



Unauthorised Occupants Policy
April 2007



1. INTRODUCTION

1.1. The Association at all times will aim to reduce the opportunity for unauthorised occupation in its properties. This policy sets out how the Association will deal with cases of unauthorised occupation and squatters.

2. POLICY STATEMENT

2.1. The Association is responsible for ensuring that all persons occupying its properties are authorised to do so. The Association will uphold its rights and responsibilities as a landlord to ensure proper use of its properties and to protect tenants from the effects of any unauthorised occupation of its properties

2.2. Our aim is to:

- Ensure that the occupants of all our properties have a valid tenancy agreement
- Find out immediately if any property becomes occupied without the Associations permission
- Take fast and effective action within the law and good practice to remove any unauthorised occupants

Before the Association takes legal proceedings against an unauthorised occupant or squatter it must prove that the original tenancy has come to an end. This will be done using the correct processes as detailed in the attached procedures.

After the correct processes have been followed the Association will then consider possession proceedings/further legal proceedings to recover possession of the property. There are different processes and legal issues which are used in the cases of both unauthorised occupants and squatters and these processes must be followed at all times. (see attached procedures)

3. IMPLEMENTATION

3.1. The definition of an unauthorised occupant or squatter

Squatter

A squatter is defined as a person who is unlawfully occupying land without any right to do so. Squatters who occupy a property without permission are trespassers.

Unauthorised Occupants

Unauthorised Occupants are those living in an Association property where a tenancy already exists (which is not their own), or where a property has void status.



Some examples of unauthorised occupants are:

- Those left in occupation following the departure of the tenant, or;
- Where subletting has occurred without the Associations permission.

3.2 Definition of a Displaced Residential Occupier (DRO)

A Displaced Residential Occupier (DRO) is a person who was forced from their home, for the following reasons:

- The DRO was occupying the premises as a residence immediately prior to occupation of squatters
- The DRO was excluded by a person who entered as a trespasser

A DRO could be an Association tenant, who experiences a squatter entering and taking up occupation of their home, whilst the tenant is out of the property.

3.3 How to avoid Unauthorised Occupation

The Association realises that it is essential to minimise the risk of squatting and vandalism by:

- Reduce the number of empty properties and the time they stand empty
- Securing all empty properties that are likely to be empty for long periods of time or are in areas of known risk
- Pre allocation of properties before the outgoing tenant vacates
- Encouraging neighbours to report any signs of damage/illegal entry
- To regularly check all void properties

3.4. Illegal Assignment of Tenancy

No Association tenant is allowed to assign their tenancy without permission of the Association. Assignment means giving or selling their tenancy to any person or persons. The Associations tenants do not have the right to sell their tenancies.

Exception to the rule is:

- When a secure tenant is allowed to assign their tenancy to a person who would be entitled to succeed to their secure tenancy on their death
- Where a mutual exchange has taken place
- Where an order has been made by the Courts under section 24 of the Matrimonial Causes Act 1973, section 17(1) of the Matrimonial and Family Proceedings Act 1984 and paragraph 1 of schedule 1 to the Children's Act 1989
- Where a joint tenant has assigned their part of the tenancy to the other joint tenant (Refer to Variation of Tenancy Procedure for further guidance)



3.5 Payment of Rent

With regard to accepting rent or other payments for occupation of premises, different rules apply, depending on the status of the occupier of the premises.

Unauthorised Occupation & Squatting

Accepting rent from an unauthorised occupier can create a new statutory period tenancy. Any payments accepted should be would be classed as for use and occupation.(Mesnes profits)

3.6 Common Law Tenants

Were a tenant no longer resides at a tenancy as their principal home, then it will be considered abandoned (see Abandoned, Absent Tenants & Disposal of Goods Policy and procedure for further information)

The tenancy will be terminated by Notice to Quit. The tenant remains a common law tenant until the NTQ expires.

The following rules must be applied:

- Until the date of the Notice to Quit rent offered will be accepted from the new common law tenant.
- After the date of expiry of the Notice to Quit, any payments from the former common law tenant must be accepted as mesne profits. This means that any payments made will be classed as for use and occupation only.

(Mesne profits – rent accruing during the rightful tenants exclusion from his/her home)

4. RESPONSIBILITY

- 4.1. Overall responsibility for the implementation of this policy lies with the Director of Housing Services.
- 4.2. The Tenancy Management Co-ordinator is responsible for the day-to-day management and implementation of the unauthorised occupants policy, for the application of the policy and procedures, monitoring and reviewing performance managing the budget, and making recommendations for improvement.
- 4.3. Tenancy Management have the responsibility for the day to day operation of the Unauthorised Occupants Policy and to be familiar with its content



5. CONSULTATION

- 5.1. The Association will consult on an annual basis with the staff, outside agencies and benchmarking groups to promote continuous improvement and develop good practice in this policy
- 5.2. Prior to making any changes to this policy the Association will consent and consider the view of:
- All relevant staff
 - Senior Management Team
 - The Tenants' Forum
 - Board of Management
 - Residents, Tenants Groups, individual interested tenants
 - All relevant outside agencies

6. REVIEW

- 6.1. The Association will formally review its Allocations Policy on a 3 yearly basis, unless changes in legislation or regulation require an earlier review.
- 6.2. Findings and recommendations will be presented to the Association's Board of Management after the views of the Forum have been considered. A review team will carry out each review.
- 6.3. Progress reports will be made to the Board of Management and Forum, to enable monitoring against strategic aims and objectives and agreed performance indicators. Performance data will be included in the annual report to tenants

7. TRAINING

- 7.1. The Association will provide all staff responsible for implementing this policy with comprehensive training
- 8.2. Training will be given to:
- New staff
 - Existing staff on an annual basis as a refresher/update as required
 - All relevant staff after change to policy/legislation
 - To relevant outside agencies
 - Any other times as identified by the Director of Housing Services, Team Leaders or Group Policy and Performance Manager



8. ASSOCIATED DOCUMENTS

8.1. The Association has the following relevant documents

- Variation of Tenancy Policy
- Rent Arrears Policy

9.2. This Policy will replace the following policies:

9. POLICY REVIEW SUMMARY

Policy Title	Unauthorised Occupants Policy
Dated Created	24 April 2007
Person Responsible	Director of Housing Services
Version	1
Date last amended	24 April 2007
Authorised by	Board of Management
Review Period	3 yearly
Review Committee	Board of Management
Date of last review	N/A
Date of next review	April 2010