

CORNWALL
HOUSING

Enforcing Conditions of Tenancy Policy

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PART OF THE
CORSERV GROUP
A CORNWALL
COUNCIL COMPANY

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Policy control sheet

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30-06-09	Initial	Complete	See EIA	R.Hale + P.Mayland	30-09-12

Notes

This policy was originally reviewed and agreed with tenants from all areas through the Cornwall Consultation Panel. It was later reviewed by a working group made up of tenant forum members.

Legal influences on this strategy

Housing Act 1985, 1988, 1996, 2004
 Crime and Disorder Act 1998
 Anti-Social Behaviour Act 2003
 Family Law Act 1996
 Domestic Violence, Crime and Victims Act 2004
 Domestic Abuse Act 2021
 Equality Act 2010
 Disability Discrimination Act, 1995
 Human Rights Act 1998
 Race Relations Act 1976, 2000
 Children's Act, 1989
 GDPR and Data Protection Act, 1998, 2018
 Local Government Act, 1972, 2000
 Regulation of Investigatory Powers Act, 2000
 Anti-Social Behaviour, Crime and Policing Act 2014

Cornwall Housing Limited reserves the right to use any subsequent amendments to these acts and any other legislation introduced that relates to Anti-Social Behaviour, Abuse or Hate Crime.

Other documents linked to this strategy

Enforcing Conditions of Tenancy Policy
 Drugs Misuse Policy
 Harassment and Hate Crime Policy
 Domestic Abuse and Sexual Violence Procedure
 Anti-Social Behaviour Policies and Procedures customer leaflet
 Tenancy Agreements
 Conditions of Tenancies
 Equality and Diversity Inclusion Policy
 Tenants' Handbook
 Safeguarding Children, Adults and Vulnerable Adults Policy
 Tenant Participation Policy / Tenant Engagement Strategy
 Homechoice (Allocations) Policy
 Gypsy and Traveller Pitch Agreement
 Tenancy Fraud Policy

Table of contents	Page
1. Introduction	5
2. Enforcing terms	5
3. Types of breach and response	6
4. Receiving complaints	7
5. Anonymous complaints	7
6. Responding to complaints and enquires	7
7. Recording complaints and enquires	8
8. Agreeing action with a complainant	8
9. Contacting the alleged perpetrators	9
10. Failure of the tenant to attend an agreed interview	9
11. Timescales for action	9
12. Action following a warning	10
13. Legal action	11
14. Closure of cases	11
15. Diversity and equality	11
16. Monitoring and review	11

1.0 Introduction

This policy aims to highlight how Cornwall Housing Limited (CHL), will seek to enforce Conditions of Tenancy. It complements our Anti-Social Behaviour, Domestic Abuse, Drug Misuse, Harassment and Hate Crime policies. Breach of Tenancy Conditions relating to rent arrears is dealt with in a separate policy.

At CHL we manage a number of different tenancies on behalf of Cornwall Council for properties which it owns, namely: Secure, Introductory, Non-secure, Demoted and Licences. In addition to this, for the properties that we own, we offer Assured and Assured Shorthold tenancies.

Procedures are in place to ensure that tenants understand that ultimately, any substantial breach in their tenancies can result in them losing their home. This policy sets the backdrop to how we will deal with breaches of tenancy, ranging from low level issues that can be resolved by early intervention to serious breaches that may involve legal interventions.

Throughout the process of dealing with breaches of Conditions of Tenancy, we will consider the reasonableness and proportionality of any proposed action, and will also consider an individual's human rights and carry out a disability discrimination assessment as appropriate.

This Policy encompasses:-

- a) the timetable for any action
- b) when action should commence
- c) the severity or type of action that is to be followed

We will ensure that no individual is discriminated against on grounds of sex and gender, marital status and civil partnership, race, disability, age, sexual orientation, language, social origin, pregnancy and maternity or other personal attributes including beliefs or opinions (e.g. religious beliefs or political opinions). We will promote equality of opportunity by publishing information in different languages or formats such as large print, audio or Braille, on request.

2.0 Enforcing terms

Enforcing the Conditions of Tenancy will always require professional judgement; balancing the extent of the problem with the severity of the action that follows. This policy sets out two principles in enforcing Conditions of Tenancy. The first is that we

recognise the right of tenants to enjoy the lifestyle of their choice, providing that:-

- the tenant, member of their household or visitor is not causing a nuisance to the neighbours; and
- the tenant, member of their household or visitor is not damaging the property.

The second principle of this policy is that we will always attempt to resolve a problem before resorting to legal action. We have a range of interventions that we can use to ensure that tenants adhere to the terms of their Tenancy Agreement and Conditions of Tenancy. Officers are expected to use appropriate and proportional interventions that are suited to the particular breach. The initial stage of intervention will depend on the seriousness of the breach and not all cases will progress through every stage.

3.0 Types of breach and response

A breach of tenancy is usually identified by either a visiting staff member, or by a tenant or member of the public making a complaint to us or Cornwall Council. Breaches may be of a serious nature, for example refusal to allow access for gas servicing or anti-social or criminal behaviour, or of a less serious nature such as an untidy garden or keeping a pet without authorisation. Whilst it is important to recognise that even minor breaches can escalate to cause more serious nuisance, it is equally important that our staff respond in a reasonable and proportionate manner.

The following list is indicative of some of the types of intervention available. It is expected that our officers will commence at the lowest level of intervention appropriate to the breach. Tenants must be given the opportunity to respond to the charge of a breach of tenancy condition, and must be given a reasonable timescale in which to remedy the breach, before further action is taken.

- Dialogue with the tenant, to include personal visit and/or letter. This should be the starting point in all cases.
- Mediation.
- Referral to support agencies.
- Joint action with other agencies, for example the police or environmental health.
- Action under environmental health, planning, building control or other legislation.
- Acceptable Behaviour/Final Warning Contract.
- Extension of Introductory / Assured Shorthold Tenancy.
- Anti-social Behaviour Orders.
- Injunctions.
- Notice of Seeking Possession/ Termination or Notice of Demotion.
- Demotion Order.
- Closure Order.

- Possession Order.
- Eviction.

The law lays down specific grounds for demotion and possession. The threat of either should not be used inappropriately. Any legal action taken must take into consideration issues of proportionality and capacity

4.0 Receiving complaints

Complaints will be accepted from a variety of sources, including:-

- neighbours
- neighbours' families or friends
- Cornwall Councillors and Town and Parish Councillors
- Board Members
- Tenants Representatives, Associations and Forums
- other staff of either Cornwall Housing or Cornwall Council
- Members of Parliament
- Citizens' Advice Bureau
- various agencies working in the community
- solicitors

We will receive complaints and enquiries by:-

- letter
- in person
- by telephone or text
- email
- via the noise app
- social media platforms including twitter and Facebook

5.0 Anonymous complaints

Anonymous complaints will be accepted and acted upon only where the complaint can be easily substantiated, for example garden rubbish. Complaints of a personal nature, for example drug taking or benefit fraud will be logged. This information may be passed on to another appropriate agency.

6.0 Responding to complaints and enquiries

CHL aim to scrutinise all complaints/enquiries on the day of receipt if a working day or the next working day. Once received they will be separated into two categories, (A) or (B) for response:

- (i) Severe harassment (A)

Where the complaint implies severe harassment, or where physical violence or intimidation is threatened or has happened, or where the harassment is discriminatory in nature.

CHL will aim to respond within 24 hours or the next working day and follow the relevant Anti-social Behaviour policies and procedures.

(ii) Nuisance (B)

Other complaints/enquiries will be dealt with in accordance with our Service Standards . We will aim to acknowledge the complaint within 3 working days and make first contact with the complainant within 5 working days.

(We will aim to respond and investigate Breaches of Conditions of Tenancy within 10 working days. However, not all enquires will necessarily be resolved within 10 working days).

All enquires that are categorised as a (B) will initially be dealt with by the Housing Officer and carried out in line with this policy.

If the problems persist, a joint working approach between the Housing Officer and Neighbourhood Enforcement Officer will be adopted prior to the hand over to the Enforcement Team.

Any complaint that is categorised as a (A) will be immediately passed to the Neighbourhood Enforcement Team so that it can be investigated further.

7.0 Recording complaints and enquiries

All complaints will be recorded and logged.

8.0 Agreeing action with a complainant

CHL will work with the complainant to agree an Action Plan for investigating the complaint in line with the Respect Charter Toolkit.

This Action Plan will set out the responsibilities and actions of CHL and the responsibilities and actions of the complainant.

The principles, which CHL's response will make clear, are:

- Anyone has the right to their chosen lifestyle providing this does not spoil the quality of life of others
- The council recognises the need for tolerance and respect for the requirements and needs of others.

- Where substantiated anti-social behaviour has occurred, CHL will take all action necessary to prevent further incidents.
- Data protection and GDPR issues may prevent the council from disclosing information.

At all stages of action the complainant/victim will be kept informed.

9.0 Contacting an alleged perpetrator

Following the agreement of an Action Plan appropriate contact will be made and will be sensitive and non-judgmental. Correspondence should indicate the nature of the complaint and give opportunity to respond.

- For interviews without prior appointment the tenant should be made aware that alleged breaches of the Conditions of Tenancy are to be discussed.
- Interviews will never be carried out on the door step.
- If the tenant declines to be interviewed, a follow up appointment will be offered and confirmed in writing.

10.0 Failure of a tenant to attend an agreed interview

Failure to attend an agreed interview and where the complaint can be easily substantiated, for example illegal parking, boundary wall removed, illegal buildings erected, numerous pets, unkempt gardens etc., the tenant will be sent a warning letter. This will set out how they are breaching their Conditions of Tenancy and the timescales to comply with them set out.

Where a complaint cannot be easily substantiated, CHL will aim to invite the perpetrator to a meeting in order to discuss the allegations.. Should the perpetrator fail to attend this meeting, Officers may attempt a home visit or other means of contact. Between the date of the first unattended interview and the second offered interview date an attempt to substantiate the initial complaint will be made by contacting all witnesses and contacting other neighbours who may be affected.

All methods will be used to contact the alleged perpetrator, however if contact is refused, officers will continue to investigate and where complaints are substantiated appropriate action will be taken.

11.0 Timescales for action

Following a substantiated complaint, tenants who are breaching their Conditions of Tenancy will be given a timescale to conform to their Conditions of Tenancy. The

timescales below exclude all serious anti-social behaviour or harassment, including harassment and hate crime, and domestic abuse, which are covered by separate policies.

We will issue warnings to tenants to cease actions causing a nuisance or that are breaking their Conditions of Tenancy. These warnings will have no time limits and a second occurrence may result in more serious action.

The following examples are where a warning to cease will be issued:

- illegal actions
- loud music/disturbance
- rowdy behaviour
- graffiti
- damage to the property
- pets or animals causing a nuisance
- car noise or burglar alarms
- major or persistent car repairs
- businesses that cause a nuisance to neighbours

Where a situation deteriorates and a nuisance occurs, a warning will be issued giving the tenant time to comply with their Conditions of Tenancy. We will then make a follow up visit to check if the tenant is complying with their Conditions of Tenancy. The following are examples of the type of circumstances where this warning will be issued and the timescales within which the tenant is expected to comply:

5 days to comply

- remove illegally parked cars
- remove motor bikes or other obstructions from communal areas

21 days to comply

- remove rubbish or scrap accumulation in the garden
- remove from the property a pet or animal causing a nuisance
- apply for permission for unauthorised alterations
- untidy gardens or overgrown hedges
- caravan or trailer parking

12.0 Action following a warning

We will continue to monitor any nuisance after a warning letter has been issued and will continue contacting the complainant. Where a warning has failed to prevent further nuisance, or where the tenant is still breaking their Conditions of Tenancy, a second warning letter will be issued, possibly with the threat of legal action or a breach being remedied and the cost being recovered from the tenant. We will continue to liaise with the complainant where appropriate, monitor the situation if the problem

persists, and where the tenant is still breaking their Conditions of Tenancy, legal action may be considered.

13.0 Legal action

We may take legal action if the problems persist. The legal action will be appropriate to the breach of tenancy. During any legal action, we will continue to monitor the situation and keep in close contact with neighbours and complainants. When taking any legal action, we will take into consideration the vulnerability of the perpetrator, and that of any family member. It needs to be acknowledged that legal action can be a lengthy process, but this is often necessary to ensure that all aspects of the case are considered.

14.0 Closure of cases

We will always strive to bring a successful resolution to all cases. As well as keeping all persons involved in a dispute fully informed at regular intervals and key stages, we will also notify all parties where a case is being closed. This may be because we have taken all realistic and practical steps to resolve the matter, including giving advice. On occasions this may not be to the complete satisfaction of the complainant

15.0 Diversity and equality

CHL understands and respects the diversity of all its tenants, and is committed to providing information and services equally and without discrimination to meet the needs of all sections of the community.

16.0 Monitoring and review

This policy statement was reviewed and amended with tenants from all areas during November 2016.

Enforcement is an area which is routinely monitored by our Neighbourhood Enforcement Team, as well as being reported on through our established performance monitoring system.

This policy will be reviewed with tenants within five years.

Alternative formats

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If you would like this information on audio CD, audio tape, Braille, large print, any other format or interpreted in a language other than English, please contact:-

Mar mynnowgh hwi kavos an kedhlow ma war son-sidi, sonsnod, yn Braille, prynt bras, furvas aral po styrys yn taves dres Sowsnek, kesteveugh mar pleg:-

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