



Halton
Housing

Policy

Title:	Starter and Demoted Tenancies and Mandatory Grounds for Possession
Date of Issue:	April 2022
Issue Number:	003
Date of next review:	April 2025
Author(s):	Sharon Morris, Head of Neighbourhoods
Service Area applies to:	Neighbourhoods
Approved by:	Pauline Jones, Director of Neighbourhoods
Electronic Storage:	SharePoint Published Documents



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Contents

INTRODUCTION	3
POLICY STATEMENT	3
REGULATORY AND/ OR LEGAL COMPLIANCE	10
DIVERSITY CONSIDERATIONS	10
LINKS TO STRATEGIES, POLICES AND ANY RELATED DOCUMENTS	11

Introduction

This Policy has been developed to enable Halton Housing to manage tenancies and to identify the reasons when, where appropriate, it will take action using the powers available. This will include the use of demotion of Assured Tenancies, termination of Assured Shorthold (Starter) Tenancies as well as the use of the Mandatory Ground for possession in the Anti-Social Behaviour (ASB), Crime and Policing Act 2014. For all these cases, if notice is served and upheld, possession becomes mandatory.

The aim of this policy is to ensure we use starter tenancies as a way of helping people develop tenancy management skills; we use demoted tenancies as a way of supporting our customer to engage with us; and try to resolve any ongoing issues and we will use Mandatory Grounds for Possession when we have exhausted all tools available when trying to support our customers to sustain their tenancy.

Policy Statement

Starter Tenancies

All new customers who have applied for a property via Property Pool Plus or who have been allocated a property via our own lettings policy, and who have not been transferred from another tenancy or undertaken a mutual exchange, will be given an Assured Shorthold (Starter) tenancy when rehoused by Halton Housing.

All starter tenancies will be reviewed within the first month, with follow on visits occurring at, six and nine months from tenancy start date, during the first 12 months.

At the visits, an assessment will be made of:

- Any breaches of tenancy, including reports of ASB
- Any arrears on the rent account
- General condition of the property including any cases of wilful damage
- Individual circumstances, and if there are any support needs or enhanced service requirements that are not currently being met
- Any safeguarding concerns raised or noted

In addition to these scheduled visits, Halton Housing may carry out ad-hoc home visits in pursuance of rent arrears or in response to reports ASB incidents. HH will use the information gathered at the scheduled visits and any other information in relation to the conduct of the tenancy when considering whether to allow starter tenancies to convert into an assured (non-short hold) tenancy or for any tenancy enforcement action. At the final scheduled visit at 9 months, the Neighbourhood Officer will inform the customer of our intentions to:

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- Automatically convert the tenancy at the 12-month anniversary to an assured (non-short-hold) tenancy – (provided there are no tenancy breaches in the remaining 3 months)
 - If not advised of this previously, extend the starter tenancy for an additional 6-month period in order to identify and monitor improvements in behaviour. (To take effect on the 12-month anniversary). If there is a decision to extend the tenancy this decision will be explained in writing, with the opportunity to appeal in writing to a senior manager who has not been involved in the case or,
 - Start actions to bring the tenancy to an end (see below) – clearly outlining the reasons why this course of action is being pursued unless action has already commenced after 6 months of the tenancy

However, if during the starter tenancy there are concerns regarding how the tenancy or rent account has been maintained then we may take action which could lead to the termination of the tenancy, as follows:

As part of the Anti-Social Behaviour & Hate Crime Policy and/or Rent Arrears Recovery Policy and Procedure and if as a result of breaches of the tenancy which the customer is unable or unwilling to rectify, Halton Housing will as a first step serve a Notice Requiring Possession (NRP) (Section 21(4) of the Housing Act 1988) to terminate the starter tenancy. The NRP will run for 2 months. When it is served the customer will be provided with the following additional information:

- A letter explaining the reasons why Halton Housing has decided to serve the NRP
- An application form on which they can submit their appeal, which will inform them that they have 14 days from the date the Notice was served in which to notify Halton Housing that they wish to appeal

If there is a need to transfer within the first 12 months of a Starter Tenancy, then a new 12-month Starter Tenancy will be issued on signing the tenancy agreement at the new property.

Demoted Tenancies

Within Halton Housing ASB and Hate Crime Policy and Procedures, the use of the power to demote tenancies as set out in the Anti-Social Behaviour Act 2003 has been included. This enables Halton Housing to apply to court for an Order to demote an assured tenancy where a customer and/or another occupier, or a visitor to a property, is responsible for causing anti-social behaviour. This power can be applied by Halton Housing to any of its assured tenancies. If the courts are satisfied that the conduct is a nuisance or annoyance, or due to Police involvement have been found guilty of an unlawful use of the property and that it is reasonable, they will make a Demotion Order.

With a Demotion Order the existing assured tenancy will end and be replaced by a Demoted Assured Shorthold Tenancy. With this type of tenancy, the customer:

- will lose the security of tenure and a number of rights enjoyed under an assured tenancy, e.g. the right to buy or acquire, right to exchange, and the right to apply for a transfer via Property Pool Plus
- for customers who transferred to Halton Housing from Halton Borough Council with a preserved right to buy at the end of the 12-month demotion period, it will become an assured tenancy once again, but the customer will lose their preserved right to buy

If an Order is obtained the tenancy will be 'demoted' for a 12-month period, and if during this period Halton Housing is satisfied that there is ongoing ASB which breaches the tenancy agreement, it can serve the 'demoted' customer with an appropriate notice and apply to the courts for possession.

Although there is nothing in the regulations or legislation which requires Halton Housing to allow an appeal, we believe that it is appropriate and proportionate to allow an internal appeal prior to commencing legal action. The Appeals process has been developed to take account of the Demoted Tenancies (Review of Decisions) (England) Regulations 2004.

If a decision is taken to start possession action during the demotion period, a Notice Requiring Possession (NRP) under Section 21(4) of the Housing Act 1988 will be served. Halton Housing will ensure that when an NRP is served, the demoted customer will have a right to appeal and be provided with the following additional information:

- A letter explaining the reasons why Halton Housing has decided to serve the NRP
- An application form ([Starter Tenancy Appeals Application Form](#)) on which they can submit their appeal, which will inform them that they have **14 days** from the date the Notice was served in which to notify ourselves that they wish to appeal

Family Intervention Tenancies

From 1 January 2009, registered providers of social housing have been able to grant Family Intervention Tenancies (FITs) to their existing customer who have been or could be at risk of possession proceedings based on their behaviour, or the behaviour of those living with them, or if a parenting order has been dispensed.

These demoted tenancies normally last between six months and one year. The customer/s are assessed by Halton Housing Tenancy Support Team and collaborating

with partners, provide support services that they must engage with, as a condition of living in the accommodation.

At the end of the family intervention tenancy, we may either:

- offer a starter tenancy, an assured tenancy, or an assured-shorthold fixed term tenancy if the customer complies with their behaviour support agreement, or
- take steps to evict the customer if they have not complied with the conditions

Mandatory Possession

The mandatory grounds for possession relating to assured tenants can be found in Schedule 2 of the Housing Act 1988. For cases of anti-social behaviour, The Anti-Social Behaviour Crime and Policing Act 2014 amends the Housing Act 1988 to include a new mandatory ground for possession based on anti-social behaviour. Sections 97 to 100 (in Part 5) of the Act enable new grounds for possession relating to Assured Tenancies.

The judge must order possession if the landlord proves their case on a mandatory ground.

Ground 8 – Serious rent arrears

Two weeks' notice of proceedings required. The court does not have the power to waive the requirement for the notice to be served.

At the time of the notice and at the time of the hearing, at least:

- eight-weeks' rent is owed if paying weekly or fortnightly
- two-months' rent is owed if paying monthly
- three-months' rent is owed if paying quarterly
- three-months' rent is owed if paying annually

If the tenant has reduced their arrears below the specified amount by the time of the court hearing, possession under this ground will not be granted. However, it has been decided that it is not legitimate to adjourn a ground 8 possession claim to enable a tenant to reduce arrears below the eight-week threshold, unless there are exceptional circumstances.

Arrears attributable to maladministration on the part of a housing benefit authority are not considered to be an exceptional circumstance.

Ground 7A - Anti-Social Behaviour

The Anti-Social Behaviour Crime and Policing Act 2014 (amendment of schedule 2 of the Housing Act 1988) classifies a new ground 7A which will provide that the court must give possession if any one of the following 5 conditions are met:

1. The customer and/or another occupier or visitor has been convicted of a serious offence and that offence took place in or near the property; or elsewhere but against a customer/occupier of the property; or against the landlord or agent.
2. The customer/occupier or visitor has breached an injunction to prevent nuisance and annoyance (which is a new injunction to be introduced under this act).
3. The customer/occupier or visitor has breached a criminal behaviour order (also new order under this act) and that breach was in or near the property or caused or was likely to cause harassment to a customer/occupier or landlord/agent, wherever it took place.
4. The property has been closed under s76 of the Act. The court has a power to prohibit entry to a property where the use of the premises has resulted in, or likely to result in, serious nuisance to members of the public.
5. The customer is in breach of an abatement notice relating to statutory nuisance (breach of Environmental Protection Act 1990 or noise nuisance)

If Halton Housing wants to seek possession under the new absolute ground, it will need to serve a notice of the proceedings on the customer, either:

- within 12 months of the relevant conviction or finding of the court being relied on (or if there is an appeal against the finding or conviction within 12 months of the appeal being finally determined abandoned or withdrawn).
- within three months where the customer's property has been closed under a closure order (or if there is an appeal against the making of the closure order, within three months of the appeal being finally determined, abandoned or withdrawn).

If a notice is served using the mandatory possession the minimum notice period for periodic tenancies is four weeks, it is valid for 12 months and must include the following information:

- Halton Housings' intention to seek possession under the new absolute ground
- The reasons for seeking possession
- Which of the five conditions for the absolute ground we propose to rely on

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- The relevant conviction, finding of the court, or closure order the landlord proposes to rely on
 - Details of any right that the customer may have to request a review of the landlord's decision to seek possession, and the time within which the request must be made
 - Where and how a customer may seek advice on the notice; and
 - the date after which possession proceedings may be initiated

If there is a request for an appeal this must be made in writing **within 7 days** of the notice to seek possession being served on the customer, and the appeal must be conducted before the end of the notice.

Appeals Process

Once a request for an appeal has been received, Halton Housing will ensure that the hearing is arranged, and a decision made before the expiry date of the Notice. The request for an appeal will be acknowledged within 2 working days of receipt.

The acknowledgement letter will inform the appellant:

- that the appeal can be heard either in writing or in person
- who will hear the appeal
- that they have the right to appear in person or to be represented at or bring someone with them to the hearing if they so wish
- that they will be given at least five days' notice of the date, time and venue of hearing.
- that they will be provided in advance with copies of any written evidence to be used at the hearing by the officer presenting the case on behalf of Halton Housing

Once the appeal hearing has been arranged, the appellant will be informed of the arrangements and will receive all the appropriate paperwork referred to above. The notification letter will also contain details of how the appeal will be conducted.

The Appeal Hearing

The hearing will take place before a panel comprising of three of Halton Housing managers, none of whom will have had any previous involvement with the case.

To ensure they understand their role and responsibility, appropriate training will be provided to all panel members. Further independent support and advice is available from the Governance and Compliance Partner.

The hearing will not be conducted as a 'court' style hearing but will simply consider the facts relevant to the case.

The main factors that the Appeals Panel will take into consideration are that:

- The relevant notice was served correctly, and all relevant timescales have been adhered with
- The notice and/or notification letter was appropriate in terms of the evidence provided
- The decision to terminate the tenancy will stand up to scrutiny

Vulnerable customers moving into a Starter Tenancy

Halton Housing will take extra care where a decision has been made to serve an NRP on a vulnerable or ethnic minority customer that has a starter tenancy. In both eventualities, the new customer will be informed about their right of appeal in a format that can be readily understood.

In the case of a vulnerable customer, additional measures to be considered may include:

- encouraging them to seek representation at an appeal and provide details of an independent advice agency that could represent them
- Informing other interested parties of the situation, e.g. their care worker, social worker, relatives or carer

In the case of a customer from a BAME Group starter tenancy, additional measures may include:

- The use of an interpreter or a representative from that ethnic minority community to explain what is happening
- Provide details of BAME support or advice groups that could assist the customer with their appeal

Outcome of the Appeals Process

The appeals panel can make the following decisions:

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- Reject the appeal and continue with possession
 - Uphold the appeal cancelling further legal action based on the current evidence
 - If not previously actioned, extend the starter tenancy for a further 6 months

If they attend the hearing, the appellant will normally be informed of the decision of the appeals panel on the day, but in any event, this will be confirmed to them in writing within 10 days of the hearing. The decision letter will contain the reasons for the panel's decision.

This policy will impact on all staff involved in the management of tenancies but principally, Neighbourhood Safety Officers, Legal Support Officers and Neighbourhood Officers. It will also affect senior managers and directors who are required to decide on further action on the conclusion of any appeal panel hearing.

Regulatory and/ or Legal Compliance

Halton Housing Starter and Demoted Tenancies and Mandatory Grounds for Possession Appeal Policy and its associated procedures, are compatible with obligations imposed by existing legislation, including:

- Section 21 of the Housing Act 1988 as amended by the Housing Act 1996.
- The Human Rights Act 1998
- The Data Protection Act 2018
- General Data Protection Regulation 2018
- The Anti-Social Behaviour Act 2003
- Crime and Disorder Act 1998
- Homelessness Act 2002
- Disability Discrimination Act 1995
- Equality Act 2010
- Human Rights Act 1998
- ASB Crime and Policing Act 2014

Diversity Considerations

This policy has been subject to an Equality Impact Assessment Screening, and a full assessment was not found to be required.

This has shown that the policy is not directly or indirectly discriminatory whilst it increases equality of opportunity by permitting or requiring positive action or action to redress disadvantages.

Links to Strategies, Policies and any related documents

This policy supports our 'Corporate Plan' 2022 -2025 priorities:

- Customer
- Homes
- Place

The policy is linked to the following strategies policies and procedures:

- Diversity Policy
- ASB and Hate Crime Policy and Procedure
- Domestic Abuse Policy
- Rent Collection Payments and Debt Recovery Policy
- Property Pool Plus (Allocations) Policy
- Safeguarding Policy
- Lettings Policy



Translations available on request by phoning **0303 333 0101** or
via email at **info@haltonhousing.org**

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