



ASTON CLINTON PARISH COUNCIL
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ALLOTMENT TENANT'S ENFORCEMENT AND APPEAL PROCEDURE

1. Introduction

1.1 This procedure clearly states the enforcement and appeals process for Tenants.

2. Improvement Letter

2.1 An Improvement Letter will be sent once a plot has been identified as not complying with a Tenancy.

2.2 This letter will detail the unacceptable criteria and indicate what is required to bring the plot up to the required standard.

2.3 The Tenant is given 1 month from the date of the Improvement Letter to rectify the situation and/or explain satisfactory reasons for the plot's unacceptable condition.

2.4 The Clerk should be made aware of any special circumstances relating to a Tenant whose plot is unacceptable. Any information gathered will be dealt with confidentially and each instance will be dealt with on an individual basis.

2.5 The Clerk will try and agree on an action plan with the Tenant including timescales and may agree an extension of 1 month under mitigating circumstances.

3. Formal Warning Letter

3.1. In the absence of an improvement or explanatory letter, a Formal Warning letter will be issued, reaffirming the statements in the Improvement Letter. The Tenant must show an immediate improvement to their plot within 2 weeks (14 days) of the date of issue of the letter or an explanation as to why the Improvement Letter was ignored, failing which the agreement will be terminated by serving a Notice to Quit.

3.2. The Clerk will be authorised to make the decision on whether a Notice to Quit is issued.

3.3 The Clerk will decide a fee that will be charged for any remedial work required. Alternatively, the Clerk may forfeit any deposit previously paid by the Tenant if a plot has been left in an unacceptable condition.

4. Notice to Quit

4.1 If there is no immediate improvement or satisfactory accepted explanation within the timescale, a termination letter (Notice to Quit) will be issued to the Tenant.

- 4.2** The Tenant will then be given 28 days until the end of repossession to remove any crops, tools and structures left on the site before the Council can restore the plot.
- 4.3** All notices to Quit will be sent recorded delivery.
- 4.4** In the event of a serious breach of the Tenancy Agreement, and if found guilty of any criminal offence the Council reserves the right to serve immediate Notice to Quit (termination of tenancy), without progression through all stages as detailed in this procedure and therefore without the right of appeal.
- 4.5** Serious breaches include the following:
- Abuse, harassment or violence towards other Tenants, Employees of the Council, Councillors, Volunteers or members of the public.
 - Committing any illegal, criminal or immoral act, e.g. growing plants which produce an illegal substance; growing invasive species; use of drugs or alcohol on site, verbal and physical abuse.
 - Sub-letting or selling any part of the allotment plot.
 - Trading from the site or selling produce.
 - Using the allotment plot for any other purpose than allotment-gardening e.g., storage of scrap metal, rubbish or any other hazardous material
 - Activities which may cause significant harm to human or animal health or the environment.
 - Tampering or altering or damaging any communal resource or Council property.
 - Trespass on other plots without the written consent or authority of the Council or of the Tenant.
 - And any other act that the Council deems as a serious breach is not exclusive to this list.

5. Appeals Process

Inform the Council you wish to appeal your allotment termination

- 5.1** A Tenant may appeal (in writing) against a Notice to Quit within 14 days of the receipt of the termination letter (Notice to Quit) letter.

Reasons

- 5.2** The appeal should detail the reasons for the lack of improvement and reasons why the termination letter should be withdrawn.
- 5.3** The plots ownership will belong to the Tenant whilst the appeal is being considered.

Hearing

- 5.4** The Clerk must circulate the appeal to the Facilities Committee and reply to the Tenant within 14 days of receipt of the appeal letter with an acknowledgement letter. In absence of the Clerk an Officer of the Council will action.
- 5.5** Three members of the Facilities Committee will act as the Appeals Panel who must arrange a Hearing meeting to discuss the appeal with the Tenant.
- 5.6** The date and time of the Hearing should be made as convenient as possible for all involved to attend. Dates should be offered with the Tenant within 5 working days of the selection of the Appeals Panel.

- 5.7** The Tenant has the right to be accompanied to the Hearing by a fellow Tenant, colleague or friend or family member.
- 5.8** There are three options for the Appeals Panel to consider:
- Uphold the termination.
 - Re-instate the Tenant with a probationary period of 6 months, where any further breach of the Allotment Terms and Conditions will result in immediate termination with no right of appeal.
 - Re-instate the Tenant with no probation.
- 5.9** The Appeal Hearing should be minuted by the Clerk and circulated to both the Tenant and Appeals Panel to ensure there is a record of the process.
- 5.10** Both the Clerk and the Tenant will be given 5 minutes to address the Panel and to state their case. They will be given the opportunity to question each other after they have spoken.
- 5.11** Once both parties have spoken, the Tenant will be asked to leave so that the Appeals Panel can discuss the matter and decide the outcome. The discussion will be minuted by the Clerk.
- 5.12** Once a decision has been made, the Tenant will be informed of the outcome in writing within 7 days of the Hearing.
- 5.13** The minutes will also be recorded and received at the next available Facilities Committee meeting.
- 5.14** If a probationary period is agreed on, a review date will be set. A decision will be made by the panel as to whether the conditions of the probationary period have been met.
- 5.15** If there are no issues, the Tenant will remain on the plot. If there are breaches of the conditions of probationary or tenancy agreement, the panel have a right to immediately terminate the tenancy with no further right of appeal.
- 5.16** The decision of the Appeals Panel is final.

Timescales

Wish to Appeal – within 14 days of receipt of the termination letter

Acknowledgement – within 14 days

Selecting Appeals Panel - to go to first available Council or Facilities Committee meeting

Booking the Hearing – dates offered to the Tenant within 5 working days following the selection of the Appeals Panel with consideration of availability.

Decision – in writing, within 7 days of the Hearing to be sent to the Tenant

Appeal Panel: 3 Councillor representatives and 1 Clerk to minute