

# Unauthorised Occupiers Policy

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## 1.0 SCOPE

### **Purpose**

- 1.1. The purpose of this Policy is to explain our response to properties being occupied by squatters, trespassers and unauthorised occupiers who do not hold a valid tenancy and are not former tenants of the property.
- 1.2. The Policy explains the definition of squatters and unauthorised occupiers and what we will do in circumstances where a squatter or unauthorised occupier is discovered.
- 1.3. The Policy supports our Allocations Policy to ensure that our properties are not used by unauthorised occupiers.
- 1.4. The Policy ensures we continue to operate within the law and that we protect our homes by considering appropriate action to ensure our homes are let to customers entitled to them.

### **Applies to**

- 1.5. The Policy applies to occupancy of all residential properties and all tenancy types where there is a squatter or unauthorised occupier in a property or on land we own where permission has not been granted to occupy.
- 1.6. The Policy does not apply to shared ownership, leaseholders and homeowners as they would be expected to remove squatters/unauthorised occupiers themselves.

### **Definitions**

- 1.7. An unauthorised occupier is someone who is unlawfully occupying a whg home and does not lawfully hold a tenancy agreement, such as:
  - Someone who has been allowed into the home with the consent of the customer and remains in the home after the customer has left.
  - Someone who was a family member or friend of a deceased customer who was the lawful tenant but is not eligible to succeed to the tenancy on their death.
  - An assignment or mutual exchange carried out without our consent.
  - A false claim for succession by someone who will not leave the home of the deceased customer.

- 1.8. A squatter is someone who has entered the property without the consent of either the tenant or whg, often without keys, and by force through breaking and entering a property.

### **Aims**

- 1.9. The Policy aims to ensure we:
- take action quickly to tell the police there is a squatter occupying one of our homes;
  - take action quickly when there is an unauthorised occupier through mutual exchange where no consent has been given;
  - charge a use and occupation fee during the squatting/unauthorised occupation period;
  - work with relevant agencies to remove unauthorised occupiers from land we own;
  - on a case-by-case basis, take possession of the home from the squatter to reinstate occupancy by the rightful customer or take possession of the home from an unauthorised occupier who has no legal right to a home; and
  - maintain services to the home and communicate with squatters/unauthorised occupiers until a possession order is obtained.

### **Legal and Regulatory Framework**

- 1.10. The HCA Tenancy Standard requires us to ensure the home continues to be occupied by the customer we let the home to in accordance with the requirement of the relevant tenancy agreement. We are also required to provide services that support customers to maintain their tenancy and avoid unnecessary evictions.
- 1.11. Our tenancy agreements set out and outline the rights and responsibilities for customers relating to lawful occupancy.
- 1.12. The Protection from Eviction Act 1977 prevents anyone from being evicted from residential property by landlords without there being a court order in place and ensures all practice is followed in accordance with the law.
- 1.13. Section 144 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 made squatting a criminal act with effect from September 2012. This means that the police are able to remove squatters from residential buildings (i.e. a house or flat) and squatting is punishable with six months imprisonment, and a fine of up to £5,000 or both. The police can also take action if other offences such as breaking windows or doors to gain entry into the property have occurred.

## 2.0 POLICY STATEMENT

### Principles

- 2.1. We will ensure our homes are let to legitimate customers in need of a home through fair and transparent processes in accordance with the Allocations Policy.
- 2.2. We will actively manage all empty homes to ensure squatting is minimised.
- 2.3. On discovery of an unauthorised occupier or squatting, we will act as quickly as possible to gain possession of the home. Where appropriate, we will signpost squatters and unauthorised occupiers to support listed in Appendix 1.

### Unauthorised Occupier

- 2.4. On discovery of an unauthorised occupant, we will inform them in writing:
  - Why they have no legal right of occupancy of the home.
  - We will not accept any payment as rent payments. The unauthorised occupier will be charged a use and occupation fee whilst occupying the home, collected through a mesne profit account. The unauthorised occupier will be expected to claim benefit should they be entitled, for any use and occupation fee charged.
  - That we intend to apply for immediate possession of the property and that they may wish to seek independent advice from a solicitor or Citizens Advice Bureau.
  - If they have unlawfully mutually exchanged without our consent that they must move back to their original home to avoid possession action, and explain the reasons why consent will not be given. Refer to the Mutual Exchange Policy.
- 2.5. A failed successor will be dealt with as an unauthorised occupier unless there are management reasons that fit within our values where offering a tenancy would be appropriate. Refer to the Tenancy Successions Policy.
- 2.6. We will consider representations received on the circumstances of the unauthorised occupier on a case by case basis.

### Squatters

- 2.7. On discovery of a squatter we will report the matter to the police immediately and make all reasonable attempts to contact the squatter to inform them that they have no legal right of occupancy of the home.
- 2.8. If someone is seen breaking and entering, this is a criminal act and the police will be called immediately to remove them. If a person remains in a

home after breaking and entering and refuses to leave, they will be deemed as squatting.

- 2.9. In all cases where squatting is discovered, we will ensure any services remain connected within the home whilst they are squatting, if safe to do so, in accordance with the Protection from Eviction Act 1977 noted in 1.12 above. Possession action will commence on discovery of the squatter.

### **3.0 Appeals and Complaints**

- 3.1. Both squatters and unauthorised occupiers have the right to representation in court through the relevant legal process. The courts will decide whether possession of the property is/is not appropriate and whether the squatter or unauthorised occupier has a valid claim.
- 3.2. Squatters and unauthorised occupiers do not have a right of appeal against our decision to seek a possession order.
- 3.3. Squatters and unauthorised occupiers may complain through the Complaints Policy, which will not prevent or delay any legal action from being taken.

### **4.0 MONITOR AND REVIEW**

- 4.1. This Policy will be monitored by the Director of Housing and reviewed every three years by the Customer Services Committee.

### **5.0 ASSOCIATED DOCUMENTS, POLICIES AND PROCEDURES**

Documents, policies and procedures associated with this policy are:

- Squatter and Unauthorised Occupiers Procedure
- Tenancy Succession Policy
- Tenancy Changes and Assignment Policy
- Tenancy Policy and Procedures
- Lodgers, Subletting and Tenancy Fraud Policy
- Mutual Exchange Policy and Procedure
- Allocations Policy
- Complaints Policy
- Tenancy Agreements
- Housing Act 1985 and 1988
- The Protection from Eviction Act 1977
- Section 144 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012

## APPENDIX 1 – Signposting Information - Who to contact for advice

Local Authority	Website	Contact Details
Birmingham City Council	<a href="http://www.birmingham.gov.uk">www.birmingham.gov.uk</a>	0121 3037410
Bromsgrove District Council	<a href="http://www.bromsgrove.gov.uk">www.bromsgrove.gov.uk</a>	01527 881799 info@bdht.co.uk
Cannock Chase District Council	<a href="http://www.cannockchasedc.gov.uk">www.cannockchasedc.gov.uk</a>	01543 462621 housingoptions@cannockchasedc.gov.uk
Dudley Metropolitan Borough Council	<a href="http://www.dudley.gov.uk">www.dudley.gov.uk</a>	0300 5552345
Lichfield District Council	<a href="http://www.lichfielddc.gov.uk">www.lichfielddc.gov.uk</a>	01543 308703 housing@lichfielddc.gov.uk
Malvern Hills District Council	<a href="http://www.malvern hills.gov.uk">www.malvern hills.gov.uk</a>	01386 565020 housing.needs@wychavon.gov.uk
Redditch Borough Council	<a href="http://www.redditchbc.gov.uk">www.redditchbc.gov.uk</a>	01527 534069 contact.centre@bromsgroveandredditch.gov.uk
Sandwell Metropolitan Borough Council	<a href="http://www.sandwell.gov.uk">www.sandwell.gov.uk</a>	0121 3681166 customer_services@sandwell.gov.uk
Solihull Metropolitan Borough Council	<a href="http://www.solihull.gov.uk">www.solihull.gov.uk</a>	0121 7171515 info@solihullcommunityhousing.org.uk
South Staffordshire District Council	<a href="http://www.sstaffs.gov.uk">www.sstaffs.gov.uk</a>	01902 696000 info@sstaffs.gov.uk

Stafford Borough Council	<a href="http://www.staffordbc.gov.uk">www.staffordbc.gov.uk</a>	01785 619000 housingadvice@staffordbc.gov.uk
Telford and Wrekin Council	<a href="http://www.telford.gov.uk">www.telford.gov.uk</a>	01952 381925 housing.services@telford.gov.uk
Tamworth Borough Council	<a href="http://www.tamworth.gov.uk">www.tamworth.gov.uk</a>	01827 709709 housingsolutions@tamworth.gov.uk
Walsall Council	<a href="http://www.walsall.gov.uk">www.walsall.gov.uk</a>	01922 653405 housingadvice@walsall.gov.uk
Warwick District Council	<a href="http://www.warwickdc.gov.uk">www.warwickdc.gov.uk</a>	01926 456129 hadvice@warwickdc.gov.uk
Wolverhampton City Council	<a href="http://www.wolverhampton.gov.uk">www.wolverhampton.gov.uk</a>	01902 554747 housing.options@wolverhampton.gov.uk
Worcester City Council	<a href="http://www.worcester.gov.uk">www.worcester.gov.uk</a>	01905 722589 housing@worcester.gov.uk
Wychavon District Council	<a href="http://www.wychavon.gov.uk">www.wychavon.gov.uk</a>	01386 565020 housing.needs@wychavon.gov.uk

**\*\*Depending on where you live, then you will need to speak to your local authority that you fall under.**

**Citizens Advice Bureau – [www.citizensadvice.org.uk/getadvice](http://www.citizensadvice.org.uk/getadvice)**

### **Shelter – Advices about Housing and Homelessness**

Shelter Head Office  
88 Old Street  
London  
EC1V 9HU

- Supporter Helpdesk on 0300 330 1234 from Monday - Friday 9am-6pm (excluding bank holidays).
- Email [info@shelter.org.uk](mailto:info@shelter.org.uk)
- Main Switchboard 0344 515 2000 (9-5.30 Mon-Fri) – Shelter Do not give housing advice on this number.

## Version control

<b>Version</b>	1.1
<b>Document author</b>	Jenny Calderbank, Tenancy Services Manager
<b>Document owner</b>	Gary Brookes, Director of Housing
<b>Legal advice</b>	Horizon scan completed shows no new legislation since 2012. Legal Services have reviewed the policy and amended where necessary
<b>Consultation</b>	Tenancy Services team colleagues
<b>Approved by</b>	Policy Group – November 2017 GEXEC March 2018 – Policy approved
<b>Review Date</b>	November 2021, Extended from September 2021
<b>Corporate Plan aims</b>	Deliver high quality homes and services for our customers
<b>Equality analysis</b>	Not required
<b>Key changes made</b>	New policy when initially approved.