



Tenancy Management

# Relationship Breakdown Policy

August 2020

Policy	Tenancy Management - Relationship Breakdown
Users of Policy	Colchester Borough Homes, Colchester Borough Council
Date Adopted	30 January 2014
Date last Reviewed	August 2020
Review Frequency	Review every 3 years
Best Before Date	August 2023
<b>Scheme Delegation</b>	
Formation of Policy	Portfolio Holder with delegated responsibility for Housing
Amendments	Portfolio Holder with delegated responsibility for Housing
Monitoring	Housing Client Co-ordinator
Implementation	Housing Client Co-ordinator
Appeals	Client Services Manager, delegated to CBH Director of Operations

## 1. Aims of Policy

- 1.1 To inform Colchester Borough Council (CBC) tenants of their housing rights for when a relationship with a partner breaks down, where there is no violence, threatened violence or coercion involved.
- 1.2 The policy also gives guidance on how CBC joint tenants can deal with conflicts over property rights and what action can be taken by the Council once the tenant and partner have decided on the property issue.

## 2. Legislation, Guidance and Background

- 2.1 Housing Act 1996 (The Act) sets out a framework for the conduct of tenants in order to ensure that both parties knew their rights when signing up for a tenancy agreement.
- 2.2 The Act gave responsibility to the Council to prioritise those in greatest need of housing, based on particular needs they have and on the likelihood of them being able to secure accommodation themselves.
- 2.3 The Homelessness Act 2002 made further provision about the functions of local housing authorities relating to homelessness and the allocation of housing accommodation.
- 2.4 The Homelessness Reduction Act 2017 amends the existing Homelessness legislation in the Housing Act 1996. It places new legal duties on councils to ensure everyone who is homeless or at risk of homelessness has access to meaningful help, irrespective of their priority need, as long as they are eligible for assistance.
- 2.5 The Gateway to Homechoice Allocations Policy sets out the criteria and eligibility for social housing and will be referred to when making decisions under this policy.

## 3. The Policy

- 3.1 Each case will be considered on an individual basis due to the varied and complex circumstances of individual households, which include married and co-habiting couples, households with or without children, and same sex couples.
- 3.2 Both parties will be advised, at the initial enquiry stage and throughout the duration of the case, to seek independent legal advice, and be made aware of the implications of ending their tenancy.
- 3.3 We will follow the relevant legislation. In the case of joint tenants, the legal position is;
  - Both parties have equal rights to stay in the home
  - Both parties have the right to remain as a joint tenant although they may not be living at the property
  - Both parties have the right to hand over (known as voluntarily assignment) their tenancy by deed to the other joint tenant, so ending their own secure tenancy rights and giving the other joint tenant the whole tenancy. The remaining sole tenant will have all the rights and responsibilities of the tenancy including responsibility for payment of the rent and any arrears.
  - If divorce proceedings have been started the Court can decide who should have the tenancy. The joint tenants will need to make a request to the court to make a Property Adjustment Order. This will determine who will be given the tenancy
  - One tenant can unilaterally end the tenancy by serving the correct notice to quit on the Council, and this will end the tenancy for both parties upon expiry of the notice. Both joint tenants will then have no legal right to stay in the property. The consequence of this will be clearly explained to both parties.
- 3.4 In all cases of relationship breakdown any decision on eligibility for social housing will be made with regard to the Gateway to Homechoice Allocations Policy due to the limited number of homes available to applicants. In line with homelessness legislation the Council will not have a duty to rehouse people that are not in priority need.
- 3.5 In order to identify the exact circumstances of the household in question and the alternative courses of action available to them, tenants will be encouraged to contact the Housing Options Service who can provide advice and assistance to enable people to make informed decisions.
- 3.6 Where domestic abuse is a feature of the relationship breakdown, the Colchester Borough Homes Domestic Abuse policy alongside appropriate legislation and best practice will be followed to deal with the case.
- 3.7 Where there are children involved the aim will be to accommodate the adult who has custody/residence order for the children. In all cases, advice and assistance will be offered to the partner who does not have custody/residence order of the children.

#### **4. Appeals Procedure**

- 4.1 Appeals must be received in writing within 28 days of the date of the decision.
- 4.2 Appeals must clearly set out the grounds for the appeal including which aspect(s) of the policy or procedure the appeal is based on.
- 4.3 Appeals against the decision will be investigated and responded to by the Client Services Manager, delegated to CBH Director of Operations, or another officer appointed by the

responsible officer named under the management agreement between Colchester Borough Council and Colchester Borough Homes.

## **5. Service Standards**

- 5.1 Colchester Borough Homes (CBH) will acknowledge requests within 5 working days.
- 5.2 Due to the nature and complexity of cases, updates with all parties concerned will be ongoing whilst the case is being dealt with. Formal updates should be provided no later than 20 working days following acknowledgement and every subsequent 20 working days.
- 5.3 The outcome of an appeal will be provided within 20 working days.

## **6. Monitoring and Review**

- 6.1 Cases and outcomes will be recorded by Colchester Borough Homes. Where necessary, individual cases can be discussed at the monthly management meetings between CBC and CBH.
- 6.2 Reviews of the policy will be conducted every 3 years to make sure the policy continues to be efficient and effective or sooner if there is a relevant change in legislation, case law or in response to a change of relevant CBC policy.

## **7. Communicating the Policy to Staff**

- 7.1 Managers and staff involved in the implementation of the Policy will receive a copy of the policy.
- 7.2 CBH will provide training to enable staff to understand and comply with the Policy.
- 7.3 A copy of the Policy will be accessible from the Council's document management system.
- 7.4 Any amendments affecting the implementation of the policy will be communicated to managers and staff in a timely manner.

## **8. Communicating the Policy to Customers**

- 8.1 Information including a "relationship breakdown" leaflet will be published on Colchester Borough Homes website. <https://cbhomes.org.uk/you-and-your-home/your-tenancy/changes-to-your-tenancy/>
- 8.2 A copy of the policy will be placed on the Council's website and available via a link on Colchester Borough Homes' website.