

HOMES FOR LIFE HOUSING PARTNERSHIP

Draft Streamlined Eviction Policy

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Objective:	To describe how we will use the new powers under the Housing (Scotland) Act 2014 to use the new streamlined process for eviction in certain circumstances.
Responsible:	Customer Services Manager

1. Introduction

This Streamlined Eviction Policy has been devised to show how Homes for Life, will manage tenancies to minimise the impact and incidence of Antisocial Behaviour (ASB).

2. Principles and Scope of Policy

This policy is clear and transparent on how we will decide whether raising an eviction action using the streamlined eviction process is both appropriate and proportionate. We shall respond promptly and appropriately to neighbour complaints and incidents of ASB and take a preventative approach, with legal action as a last resort. We recognise that ASB is not just a housing management issue and will work with external agencies where this helps to resolve problems. We shall, however, take firm action against tenants who persistently commit serious breaches of tenancy conditions.

3. The Legal and Regulatory Framework

The Antisocial Behaviour etc (Scotland) Act 2004 and the Housing (Scotland) Act 2001 set out a range of measures that landlords can take to help address antisocial behaviour. To complement the existing measures available to landlords to address antisocial behaviour in, or in the locality of a social housing tenancy, a number of new provisions were introduced in the Housing (Scotland) Act 2014 (the 2014 Act).

These measures include:

A new streamlined eviction process where there has been a recent criminal conviction punishable by imprisonment for tenancy related antisocial or criminal behaviour within the previous 12 months.

This new provision gives landlords the flexibility to use a streamlined process for eviction where a tenant (or any one of joint tenants), a person living in or lodging in the house, a subtenant or a person visit the house has been convicted of an offence punishable by imprisonment within the previous 12 months. The new provisions includes the following changes/amendments:

3.1 Section 14(2) of the 2014 Act amends section 16 of the 2001 Act to alter the powers of the court in possession proceedings in certain cases where there has been an offence punishable by imprisonment.

3.2 Section 16(2) (aa) of the 2001 Act removes the requirement that the court considers whether it is reasonable to make an eviction order, in cases where the landlord has a ground for recovery of possession set out in paragraph 2 of schedule 2 to the 2001 Act and a notice of proceedings has been served before the specified day.

3.3 The grounds for recovery of possession set out in paragraph 2 of schedule 2 are as follows: “the tenant (or any one of joint tenants), a person residing or lodging in the house with, or subtenant of, the tenant, or a person visiting the house has been convicted of –

- (a) using the house or allowing it to be used for immoral or illegal purposes, or
- (b) an offence punishable by imprisonment committed in, or in the locality of, the house

An “offence punishable by imprisonment” means that the offence carries imprisonment as a possible penalty but does not require that a custodial sentence was imposed as the penalty in the particular case.

In summary, this means that where a court has convicted a tenant (or subtenant, or someone living with the tenant or visiting the house) of using the house for immoral or illegal purposes or of a criminal offence punishable by imprisonment, committed in or in the locality of the house and the landlord has served a notice of proceedings on the tenant under section 14(2) within 12 months of the conviction or the dismissal or abandonment of an appeal, the court must make an order for recovery of possession of the house without considering whether the court thinks it is reasonable to do so.

4. Purpose and Use Of The Streamlined Eviction Process

The streamlined eviction process is intended to help to speed up eviction in cases where:

- Serious antisocial or criminal behaviour has already been proven in court;
- The behaviour which led to the conviction was in the locality of the tenant’s house; and
- The landlord considers that eviction action is appropriate, such as to protect neighbours and other people living or working in or near a social housing property from harm.

4.1 What Factors We Will Consider Before Raising an Action

There are a number of factors we will consider in deciding whether raising an eviction action using the streamlined eviction process is both appropriate and proportionate.

This may include:

- The nature and seriousness of the offence, including any recurring nature of convictions or cumulative effect of several incidents, or the potential seriousness of a one off offence;
- Who has been convicted of the offence and their connection to the property;
- Where the offence was committed and the connection to the social housing tenancy;
- Whether and to what extent the offence has affected neighbours or others in the community;
- The impact on neighbours and communities over time and the impact on the stability of the community;
- What action, if any, the person convicted of the offence is taking to make positive change;
- Impact of eviction on household members;
- Other steps taken/which could be taken by the landlord or partner agencies to address the antisocial or criminal behaviour.

This is not an exhaustive list and is for example only.

4.2 Examples of Behaviour

The type of criminal convictions that allow use of the streamlined process are only those for offences “punishable by imprisonment committed in, or in the locality of, the house”.

Some examples of behaviour that Homes for Life may consider using the streamlined process are:

- Breach of an Anti Social Behaviour Order (ASBO)
- Threatening and abusive behaviour
- Offences related to the use of offensive weapons
- Serious Drug related Offences

- Category A Offences under Homes for Life's Antisocial Behaviour Policy This is not an exhaustive list and is for example only.

The nature and severity of the offence is only one of the factors Homes for Life will consider as part of their assessment whether using the streamlined process is appropriate and proportionate.

4.3 Who Has Been Convicted and their Connection To The Property

If the alleged perpetrator is not the tenants we will consider:

- How frequently the person visits or lives in the property;
- Any action the tenant is taking to stop the person returning to the property;
- Whether it is reasonable in the circumstances for the tenant to try to prevent the person returning to the property.

4.4 Where the Offence Was Committed

The streamlined eviction process can only be used where the criminal conviction is related to the social housing tenancy. We can only consider criminal conviction that have been committed in the locality of the house.

5. Positive Change

Homes for Life has a role to play in helping people to sustain their tenancies and prevent reoffending. It is likely there will be situations when the person who has received the conviction has changed their behaviour. For example;

- The behaviour has stopped, for example there has been no repeat offences, convictions, disturbances or complaints;
- Engagement in training;
- Participating in a rehabilitation programme or treatment for drug/alcohol/mental health;
- Regular and meaningful engagement with support services to change behaviour in a positive way.

Homes for Life will consider the impact an eviction action may have on preventing positive change and the potential for reoffending in such cases where an offender has demonstrated positive change.

6. Notifying Tenants

Once we have decided to recover possession of a tenancy under streamlined eviction process, we will serve a notice on the tenant(s) that explains that we may raise proceedings for possession of the property setting out our grounds for doing so.

We will confirm the following:

- The action to be taken and what will happen;
- The timescales for the action;
- Why this action has been taken, including reference to the legislation and the tenancy agreement;
- Who they can contact for advice and assistance, for example, Shelter

Scotland, Citizens Advice, independent legal advice.

A tenant who disagrees with our decision to raise court proceedings can seek a judicial review of the decision and/or defend the repossession action.

7. Court Action

The streamlined eviction process removes the ability of the court to consider whether it is reasonable to grant an eviction order. The court must grant the order where it is satisfied that:

- we have a ground for recovery of possession set out in paragraph 2 of schedule 2 to the 2001 Act: and

- the notice of proceedings was served on the tenant before the first anniversary of the date of the conviction, or where that conviction was appealed, the day on which the appeal was dismissed or abandoned.

8. Monitoring and Reporting

- No of streamlined evictions actions raised
- No of streamlined actions resulting in eviction

9. Complaints and Appeals

Homes for Life welcomes complaints and positive feedback, both of which provide information which helps us to improve our services. We use a complaints handling procedure (CHP) developed by the Scottish Public Services Ombudsman (SPSO) and the Scottish Housing Regulator. The CHP allows for most complaints to be resolved by front line staff within a five day limit (first stage), or if the complaint is complex, a detailed investigation will be made by a manager within a 20 day limit (second stage). If the customer remains dissatisfied, they can refer the matter to the SPSO.

10. Policy Availability

A summary of this policy can be made available in a number of other languages and other formats on request.

11. Policy Review

We undertake to review this policy regularly, at least every three years, regarding:

- Applicable legislation, rules, regulations and guidance.
- Changes in the organisation.
- Continued best practice