

## **Legal and Other Action for Breaking Tenancy Agreement (CBC Tenancies)**

This guidance gives brief details of the main sorts of legal action we can take to stop people breaking the terms of their tenancy agreements.

Legal action can be taken when a tenant breaks the tenancy agreement by:

- Causing nuisance or annoyance to a neighbour
- Being convicted of an arrestable offence committed in the locality
- Using the home, or allowing the home to be used for an illegal purpose.

The tenancy agreement also covers members of the tenant's household or visitors to the tenant's home. For example, if a tenant's child or visitor is causing nuisance or annoyance, the tenant has broken the tenancy agreement.

### **Do you need help?**

If the Council is considering taking legal action against you for anti-social behaviour or for any other break in your tenancy agreement, you must contact us. If you need support to help you to stop you breaking your tenancy agreement (perhaps help to change your behaviour), we may be able to make sure that you get that help. Please remember that we would much prefer not to take legal action. We just want the problem to stop.

### **Acceptable Behaviour Contract (ABC)**

An ABC is a written voluntary agreement between a person who has been involved in anti-social behaviour and one or more agencies whose role it is to prevent such behaviour. ABCs can be used effectively with adults, young people and children.

Normally, the need for an ABC will be agreed following discussion between any agencies concerned with the person who is involved in anti-social behaviour – for instance, the Council, the school, the Police or Social Services.

The ABC will include conditions that will state clearly:

- What the person must not do
- What the person must do
- What the agencies involved will do
- The consequences of breaking the agreement. Although an ABC is an informal agreement, if it is broken and legal action needs to be taken, the court can take this into account.

The ABC is signed by the person and, if the person is aged under 16, by the person's parent or guardian.

## **Extended Introductory Tenancy**

An introductory tenancy normally lasts for 12 months before becoming a secure tenancy. If an introductory tenant is breaking the tenancy agreement, we can extend the period of the introductory tenancy for a further 6 months (making 18 months in total).

To extend an introductory tenancy, we need to serve a Notice of Extension at least 8 weeks before the end of the 12 month period. This Notice sets out the reasons for the extension. The tenant then has the right to request a review of the decision.

It is much easier to evict a tenant while the introductory tenancy lasts (see notes on Notice of Possession Proceedings below)

## **Demoted Tenancy**

When a secure tenant has broken the tenancy agreement by causing or permitting anti-social behaviour, we can serve a Notice of Demotion and apply to the court for a Demotion Order. If the court agrees to this, the tenancy will become a demoted tenancy. The demoted tenancy lasts for 12 months. During that time, a demoted tenant will then have fewer rights than a secure tenant. In particular, it becomes easier to evict a demoted tenant. Although we would still need to get a court order to evict the tenant, we would only need to prove that we have followed the proper process. We would not need to provide any more proof that the tenancy agreement has been broken.

A Demotion Order is normally used to give a strong warning to a tenant that further breaks of the tenancy agreement will not be tolerated. For instance, where a tenant's behaviour has been unreasonable and is a nuisance or annoyance to neighbours.

## **Notice of Possession Proceedings (Introductory Tenancy)**

If an introductory tenant has broken the tenancy agreement, we can serve a Notice of Possession Proceedings. The tenant has the right to appeal against this Notice to a panel (a sort of committee) made up of Borough Councillors.

If the tenant does not appeal, or the appeal is turned down, we can then apply to the court for an eviction order. We would only need to prove that we have followed the proper process in ending the tenancy. We would not need to provide any more proof that the tenancy agreement has been broken.

## **Notice of Seeking Possession (Secure Tenancy)**

If a secure tenant has broken the tenancy agreement, we can serve a Notice of Seeking Possession. This Notice lasts for 12 months. It allows us to apply to the court for an eviction order.

If we apply to the court to evict a secure tenant, we would need to prove to the court that the tenancy agreement has been broken. We would also need to satisfy the court that eviction is needed to stop the problem and that eviction is reasonable and proportionate (i.e., that the seriousness of the problem deserves eviction).

## **Injunction Order**

This is an order made by a court. It normally instructs a person (normally aged 18 or over) not to do something (for instance, not to behave in a certain way or not to enter a certain area). The injunction lasts for a period that is specified on the injunction. An injunction normally relates to the breach of a tenancy agreement.

If we have evidence that the behaviour is serious enough, we can apply for an interim injunction at very short notice. The person responsible need not be in court. This injunction lasts for a short period to allow a full hearing to take place. We would only apply for an interim injunction for the most serious cases (for instance, to stop violence, threats or intimidation).

If someone breaks the terms of an injunction, we can go back to the court. If the court is satisfied that a term has been broken, the court can treat this as “contempt of court”. This is a serious offence. The court can fine the person or give a prison sentence of up to 6 months or more in very serious cases.

If someone’s behaviour is violent, threatening or intimidating, the injunction can have a power of arrest. This means that if a term of the injunction is broken, the Police can arrest the person responsible. That person may then be kept in prison until another court hearing is arranged.

## **Anti-social Behaviour Order (ASBO)**

ASBOs are similar to injunctions. However, they can normally be used for people aged 10 or over. A person does not need to be a Council tenant or a member of a tenant’s household.

An ASBO can prohibit any anti-social behaviour – it does not need to be confined to the terms of a tenancy agreement. Where an ASBO is breached, the maximum term of imprisonment is 5 years.

# **ARE WE ACCESSIBLE TO YOU?**

## **IF NOT - ASK US!**

- **We want everyone to be able to understand us.**
- **We want everyone to be able to read our written materials.**
- **We aim to provide what you need for you to read, talk, and write to us.**

### **On request we will provide free -**

- **Language interpreters, including for sign language.**
- **Translations of written materials into other languages.**
- **Materials in Braille, large print, on tape or Easy Read.**

**Please contact us:**

**Voice telephone - 01246 345345 Fax - 01246 345252**

**Mobile text phone SMS - 079609 10264**

**E-mail - [eoinfo@chesterfield.gov.uk](mailto:eoinfo@chesterfield.gov.uk)**