

Unauthorised Occupiers Policy

1.0	SCOPE
	Purpose
1.1.	<p>This document sets out whg’s policy towards responding to unauthorised occupiers in residential properties. Unauthorised occupiers are those who do not have any legal right to be at the property or enter the property without permission or on the death of a tenant has no succession rights.</p> <p>This unauthorised occupier policy applies to all tenancies where the main tenant has left the property and they remain, without any legal right to do so.</p>
	Legal and regulatory framework
1.2.	<p>Legal Aid, Sentencing and Punishment of Offenders Act Section 144: Offence of Squatting Anyone who deliberately goes into a property without permission with intention of living there is committing a criminal offence, unless they are a former tenant or licensee of the property.</p>
1.3.	<p>Protection from Eviction Act 1977 Section 1: Unlawful Eviction Anyone who withdraws services, restricts access, interferes with peaceful enjoyment of the property, or otherwise acts with intention of causing the occupant to leave the property, is committing a criminal offence.</p>
1.4	<p>Housing Act 1988 Section 17: Succession At the tenant’s death, an Assured tenancy passes to the tenant’s partner if they were living in the property as their only or principal home; if there is no such partner, the tenancy passes to anyone specified within the tenancy agreement as eligible to succeed. This does not apply if the tenant was a successor.</p>
1.5	<p>Regulator of Social Housing: Tenancy Standard 1.1.1 Registered providers must allocate and let their homes in a fair and transparent way that takes the needs of tenants and prospective tenants into account. 1.3.2 They shall meet all applicable statutory and legal requirements in relation to the form and use of tenancy agreements or terms of occupation.</p>

2.0	POLICY STATEMENT
	Squatters
2.1	Anyone squatting in a whg property will be advised in writing that they are not legally allowed in the property and that we will apply for possession. We will then seek an Interim Possession Order at the earliest opportunity. There is no right to any form of appeal against this within whg, however we will provide signposting and guidance where appropriate.
2.2	For the purposes of this Policy, the term squatter refers to any person who entered the property after the former tenant left the property, who is or is not aware that they were not there legitimately, and who has the intention of living there.
	Left in Occupation
2.4	Occupants are deemed to be left in occupation if they are living at the property when the former tenant died and they have no rights to succeed to the tenancy, or otherwise the tenant has permanently left the property.
2.5	whg will advise anyone left in occupation that: <ul style="list-style-type: none"> • they are an unauthorised occupier and the basis for that; • we will apply for possession of the property should they continue to remain in the property; and • they must make payments towards the use and occupation of the property for the period they are living there until vacant possession of the property is obtained.
2.6	We will advise and/or assist anyone left in occupation to help find suitable accommodation. This may be through support and signposting to the relevant local authority, or in exceptional cases through a tenancy with whg
2.7	Occupants who were household members of the former tenant, who have been living in the property as their only home for at least twelve months, may be offered a new whg tenancy. The offer of a new tenancy is at the discretion of whg as referenced in the Succession Policy.
2.8	Occupants who were lodgers or subtenants of the former tenant will not normally be offered a tenancy with whg, regardless of length of time living in the property. In exceptional circumstances, it may be reasonable to offer a new tenancy either at the property in question or at a different property that meets their eligibility criteria. The offer of a new tenancy is at the discretion of whg.

2.9	Former joint tenants who are left in occupation following the service of a valid Notice to Quit by a departing joint tenant will usually be granted a new tenancy for their home under whg's Tenancy Assignment Policy. However, where the home is too large or otherwise unsuitable, the former joint tenant will be offered suitable alternative accommodation, at the discretion of whg.
2.10	whg is not obliged to offer a new tenancy to anyone left in occupation. Cases will be considered individually to determine whether it is reasonable for whg to offer a tenancy in the particular circumstances. This will take into account household needs, especially where the occupant may have reduced access to suitable accommodation due to disability, but also eligibility of the occupant(s), and reasonable indicators of intention to commit or complicity in tenancy fraud. This decision will be made by the Regional Community Housing Manager.
2.11	Following approval for rehousing in suitable alternative accommodation occupants will be placed onto the housing waiting list and must make reasonable efforts to seek a new home via Find a Home. We will apply auto-bidding under the Allocations Policy where we believe occupants are failing to bid on suitable properties without reason. If permission is granted for the occupier to remain in the property, whg will arrange for a new tenancy agreement to be signed. There is a right to appeal decisions made, which will be dealt with inline with our complaints procedure.
2.12	If an occupant has refused a reasonable offer of accommodation with whg, we will apply for possession of the property.
3.0	PERFORMANCE MEASURES
3.1	The Regional Community Housing Manager carries out monthly assurance checks that review whether cases of unauthorised occupation have been managed in line with policy. Additional quarterly reviews are conducted to provide further assurance. These check whether whg is compliant with the Tenancy Standard and all applicable legislation.
3.2	There are no key performance indicators associated with this Policy.
4.0	EQUALITY AND DIVERSITY
4.1	This Policy ensures specific household needs, particularly in relation to disability, are taken into account when deciding the appropriate action for managing unauthorised occupation.
5.0	TRAINING AND DISSEMINATION
5.1.	Colleagues responsible for managing unauthorised occupation will receive training on the Policy and all associated procedures and guidance notes.

6.0	MONITOR AND REVIEW
6.1	This Policy will be monitored by the Director of Housing and Customer Services. It is reviewed every three years by the Policy Group and approved by Group Executive.
7.0	ASSOCIATED DOCUMENTS, POLICIES AND PROCEDURES
7.1	Documents, policies and procedures associated with this Policy are: <ul style="list-style-type: none"> • whg tenancy agreements • whg Succession Policy • whg Allocations Policy • whg Lodgers, Subletting and Tenancy Fraud Policy • Whg Equality, Diversity and Inclusion Policy
Document author	Assistant Director- Housing- Community
Document owner	Director of Housing and Customer Service
Legal advice	Legal Services
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Approved by	Policy Group and Group Executive
Review Date	January 2028
Corporate Plan aim	<ul style="list-style-type: none"> • Forward thinking services
Equality Assessment	None undertaken
Key changes made	References to Choose and Move removed. Clarity given in section 1.1, 1.5, 2.4. 2.5. 2.6. 2.7.2.11, Grammatical corrections.