of Right to Rent.
2.7.	Tenants are responsible for the conduct of the lodger/subtenant, and any of the lodger/subtenant's visitors, during their occupancy.
2.8.	Tenants in receipt of housing-related benefits must advise the relevant benefit authority of any changes in occupancy of the home, including any lodgers or subtenants.
2.9.	Tenants must get our consent for any further lodgers or subletting if there is a change in occupancy. If a tenant takes in a lodger or sublets without consent, we will take appropriate action on a case-by-case basis.
2.10.	Lodgers and subtenants do not have a tenancy agreement with whg, and any tenancy agreement issued to them by our tenant will not be valid or enforceable.
	Tenancy Fraud – Subletting
2.11.	If we identify that a tenant has sublet the whole of their property, we will deem the tenancy has ended and apply to court for possession. We will not accept a surrender of the tenancy for a sublet property without vacant possession.
2.12.	We may apply for an Unlawful Profit Order where appropriate. We may also refer any evidence to the relevant local authority for prosecution.
	Tenancy Fraud – False Declarations
2.13.	If we discover or suspect a tenant or applicant has made a false statement on a housing, mutual exchange or Right to Buy/Right to Acquire application, we will investigate this as potential tenancy fraud.
2.14.	We will consider action on a case-by-case basis. This may include possession action and/or referral to the local authority for action against tenancy fraud.
	Overcrowding
2.15.	Overcrowding may constitute an offence on the part of both the tenant and the

	landlord depending on the circumstances of the case.
2.16.	We will address overcrowding as a result of allowing lodgers or subletting on a case-by-case basis. Actions may include seeking possession of the property.
3.0	PERFORMANCE MEASURES
3.1.	We will keep a record of all requests for subletting and/or taking in a lodger, and incidents of tenancy fraud with outcomes.
4.0	EQUALITY AND DIVERSITY
4.1.	Potential for equality impact has been considered as part of a separate equality assessment; overall there are no anticipated negative impacts relating to equality, but monitoring procedures will include equality analysis in addition to performance.
5.0	TRAINING AND DISSEMINATION
5.1	The Tenancy Services team receives training in detection of tenancy fraud, as well as regular briefings on specific cases and learning outcomes.
6.0	MONITOR AND REVIEW
6.1.	All incidents of suspected tenancy fraud are reported to the Fraud Prevention Officer in line with the Fraud Prevention Policy. Monthly monitoring is conducted by the Tenancy Services Manager.
6.2.	We share data with other organisations through the necessary protocols to enable the detection and prevention of fraud, noted in the Privacy Statement which can be found at www.whg.uk.com/privacy-statement
6.3.	The Director of Housing monitors our Policy and accompanying procedures on an annual basis and takes into account customer feedback, to ensure we adhere to best practice. The Policy is reviewed formally every three years.
7.0	ASSOCIATED DOCUMENTS, POLICIES AND PROCEDURES
7.1	Documents, policies and procedures associated with this Policy are:

	<p>Internal Documents:</p> <ul style="list-style-type: none"> • Tenancy agreements • Anti-Social Behaviour Policy • Allocations Policy • Rent Arrears Recovery Policy • Right to Buy/Right to Acquire Policy • Fraud Prevention Policy • Restricted Access Policy • Tenancy Changes Policy • Abandonment Policy • Safeguarding Policy <p>External Documents:</p> <ul style="list-style-type: none"> • Prevention of Social Housing Fraud Act 2013 • Immigration Act 2016 • Data Protection Act 2018 • Housing Act 1985 and 1988 • Modern Slavery Act 2015
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Document author	Anna Paterson
Document owner	Gary Brookes
Legal advice	<ul style="list-style-type: none"> • Seeking Unlawful Profit Orders • Local authority prosecution approach • Surrender of tenancy implications if lodger/subtenant in situ
Consultation	<ul style="list-style-type: none"> • Policy sent to Legal, Lettings, Community Safety, Income and Market Rents for comment • Open workshop held
Approved by	Policy Group December 2020
Review Date	December 2023
Corporate Plan aim	Deliver high quality homes and services for our customers
Equality Assessment	Completed
Key changes made	<ul style="list-style-type: none"> • Inclusion of Unlawful Profit Order, referral to local authority, refusal to accept surrender • Inclusion of relevant regulatory standard • Removal of Appendix 1 (tenancy agreement matrix)