



POLICY DOCUMENT

Group Member: Progress Housing Group

Service Area: Housing Operations - Housing Management

Document Ref No: GRPOLHM25

Subject Title: Unauthorised Occupiers Policy

Version: 6

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Document Owner: Head of Housing Operations (Homes and Opportunities)

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|------------------------|-------------------------------|---|------------|----------|---|
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1. Introduction

1.1 This policy sets out the legal framework relating to unauthorised occupiers within our residential properties.

1.2 The policy is our commitment to the following principles:

- To ensure all occupants of our stock have valid tenancy agreements or licences where appropriate
- To investigate all allegations of squatting
- To act against all instances where attempts at tenancy fraud are identified
- To take a risk-based approach to secure voids deemed to be at risk of squatting
- To ensure void properties are managed whilst empty particularly those that are empty for longer than the target
- To take effective and prompt action against squatters including criminal proceedings to enable our properties to be relet promptly. This will include working in partnership with the police where they are already aware of action taken
- Where occupiers are potential successors we will deal with their case promptly and advise on what information is required to assess their case
- Where an unauthorised occupier is a failed successor we will work with them to find suitable alternative accommodation
- Where an unauthorised occupier is entitled to a succession but the property is too large we will offer a suitably sized smaller property for them to exercise their succession in.

1.3 This policy sets out measures and approaches that Progress Housing Group (The Group) will adopt to make sure that squatting is avoided and that unauthorised occupiers are dealt with promptly.

1.4 Where squatting is identified, The Group will take steps to regain lawful possession of the property.

2. Scope of the policy

This policy applies to all residential properties within the Group regardless of tenure.

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|------------------------|-------------------------------|---|------------|----------|---|
| Progress Housing Group | | Housing Operations - Housing Management | | | |
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| Ref No: | GRPOLHM25 | Reviewed: | 01/09/2022 | Version: | 6 |

3. Responsibility

- 3.1 It is the responsibility of the Senior Leadership Team Business to approve this policy.
- 3.2 It is the responsibility of Executive Directors, Directors and Service Managers across The Group to implement this Policy.
- 3.3 All staff members have a responsibility to follow the policy and procedure at all times.

4. Policy

Aims & Objectives

- 4.1 The Group will take appropriate action to ensure squatting in our properties is avoided. Where cases of squatting are identified, the Group will take steps to regain lawful possession of the property expeditiously.
- 4.2 Demand for our properties is high so the Group must lawfully allocate properties and make the best use of our housing stock.
- 4.3 The Group seeks to avoid or minimise costs which may arise as a result of squatting.

Legal and Regulatory Framework

Squatters

- 4.4 Squatting is not a legal term but it commonly means the entering of a property without the permission of the owner or the person who has a legal right to live there.
- 4.5 On 01 September 2012 squatting in a residential property became a criminal offence as per Section 144 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012. Squatters can be arrested by the police and if convicted by a court, they can be sent to prison for up to 6 months and fined up to £5000.
- 4.6 Squatters can be arrested and removed if they have:
 - Displaced a residential occupier i.e. they have moved in while someone was still in residence and had not given notice or moved out

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|------------------------|-------------------------------|---|------------|----------|---|
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- Prevented an intended occupier i.e. someone who has paperwork to prove their intended occupation such as a tenancy agreement.
 - Caused damage to the property
- 4.7 If a decision is made not to arrest squatters, squatters can be evicted more easily than someone with a tenancy. The Group will work in partnership with other agencies and determine the best course of action to take, seeking legal advice where necessary.
- 4.8 In all cases occupants must be referred to the local authority for advice about their homelessness situation as per the Homelessness Reduction Act 2017. The Group is committed to working in partnership to prevent and reduce homelessness however where an occupant has illegally entered a property our policy will not be to offer them a tenancy at the address. In exceptional circumstances, we may offer them a suitable temporary alternative if agreed with the local authority.

Managing Reports of Squatting

- 4.9 If a squatter is suspected a visit should be organised for the appropriate officer to investigate. This could be a report from another tenant, resident, member of staff or another agency.
- 4.10 If a property is due to become vacant and there have been issues with the tenancy which give reason to suspect that another person may attempt to move in, security should be arranged at void stage within 24 hours.
- 4.11 If an unauthorised occupiers is found to be an occupant who is claiming succession, the succession process should commence and evidence gathered to make a decision in line with the previous tenant's agreement concerning this claim.
- 4.12 In all cases of succession investigation, a mesne profit occupier account must be set up concerning the occupant to ensure that no tenancy is implied and that a use and occupation charge is levied.
- 4.13 When a property is identified as due to become empty or suspected abandoned the property is managed via the voids process.

Unauthorised Occupiers

- 4.14 Unauthorised occupiers differ from squatters because they have either been passed the keys by an outgoing tenant or they have been

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|------------------------|-------------------------------|---|------------|----------|---|
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left in occupation after the tenant's death or termination of tenancy by the tenant.

- 4.15 In some cases this is identified at the point the tenant leaves or dies but in other cases the unauthorised occupier may have been at the address for some time before this has been identified.
- 4.16 In some cases unauthorised occupiers will be entitled to succeed to a tenancy or a decision may be made to offer them a new tenancy where they can demonstrate that they have occupied an address for a period of time.
- 4.17 Different tenancies offer varying rights about succession however the main considerations are based on:
- The relationship to the tenant
 - Whether they have lived in the property for over twelve months
 - The size of the property.

This issue is covered in more detail in our Succession Policy with reference to the valid tenancy agreement and any subsequent assignments.

- 4.18 A mesne profit account should be set up for these unauthorised occupiers as for squatters and to serve a Notice to Quit on the tenant who cannot be located.
- 4.19 Unauthorised occupiers should be given a quick decision in the case of succession when all information has been received. This ensures that any legal claims necessary for possession are pursued.

5. Definitions

- 5.1 **Squatting** – this is not a legal term but is commonly used to describe a trespasser who enters and lives in a property or on land without the permission of the owner or person legally entitled to occupy (ie the tenant.). It is not someone who has been left in occupation by the tenant after they have left or died. Squatting usually takes place after the end of a tenancy in a void property.
- 5.2 **Mesne profit** – this refers to a use and occupation charge for a person or persons who does not have a tenancy but is occupying a property or land with The Group's agreement. This can be a previous tenant who no longer has a valid tenancy or an unauthorised occupier (either a squatter, failed successor or person awaiting a decision on a succession.)

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|------------------------|-------------------------------|---|------------|----------|---|
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5.3 **Unauthorised occupier** – this is an occupier who has been left in residence at the death of the lawful tenant and is not a squatter. They may have lived at the address with the tenant or they may have moved in at the time of death. Their status is undecided until investigations have taken place into whether they have succession rights.

5.4 **Tenancy fraud** – any intentional false representation, including failure to declare information or abuse of position that is carried out to make gain, cause loss or expose another to the risk of loss.

6. References

6.1 Homelessness Reduction Act 2017

6.2 Section 144 of the Legal Aid, Sentencing and Punishment of Offenders 2012

7. Implementation

Training

Staff in Housing Support Services and Area Teams should be aware of how to approach the issue of potential squatters. The Voids Team should have an awareness of prevention methods for void properties.

8. Review

This policy will be reviewed as and when required but as a minimum of every three years.

9. Equality Impact Assessment

9.1 An Equality Impact Assessment has been carried out and it has been assessed that this policy will have little if any impact on the nine protected characteristics due to very low confirmed cases of Unauthorised Occupiers