

EVICTON POLICY AND PROCEDURE

1. Introduction

- 1.1 Eviction is the recovery of occupied accommodation owned or managed by Westfield Housing Association. Eviction is defined as 'a tenancy brought to an end by a court order and the subsequent execution of a bailiff's warrant'.
- 1.2 Eviction will generally be an act of last resort, taken when any other action would be inappropriate, or when all efforts to tackle breaches of the tenancy agreement have been exhausted.

However, there may be circumstances, for example extremely serious anti-social behaviour, a serious indictable offence being committed or using a property for illegal or immoral purposes, when eviction may be considered the only appropriate action and be sought at the outset.

2. Policy Objectives

- 2.1 The key objectives of this policy are:
 - To comply with all current regulatory guidance and the law.
 - To ensure that guidelines are in place, including authorisation processes, to ensure evictions are sought and managed correctly and reasonably by the Association's Officers.
 - To ensure, where appropriate, that eviction is the last resort with alternative interventions explored and pursued at an early stage to prevent unnecessary evictions. In more serious cases (see 1.2 above), eviction may be pursued at the very outset.

- To ensure appropriate support, advice and guidance are provided to residents being evicted at all stages in the process.
- To treat residents in a fair and non-discriminatory way, in accordance with Westfields Equality and Diversity Policy.
- To ensure staff are suitably trained to provide a consistent approach across the organisation.

3. Key Points of Policy

3.1 Support

We will act to support and sustain tenancies and to avoid eviction proceedings unless ending the tenancy is assessed by the Association as the only reasonable course of action.

- We will seek to ensure that tenants understand the terms of their tenancy agreement, the consequences of breaching these terms, and what action they can take to remedy any breach. This information will be communicated at tenancy sign up meetings, during processes to deal with breaches and in information given to tenants e.g. in the Tenants Handbook, on the Association's website etc.
- When we become aware of a breach, or possible breach of the tenancy agreement, we will make reasonable attempts to intervene at an early stage, and to investigate and consider the individual circumstances of each tenant, including any vulnerability. Vulnerabilities may be linked to age, disability, mental health, ethnicity and other factors.
- We will seek to ensure that tenants receive appropriate support to help them keep their homes, including liaising with any existing support networks and utilising multi-agency networks.
- In the case of a breach of tenancy we will normally only seek possession of a property after reasonable steps to ensure compliance with the tenancy agreement have failed. In exceptional circumstances, e.g. very serious breaches such as those detailed in 1.2 above, possession

proceedings may be taken immediately without any further steps being taken.

- For rent arrears, we will seek possession only where appropriate preventative methods have failed to resolve the problem. We will not normally seek possession where the tenant is maintaining an agreement to repay arrears unless there are other breaches of tenancy in addition to rent arrears.

3.2 Circumstances in which eviction is considered

Eviction will be considered and must be referred for consideration and authorisation to the Operations Manager in the following circumstances:

- Where the Court has granted an order for possession on one or more of the grounds as set out in the Tenancy Agreement and Schedule 2 of the Housing Act 1985 and the Association is entitled to possession absolutely or the tenant is in breach of the terms of a suspended possession order (postponed).
- Where the tenant has an Assured Shorthold Tenancy and has breached the tenancy conditions, and the specified period following service of a Section 21 notice has elapsed. Where the tenant has not vacated the premises after this period, eviction may be via a subsequent court order for possession.
- Where no secure tenancy exists either because the occupant is an illegal occupier or remains in occupation after the secure tenant has vacated the property, and the occupant does not have a need for the property as specified in Westfields Access to Homes Policy.
- Where the occupier is a licensee and has breached the terms specified in the licence agreement as grounds for eviction

3.3 Authorisation

Evictions must be authorised by the Operations Manager using delegated authority granted by Westfields Board. Prior to authorisation being sought

the Officer dealing with the matter must carry out a proportionality assessment, including consideration of mental capacity as per the Mental Capacities Act.

The Manager will review the case to ensure that all appropriate actions have been carried out in line with the Association's policies and procedures and relevant legislation, including the Mental Capacities Act. Authorisation will be obtained using the Eviction Authorisation Form attached as Appendix 1, prior to seeking a Possession order **and** before application for a warrant to execute an order. The form will detail the circumstances of the eviction, steps taken to resolve the matter and details of the proportionality assessment.

Where there is a significant change to the circumstances given on the Eviction Authorisation Form e.g. a large rent payment is made to reduce or clear arrears, this must be discussed with the Operations Manager prior to the eviction being executed. The outcome of this discussion must be recorded on the form.

Authority to evict will be valid for a period of twelve months from the point of approval unless there has been a significant change of circumstances.

3.4 Information to the tenant

Tenants will receive written notification that the eviction is to proceed at the earliest opportunity. The Association will inform the tenant of the date and time of the eviction, advice about clearance and storage of belongings and details regarding advice and support.

3.5 Pre-Action Protocol

Part 3 of the pre-action protocol provides that where a landlord commences proceedings on a mandatory ground (i.e. there is a restriction on the Court's discretion on making an order for possession and/or to which S.89 Housing Act 1980 applies) social landlords must undertake certain actions prior to commencing possession proceedings. These are as follows:

- At the time of service of the possession proceedings (or shortly afterwards),to write to the tenant explaining the intent to seek

possession and requiring the tenant to notify us in writing within a specified period of time of any personal circumstances or other matters which they wish to be taken into account.

- If any written representations are received these must be considered. In the event the Association decides to proceed with a claim for possession after receipt and consideration of representations, give written reasons for doing so
- The above matters must be included in schedule form, either in the particulars of claim, or a witness statement when the possession claim is made.

3.6 Support

Prior to a household being evicted Westfield will seek to discuss housing options and assistance that can be provided, including signposting to other agencies/services. The Association will inform the Local Authority Homeless department of the eviction, including the date of the eviction, and will work to any agreed local protocols.

Where there are dependent children or elderly or vulnerable persons a referral will also be made to the appropriate Social Services Department (Children's Services, Adult Social Care).

If a tenant is being evicted who is in receipt of support services, the relevant worker/agency will be informed at the earliest opportunity and be kept informed of progress.

3.7 Right to appeal

Tenants with Assured Shorthold Tenancies have a right to appeal a decision to evict. Tenants will be advised of this right in the initial written communication notifying the decision to seek an eviction.

3.8 Enforcement

A letter is sent to the tenant by the relevant officer prior to the eviction, advising the tenant of the time and date of the eviction and of expectations (e.g. removal of belongings, return of keys, condition of property etc.). The letter also confirms previous advice regarding support and assistance. All evictions will be attended by a minimum of two persons from the Association, normally the relevant member from the Housing Management team and one member from the Maintenance team. A contractor will also attend, organised by the Maintenance team, to change door locks. Where there is a concern that the tenant, or member of their household may become violent, the Housing Officer will arrange for the police to attend.

Further guidance on arrangements and precautions for eviction is given in the Eviction Risk Assessment.

3.8 Belongings

If a tenant being evicted is unable/unwilling to remove their belongings from the property, they should sign the TORT's disclaimer form giving permission for the Association to dispose of any items left. Where appropriate, efforts should be made to make arrangements for the tenant to clear the property before/at the point that they vacate.

If belongings are left without any prior discussion, the TORT's procedure must be followed. Any personal belongings left at the property e.g. photograph's, passports, driving licence, bank documents etc. should be collected and stored for 12 months where it has not been possible to contact the tenant after the expiry of the TORT's notice.

3.9 Dangerous Person Flag

Where an eviction is executed and the tenant has been previously identified as potentially dangerous (i.e. there is a flag against the tenant on the SDM system), then the flag will remain against the tenant, once the tenancy becomes 'former'.

4. Monitoring, Review and Consultation Process

Regular monitoring will take place to ensure the Association is only taking action to evict tenants in line with this policy. The level of evictions and reasons for each eviction will be reported as part of routine operational performance reporting each quarter.

5. Key targets and Performance Indicators

- Numbers by category of evictions carried out and periodic comparison
- Benchmarking, with particular regard to best practice.



Eviction Authorisation Form

This form must be completed by the lead Officer dealing with an eviction, prior to applying for a full possession order (Part 1), and prior to applying to the court for a bailiff to execute a warrant for possession (Part 2). The form must be signed by the Operations Manager, or the CEO, authorising an eviction before any action is taken. Where authorisation is not given, or possession or a warrant not granted, and eviction is sought at a later date, a new form should be completed.

PART 1: TO BE COMPLETED PRIOR TO SEEKING A FULL POSSESSION ORDER

1. Tenant Name(s): Click or tap here to enter text.

Address: Click or tap here to enter text.

Tenant(s) Age: Click or tap here to enter text.

Tenant Date of Birth: Click or tap to enter a date.

Tenancy Start Date: Click or tap to enter a date.

Household members:

Name: Click or tap here to enter text.

Relationship to tenant: Click or tap here to enter text.

Date of Birth: Click or tap to enter a date.

Name: Click or tap here to enter text.

Relationship to tenant: Click or tap here to enter text.

Date of Birth: Click or tap to enter a date.

Name: Click or tap here to enter text.

Relationship to tenant: Click or tap here to enter text.

Date of Birth: Click or tap to enter a date.

Name: Click or tap here to enter text.

Relationship to tenant: Click or tap here to enter text.

Date of Birth: Click or tap to enter a date.

Name: Click or tap here to enter text.

Relationship to tenant: Click or tap here to enter text.

Date of Birth: Click or tap to enter a date.

2. Summary of the circumstances of the case, actions taken to try and resolve the matter, and proportionality assessment. If rent arrears are involved please give the current level of arrears and period of time over which arrears have been an issue. For all cases, please detail any previous legal action taken, including dates.

Click or tap here to enter text.

3. Are there any special circumstances that need to be considered e.g. household vulnerability, safeguarding issues, any other factors? Yes No

If Yes, give details of the issue and any actions taken, and of any other agency involvement. Click or tap here to enter text.

4. Is there any CAB, Law Centre or other legal support involvement? Yes No

If Yes, please provide details: [Click or tap here to enter text.](#)

5. Has the local authority Homelessness Department been contacted regarding the matter? Yes No

Further details: [Click or tap here to enter text.](#)

Operations Manager

Possession approved: Yes No

Details of considerations/discussions: [Click or tap here to enter text.](#)

Signed: [Click or tap here to enter text.](#)

Date: [Click or tap to enter a date.](#)

FORM TO BE RETURNED TO LEAD OFFICER AND SCANNED TO TENANT'S FILE. PAPER FORM TO BE FILED ON TENANTS FILE.

Part 2: TO BE COMPLETED PRIOR TO APPLICATION FOR A WARRANT FOR POSSESSION

1. Update of circumstances, including details of special circumstances to be considered e.g. vulnerability. If rent arrears are involved, give current level of arrears.

Click or tap here to enter text.

Operations Manager

Warrant approved: Yes No

Details of considerations/discussions: Click or tap here to enter text.

Signed: Click or tap here to enter text.

Date: Click or tap to enter a date.

FORM TO BE RETURNED TO LEAD OFFICER.

Outcome: Click or tap here to enter text.

FORM TO BE SCANNED TO TENANT'S FILE. PAPER FORM TO BE FILED ON TENANTS FILE.