

Housing Services	Breach of Licence Agreement Policy & Procedure
Providence Row Housing Association	VERSION: 3

Breach of Licence Agreement Policy & Procedure

INTRODUCTION

It is the Association's policy to issue and implement tenure agreements which lay out the rights and obligations of both the resident and PRHA.

PRHA, as a responsible landlord, must ensure adherence to the conditions therein and take action to address situations which breach the terms and conditions of the Licence.

This procedure states the steps to be followed when a resident breaches the terms and conditions of their Licence.

In any individual case of action the circumstances that require action being taken can vary enormously. PRHA must ensure that relevant policy has been adhered to in each circumstance. Reference may be required to PRHA's policies with particular attention to:

- Complaints policy
- Anti-Social Behaviour policy & Anti-social behaviour, harassment and racial harassment procedures
- Arrears Prevention Policy
- Equality and Diversity policy
- Finance and possessions Policy

The legal framework for taking action is determined by the Licence Agreement, which is an excluded licence. This means that it is 'excluded' from the full protective provisions of the Protection from Eviction Act 1977.

The duly authorised persons to implement and pursue action against Licencees are Project Managers and in their absence, Deputy Managers. In the case of action relating to arrears, housing officers are primarily responsible but shall take no action to terminate a licence without the express consent of their line manager or in their absence the relevant Assistant Director. Project officers and project workers are not delegated to take action against licencees, except in the case of emergency evictions where they may do so under the authorisation procedures laid out.

Court Action is not necessary to evict a licensee; however in some cases where the occupant refuses to leave PRHA may have to seek possession via the county court route.

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EQUAL OPPORTUNITIES

It is the policy of PRHA that in all aspects of its work no individual will receive less favourable treatment on the grounds of race (including colour, nationality, ethnic or national origins), gender including gender reassignment, physical or mental health, disability, social class, age, political or religious belief or non belief, offending history, marital or civil partnership status, sexual orientation, pregnancy or caring responsibilities.

PROCEDURES FOR TAKING ACTION AGAINST LICENCEES

PRHA will take active steps to ensure that all licencees are informed of their responsibilities under their licence and of the consequences of breaching their licence agreement.

In the event of any breaches of the Licence the following order of steps must be adhered to except in cases where the safety of residents, staff or the general public is in question and expedited and emergency measures are adopted (see **EXPEDITED AND EMERGENCY EVICTIONS** below):

- | | |
|---------------|---|
| Step 1 | Verbal warning |
| Step 2 | Breach of Licence |
| Step 3 | Written warning |
| Step 4 | Notice terminating occupancy |
| (Part of 4) | Right to appeal (single stage see below) |
| Step 5 | Eviction |
| (part of 5) | Right to appeal (single stage see below) |

Summary of Appeals

- | | |
|---------------|---|
| Step 4 | Notice terminating occupancy to be addressed to and heard by a Service Improvement Manager (or in their absence an Assistant Director not previously involved in the case) |
| Step 5 | Assistant Director (Client Services/Community Services) or in their absence another member of SMT where relevant. |

Any incidences of breach of Licence will be recorded on licencees' files for evidence and purposes of appeals etc. In addition, all witnesses will be encouraged to make supporting statements.

The breach of policy process can be initiated at step 1, 2, or 3 depending on seriousness of breach of licence.

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VERBAL WARNING

The licensee should be verbally warned that there has been a breach of the terms and conditions of their licence. It should be stated clearly which condition of the licence has been breached and what action is required to redress the situation.

The consequences of further breaches should be stated and the licensee advised of the next steps in the process.

Such a warning, and the consequences of the warning, should be recorded on the licensee's file.

WRITTEN WARNING

If the breach of the terms and conditions of the Licence continues, is repeated or is serious enough to warrant more than a verbal warning, a written warning should be issued. This will be issued by an officer (Housing Officer/Project Officer) with approval by scheme manager or Service Improvement Manager Community Services where relevant e.g. rent arrears).

The written warning should be typed on headed paper and clearly state that it is a written warning. The warning should refer to:

- The incident or occurrence giving rise to breach of licence
- Term and/or conditions of licence breached
- Previous warnings issued, if any, on same or similar grounds
- A copy to be placed on file
- Details of right to appeal

The appropriate officer must make strenuous efforts to contact the licensee in order to discuss the matter and, if applicable, it should be made clear in the letter that the licensee must make contact within a reasonable timescale in order to make good the breach.

Any ensuing agreement must be made in writing and signed by the licensee.

Please note a tenant may make a complaint against each stage for warning letters up to the serving of notice where they have the right to appeal.

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NOTICE TERMINATING OCCUPANCY

If it becomes clear that a licensee is not willing to take positive steps to address the circumstances of action being taken under this procedure, or if the breach of the terms and conditions of the Licence continues, is repeated or is serious enough to warrant more than a written warning, Notice Terminating Occupancy should be issued.

The relevant officer (scheme manager/Service Improvement Manager (Community Services)) should be consulted with a comprehensive brief of circumstances and, where applicable, action to date.

The relevant officer (Scheme or On Call Manager or Service Improvement Manager (Community Services)) may authorise the issue of a Notice Terminating Occupancy only after careful and considered deliberation.

A Notice Terminating Occupancy must be issued using the prescribed format clearly stating:

- Period of notice (generally fourteen days) and date by which licensee should vacate their bedspace
- Incident giving rise to breach of licence
- Terms and/or conditions of licence breached
- Details of right to appeal
- Please note at this point two members of staff must undertake an inventory of belongings in the residents room. Please refer to the Residents Finance and Possessions policy.

The Notice Terminating Occupancy should be issued by the relevant officer to the individual, via the postal service and/or placed at the licensee's property/hand. A record must be made of the method of delivery and the officers involved must sign to witness the delivery.

The Project Manager must be informed of actual issue of Notice Terminating Occupancy at the earliest opportunity. Any potential risks associated with this must be formally assessed.

During the Notice period, staff will continue to work with and provide full services to the licensee under notice to remedy the situation where applicable.

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THE LICENCEE'S RIGHT TO APPEAL AGAINST WRITTEN WARNINGS ISSUED

The licensee has the right to appeal against Warnings issued to the relevant scheme manager. This is a single stage appeal. Please note this is in relation to warnings prior to Notice Terminating Occupancy .

THE LICENCEE'S RIGHT TO APPEAL AGAINST NOTICE TERMINATING OCCUPANCY

In relation to Notice Of Eviction (see **EXPEDITED AND EMERGENCY EVICTIONS below for those circumstances**).

This is a single stage appeal. The licensee should write to the Service Improvement Manager (Client Services) or the Assistant Director (Client Services) within five days of issue of Warning/Notice. It must be in writing and be as specific as possible. Project workers should provide support to the licensee in writing their appeal if this is needed. When the appeal is based on rent arrears, guidance and further information about the licensee's account must be sought from the Housing Services Team prior to any appeal review or confirmation of an arrangement. Please note liaison should take place with the Service Improvement Manager (Community Services) where relevant.

The licensee should be advised of assistance and agencies who may be able to help or represent them to make their appeal. Project workers should not represent the licensee at appeals.

The licensee, relevant officer and the Project manager will be notified in writing of the decision.

EVICTIION

An eviction referral can only be completed once all the procedural process has been complied with and the notice has expired and became active. This referral is to be completed by the responsible officer Housing Officer for either rent arrears or ASB cases then referred to the Housing Services Manager/Project Manager for their review. They will ensure that the procedures have been complied with.

For rent arrears cases, once the Service Improvement Manager (Community Services) has reviewed and confirmed continuance for the case this would then be sent to the responsible Project Manager for review. This is to ensure all avenues of support have been provided to the licensee. When both managers are in agreement to continue, this eviction request would then be referred to the allocated Service

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Improvement Manager (Client Services) for approval. This eviction request would then be either declined with reasons stated or approved. If approved the final Stage 5 letter would be served with the set eviction date, time and a tort notice for any possessions left in the property.

A stay of enforcement would only be agreed in full clearance of the rent account for arrears cases or by the Service Improvement Manager (Client Services) with written terms in place and agreed by the licensee (e.g. ABC contract).

The eviction should be carried out in accordance with the Notice Terminating Occupancy and in line with normal booking out procedures. A risk assessment must be undertaken concerning any potential breach of the peace.

Where there are concerns about a possible breach of the peace police assistance should be summoned to assist in the eviction.

THE LICENCEE'S RIGHT TO APPEAL AGAINST EVICTION

After service of the letter confirming that the licensee will be evicted (Stage 5 letter) Notice & once decision to proceed to eviction has been made, the licensee has an additional right of appeal. They should address their final appeal in writing to the Assistant Director (Client Services) at PRHA Head Office. The appeal must be made within seven days of notice notification and advice of outcome to the Licensee.

The appeal will be heard by the Assistant Director (Client or Community Services), within ten working days of receipt with confirmation of the meeting sent in writing. The Service Improvement Manager (Client Services) will summarise the circumstances of the action taken by PRHA and the Licensee can state the grounds and detail of their appeal. Prior to the appeal hearing The Service Improvement Manager (Client Services)/Assistant Director (Client Services) would seek all relevant case information from Housing Services Team for rent arrears and the Project Manager for ASB/other breach issues.

The outcome of the appeal will be decided by the Assistant Director (Client Services)/ Service Improvement Manager (Client Services) and detailed to the licensee and the Project Manager/Housing Services Manager. The Project Manager/Housing Services Manager shall relay the outcome to the appropriate Support Staff/Housing Officer to ensure that any action required in regards to the appeal outcome is taken.

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EXPEDITED AND EMERGENCY EVICTIONS

Where the safety and health of other residents or members of staff is in question, expedited and emergency measures may be required. This type of eviction must only take place when there is no other alternative method of reducing the risk to other people. Where a criminal act has taken place the police must be called and the normal course of the law must take place.

Where health and safety dictates, especially for cases of potential violence, police assistance must be sought to carry out an eviction.

Authorisation must be sought from the scheme's manager or, in their absence the on-call manager or Service improvement manager

It should be noted that unnecessary delay in carrying out such an eviction may exacerbate an already inflamed and delicate incident.

The licensee being evicted should be advised when written notice confirming the eviction and detailing appeal procedures would be available for collection.

In the case of emergency or expedited eviction there will be a single level of appeal to the Assistant Director (Client services). If the Assistant Director (Client services) has authorised the eviction then another member of the senior management team will hear the appeal.

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