

Policy & Procedure for CESSA Housing Staff

H 19(H) – EVICTION

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Background

The Regulator for Social Housing's (RSH) Regulatory Framework sets out the Standard on Tenancies that is to be followed. This requires Registered Providers to publish clear and accessible policies that outline their approach to Tenancy management, including interventions to sustain tenancies and prevent unnecessary evictions. They must also set out the advice and assistance they will give to tenants on finding alternative accommodation.

The type of tenancy offered to HA tenants is an Assured tenancy, which falls under the protection of the Housing Act 1988. Currently CESSA HA does not offer probationary tenancies. Under this Act, Assured tenants have security of tenure, which means that if CESSA HA wishes to evict a tenant, it must obtain a court order and prove that the tenant has broken the terms of their tenancy agreement in order to do so.

In particular, RSH require registered providers to:

- ensure that the home continues to be occupied by the tenant they let the home to in accordance with the requirements of the relevant tenancy agreement, for the duration of the tenancy, but allowing for regulatory requirements about participation in mutual exchange schemes.
- develop and provide services that will support tenants to maintain their tenancy and prevent unnecessary evictions.

Policy

CESSA HA recognises the need to balance its responsibilities to support and manage tenants who are in breach of their agreement terms with those to its wider tenant base. It will provide a flexible, effective and efficient housing management service that reflects best practice, complies with legislation and is supportive and recognises the rights of tenants.

Eviction of a tenant, therefore, is an action only instigated where all other appropriate steps to remedy a breach of agreement have been taken and failed, and eviction is the only remaining alternative and is proportionate to the nature of the breach of agreement.

Procedure

Breaches of agreements. CESSA HA will take steps to prevent and manage breaches of agreements quickly and effectively, taking a multi-agency approach where necessary, based on the principles of Prevention, Support, Intervention and Enforcement. It will always view forfeiture of the tenancy, possession and eviction as a last resort.

Part of CESSA HA's approach to minimise the risk of eviction will be:

- To immediately consider whether any aspects of the Mental Capacity Act 2005 and the Equality Act 2010 apply e.g. where someone is struggling with maintaining their tenancy due to possible mental health or other disability-type issues. This may be evidenced by both obvious and potential presentations e.g. a diagnosed mental health condition; internal and external ASB such as hoarding, access refusal, noise nuisance, drug taking, or the making of unwise decisions.

- To provide Tenant & Services Manager and Scheme Manager encouragement and help tenants to engage with external advice and support agencies – e.g. the relevant Local Authority Housing Options and Adult Social Care’s Safeguarding teams. This will ensure that they are supported throughout and are able to access the right professional advice and guidance to assist them to remain living in their home.
- For Rent Arrears action, to signpost tenants to a money-advice agency (e.g. SSAFA, Age UK or, for GHS only, SAIL) and a financial assessment as to their financial circumstances will be requested. This will help establish affordability, so that a sustainable repayment plan can be agreed, reducing the risk of the tenant losing their home. The external agency will also be able to support the tenant to access any benefits they are entitled to, such as Attendance Allowance, which they are not already in receipt of, or to facilitate a reassessment due to changes in their circumstances.
- To arrange for the Tenant & Services Manager to visit the tenant to discuss the situation and reach agreement on its resolution. This will be confirmed in writing to the tenant.
- To monitor agreements reached and where adhered to, take no further action other than fortnightly monitoring. Where not observed, the Tenant & Services Manager will try to establish the reason from the tenant, record the details in the tenant’s personal file and inform the Director of Housing.
- For the Tenant & Services Manager to write to the tenant after one calendar month if they remain non-compliant with the agreement reached in order to ascertain the reason for this.
- For the Director of Housing to write to the tenant after two months if they remain non-compliant with the agreement reached in order to determine the reason.
- That if, after 3 months, even with additional external support, the tenant has taken no action to honour the agreement (or subsequent agreements) made, then the Director of Housing (with the approval of Chief Executive Officer) is to immediately consider what other management pre-litigation action may be taken, e.g. the issue of an injunction or an acceptable behaviour agreement;
OR
- That if, after 3 months, and where, after thorough investigation, it is evident that Mental Capacity and Equality legislation (see note ‘1’ below) does not apply; the tenant has taken no action to adhere to the agreement (or subsequent agreements) then, the Director of Housing (with the approval of Chief Executive Officer) is to issue a Notice of Seeking Possession (NOSP) of the property.
- That, if after 4 months the tenant has made no attempt to honour the agreement (or subsequent agreements) made, the Organisation will instigate seeking legal advice and assistance to commence proceedings to evict the tenant. The Tenant & Services Manager will also make an immediate referral to the relevant local authority Housing Options team under the Commitment to Refer scheme. This will ensure that the local authority is aware of the likelihood of the tenant losing their home and enable further support to be put in place to enable to tenant to maintain their tenancy.

Notes:

1. The Equality Act 2010 requires that, when dealing with someone who is disabled according to the definitions given, positive action must be taken to ensure that the Organisation does not either directly, or indirectly, treat someone living with a disability (like poor mental health) unfavourably. Where it is determined that the above legislation may apply, support from external agencies e.g. Adult Safeguarding, the tenant’s GP, or other mental health charities like MIND, should be immediately facilitate to ensure the provision of enhanced support.
2. At all times, all communication and actions taken must be carefully recorded on the Housing Management System.
3. CESSA HA will always ensure that the Chief Executive Officer and the Housing Committee are kept informed where a tenant is in breach of their tenancy and the result of actions taken. Therefore,

the Chief Executive Officer will only be asked to consider a request to proceed with eviction once those steps have been taken.

4. If measures taken to support a tenant to maintain their tenancy are unsuccessful, CESSA HA will seek possession for irremediable breaches of a tenancy agreement where the tenant shows no intent or commitment to remedying the breach, or if the breach threatens the wellbeing of either the tenant, other tenants and neighbours, or CESSA HA.
5. CESSA HA will ensure that tenants who are at risk of, or who are to be evicted, are provided with a full explanation of the reasons why it is requiring them to leave their home and provide information regarding independent sources of advice and are supported to access them.

Ending an agreement: In accordance with the approach highlighted above

- Agreements may be ended in different ways depending on their type and conditions and in accordance with our individual policies for Recovery of Rent Arrears (H8) and Anti-Social Behaviour (T2). CESSA HA's tenancy agreement states the means by which it can be ended. Seeking possession is not used as an automatic remedy to a breach of tenancy and CESSA HA will only seek possession of a tenant's home as a last resort.
- CESSA HA will not evict a tenant without the authority of the Court unless it is satisfied that the agreement/property has been abandoned (see H18) and the Chief Executive Officer gives authority to proceed.
- Where CESSA HA decides to end a tenancy, it will ensure that the resident is given reasonable advice, and supported so far as is possible, with identifying alternative accommodation, including signposting to support agencies and, if this hasn't already taken place, to their local authority.
- Where CESSA HA feels that there is no other option available but to recover possession of the property, approval must be obtained from the Chief Executive Officer, with COM informed. This approval is required before serving a notice for breach of tenancy.
- Once eviction action has been approved, Notices of Seeking Possession and Notices to Quit will be hand delivered to ensure that they have been received.
- Where approval is given to proceed, the tenant will have the right to appeal, for either 14 days from the date the notice is served or 14 days from the date advised that CESSA HA intends to enforce the notice.
- CESSA HA will use mandatory possession routes for irremediable breaches of agreements and where the tenant shows no intent or commitment to remedying the breach.
- CESSA HA will still consider and reserve the right to execute a warrant to evict following full settlement of any arrears that are owed after Notice has been served, but before Court approval has been received.

Appeals. Appeals should be addressed to the Chief Executive Officer who will consider the matter and make a final decision. Where there is an appeal and CESSA HA's original decision is upheld, this will be its final decision and no further right of appeal will be granted.

Unlawful occupiers/ Squatters. Unlawful occupation of property belonging to CESSA HA is not permitted and it will seek possession of the property through the county court. The unlawful occupier will be liable for use and occupation charges along with CESSA HA's costs of legal proceedings. With the assistance of the relevant local authority it may also seek to prosecute any tenant that is subletting their property and apply for an unlawful profit order. Where a squatter is identified CESSA HA will rely upon assistance from the police for their removal from the property.

Annex: H19Ha – NOSP (HA)

Any Related Documents: Recovery of Rent Arrears (H8), Anti Social Behaviour (T2).

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