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Unauthorised Occupiers Policy

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Documentation Master Sheet

Amendments to this Document are Detailed Below

Version Number	Date Amended	Comments	Date Approved	Author	Approved By
01	01/11/18	New LIO Policy (Previously under Succession Policy)	08/11/18	BR	Tenant Panel
02	9/12/21	Reviewed policy and changed name to Unauthorised Occupiers Policy	9/12/21	NB	Tenant Panel
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INTRODUCTION

This Policy outlines our response to properties being occupied by squatters, trespassers and unauthorised occupiers who do not hold a valid tenancy.

The Policy explains what we will do in circumstances where a squatter or unauthorised occupier is discovered and supports our Lettings Policy.

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.

An unauthorised occupier is someone who is unlawfully occupying a GCH 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.

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

A trespasser is someone who enters onto GCH's land without our permission.

SCOPE OF POLICY

This Policy applies to all residential properties and tenancy types.

The Policy does not apply to share ownership, leaseholders and homeowners as they would be expected to remove squatters/unauthorised occupiers themselves.

LEGAL AND REGULATORY EXPECTATIONS

This policy is informed by the following legislation and regulation:

- Tenancy Agreement
- Prevention of Eviction Act 1977
- Housing Act 1985
- Housing Act 1988
- Localism Act 2011
- Section 144 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012
- Homeless Reduction Act 2017

SERVICE STANDARDS

We will:

- 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 and charge for any damages to the property where allowed
- 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.

Unauthorised Occupier

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.
- Where to seek legal & housing advice from and we will apply for possession of the home immediately. Where appropriate we will refer occupants to the Local Authority for advice about their homelessness situation as per the Homelessness Reduction Act 2017
- 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.
- 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 Successions Policy.
- We will consider representations received on the circumstances of the unauthorised occupier on a case by case basis.

Squatters

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 and ask them to leave.

It is a criminal offence to trespass in a residential property and this means that we can ask the Police to remove assist us and remove squatters.

Trespassers

On discovery of trespassers on GCH land this should be reported to the Area Team Lead. In the first instance, the trespassers should be visited to advise them that they are trespassing and ask them to leave. A letter should also be given to them confirming this. If they agree to move voluntarily, then this should be monitored to make sure they leave as agreed. If they fail to move, legal action should be sought.

Prevention

GCH should take reasonable steps to safeguard their empty properties against squatters and trespassers. 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.

Consideration should also be given to additional security on sites where regeneration is taking place and properties are being emptied ready for redevelopment or demolition.

CONSULTATION

GCH will review the Unauthorised Occupiers Policy with the Tenant Panel and link in with other relevant agencies in order to continually develop good practice in this policy area and take account of any changes to legislation.

APPEALS

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.

Squatters and unauthorised occupiers do not have a right of appeal against our decision to seek a possession order.

REVIEW

This policy will normally be reviewed triennially to ensure that it remains fit for purpose, unless an earlier review is required due to regulatory, statutory, or other requirements.

Gloucester City Homes Limited

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