

Waltham Forest Council Demoted Tenancy Guide for secure tenants

This guide explains to secure residents how the Demoted Tenancy scheme may affect them, if their Waltham Forest tenancy agreement is breached.



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Introduction

Waltham Forest Council wants to make the borough a safer place to live and improve the general quality of life for residents.

It is important that all tenants adhere to the tenancy conditions and in particular do not commit or allow anti-social behaviour by members of their household or visitors. Demoted Tenancies will help the Council get this message across and allow it to take action to demote tenancies, when anti-social behaviour tenancy conditions are broken.

Following a full tenants' consultation and the approval of the Council's Cabinet decision, Waltham Forest Council operates the Demoted Tenancy Scheme, which came into effect on 4 May 2009.

This guide has been produced to answer some of the questions tenants may have about Demoted Tenancies.

What is a Demoted Tenancy?

A Demoted Tenancy is a tenancy issued by order of a County Court following the grant of a Demotion Order. These Orders are awarded to tackle anti-social or nuisance behaviour. The Demotion Order replaces a Secure Tenancy with a Demoted Tenancy.

The period of demotion will initially be for twelve months from the date the Court makes the Demotion Order. However, this period will be extended if the Council or its nominated agents serves a Notice of Proceedings for Possession of the property during this period.

Demotion Orders are used as a remedy, with the emphasis very much on working with tenants to encourage a change in behaviour and help them keep their homes. In many cases, additional help and advice will be offered to help try and achieve this.

What are the differences between Demoted Tenants and Secure Tenants?

In addition to changing a Secure Tenancy to a Demoted Tenancy, the Demotion Order will also remove a number of legal tenancy rights, thereby acting as a positive incentive to the tenant to change their behaviour [or those causing the problems]. If the problems stop, after a year the tenant can regain a higher level of security and rights if or when a Secure Tenancy is restored.

The scheme provides a clear linkage between the enjoyment of the benefits and rights of security, and responsible behaviour. The table below summarises the main differences.

Please note that many of the rights listed are not absolute rights, but are subject to qualifying conditions.

| Legal Rights | Demoted Tenant | Secure Tenant |
|--|----------------|---------------|
| Right to take in lodgers | X | ✓ |
| Right to sub-let part of their home | X | ✓ |
| Right to structurally change or improve | X | ✓ |
| Right to transfer (or apply to transfer) to another council home (except in emergency situations i.e. fleeing violence or where a high medical priority has been given) | X | ✓ |
| Right to mutual exchange with another tenant | X | ✓ |
| Right to join the transfer list | X | ✓ |
| Right to assign (only under Court Order in matrimonial and children related proceedings) | X | ✓ |
| Right To Buy the home (right to buy scheme is suspended until the tenancy becomes secure again) | X | ✓ |
| Right to Buy discount (during the tenancy is demoted can not count as a qualifying period, nor can it count towards calculating any discount to be allowed on that Right To Buy) | X | ✓ |

What will not change?

During the Demoted Tenancy period, there are many conditions that will still be the same as those of a Secure Tenancy. These are:

- The period of the tenancy
- The tenants named in the tenancy agreement
- The tenant must continue paying the rent
- The date the rent is payable
- The amount of rent payable
- The tenant must pay any existing arrears
- Any rent arrears that they owe
- The right to repairs
- Keeping to all the tenancy conditions and
- Any rent paid in advance or any credit to the rent account will be carried over towards the next payment

The Council may also impose any additional tenancy conditions of the Secure Tenancy held prior to the demotion, including responsibilities as specified in the Tenancy Agreement.

What are breaches of tenancy conditions’?

During the demotion period, the Council may decide to end the Demoted Tenancy if any tenancy conditions are breached, for example, [but not limited to]:

- damage to the property
- not maintaining gardens
- anti-social behaviour in communal areas
- failure to pay the weekly rent
- causing any type of harassment
- using the property for illegal purposes, for example drug dealing, prostitution
- if the tenancy was obtained by giving false information
- committing domestic violence
- committing behaviour which causes distress or annoyance to neighbours
- not occupying the property as their only or principal home
- throwing things from the property or
- breach of any other tenancy condition

The full tenancy conditions can be found online at www.aschamhomes.org.uk or at London Borough of Waltham Forest website www.walthamforest.gov.uk

**It is important to keep to the terms
of the tenancy agreement**

If the tenant is not causing the breach

The tenant is not only responsible for their own behaviour, but will also be held responsible for breaches caused in the property and locality by:

- their partner
- their own children
- visitors to their home
- members of their family or
- any animal kept at the property

Demoting a Tenancy

If the Council or its nominated agents, after investigating a breach of tenancy, decide that they intend to apply to the Court for a Demotion Order, they must serve the tenant with a legal document called a Notice Before Proceedings for a Demotion Order. This Notice will advise the tenant of the Council’s intention to apply to the Court for a Demotion Order and set out the grounds [reasons] why a Demotion Order is being applied for; giving details of any facts relied upon.

The Notice will also confirm the date after which the Council can apply to the Court for a Demotion Order. This cannot be less than 28 days after the Notice is served. Once the date specified in the Notice has passed, the Council can make an application to the Court for a Demotion Order at any time within the next 12 months.

If the Council makes an application for a Demotion Order, the Court will grant this if it is satisfied that the tenant or a person residing in or visiting the property or locality has caused a nuisance, engaged or has threatened to engage in anti-social behaviour directly or indirectly or has used the premises for unlawful purposes. The Court must also be satisfied that it is reasonable to grant the Demotion Order.

If a Demotion Order is granted, the tenant's Secure Tenancy will be replaced by a Demoted Tenancy for a period of not less than 12 months.

What will happen during the 12-month Demoted Tenancy?

The tenancy will be closely monitored and if deemed to have been conducted satisfactorily and the Council has not served a Notice of Proceedings for Possession of the property, the tenancy will automatically revert to a Secure Tenancy after twelve months.

However, if there are any further breaches of any tenancy conditions, or the tenant fails to keep to the terms of their Court Order, the Council will let the tenant know, so that they can put them right. Breaches of tenancy conditions will be investigated carefully and if proven and not resolved, the Council will have no alternative but take action to end the tenancy.

It is important to note that if in the opinion of the Council, the breach of tenancy conditions is serious, the Council may not give the tenant the opportunity to put matters right and will proceed to take action to end the tenancy by serving a Notice of Proceedings for Possession.

If the Council serves a Notice of Proceedings for Possession and issues proceedings to recover possession, the Demotion Period will be automatically extended.

Ending a Demoted Tenancy

The Council follows strict guidelines to make sure they are being fair and equitable when dealing with an alleged breach of tenancy.

If the Council decide to end a Demoted Tenancy, they will serve the tenant a Notice of Proceedings for Possession. This would mean that after 28 days, the Council intends to apply to the County Court for a Possession Order.

Notice of Proceedings for Possession

If the tenant receives a Notice of Possession Proceedings from the Council, it means that the Council intends to obtain a Possession Order from the Court to evict the tenant from their home. The Notice of Proceedings for Possession will explain the reason(s) why the Council is seeking to end the tenancy.

The Notice will give a date (which must not be less than 28 days from the date the Notice was served), after which the Council intends to apply to the County Court for a Possession Order.

The Notice of Proceedings for Possession will also explain the tenant's right to request a Review of the Council's decision to end the tenancy and advise the tenant that if they need help or advice about the Notice, what do about it (i.e. to take it immediately to a Citizens' Advice Bureau, a housing aid centre, a law centre or a solicitor). If this happens, the tenant will have the right to request a Review of the decision to evict the tenant. A Review Request Form will be attached to the Notice.

Reviewing a decision

If the Council serves a Notice of Proceedings for Possession to end a Demoted Tenancy, the tenant has the right to request a Review of the Council's decision. However, a tenant only has the right to a Review hearing if they tell the Council that they want a Review by returning the Review Request Form and it is **received** by the Council's nominated agents (Ascham Homes) within **14 days** of the date the Notice of Proceedings for Possession was served.

If the tenant's Request for a Review is not received by the Council's nominated agents within 14 days of the date of service of the Notice of Proceedings for Possession, they will lose their right to a Review and cannot ask for another one.

If a Review Request is received within the 14 day time limit, the Council will then arrange a Review hearing and inform the tenant of the time and place, within 7 days.

What does a Review involve?

The Review will be dealt with at a Review hearing. Review hearings are held by a panel of independent and experienced senior housing officers.

The Review will be carried out by officers, who:

- were not involved in the original decision to end or extend the tenancy
- do not have any interest in the outcome of the hearing and
- have not had any prior contact with the tenant or presenting officers on the case

The tenant will have the right to attend the Review hearing, take someone with them, send someone to represent them and speak or ask questions at the Review hearing. They could also make a written representation if the tenant does not want to or can't attend.

The Review Panel will consider the tenant's case, based on the statement in the Review Request Form and the evidence provided by both the tenant (or by the person the tenant has nominated to send to Review hearing), any further written representations submitted by the tenant, the Tenancy Services Officer / Rent Income Officer or any other witnesses.

Court Action

If the Review Panel finds in the tenant's favour, the Notice will be withdrawn and the Demoted Tenancy will continue for the remainder of demotion period. However, if the Review Panel finds in favour of the Council, the Council will then request the Court for a Possession Order.

If the Council decides to end a Demoted Tenancy, providing the Council has followed the correct administrative process, the Council's decision will be confirmed by the Court and a Possession Order will be issued.

Extending a Demoted Tenancy

Once a Demotion Order has been granted, the time period of 12 months will automatically be extended, if the Council or its nominated agents serves a Notice of Proceedings for Possession during that period. Once extended, if the Council subsequently withdraws the Notice of Proceedings for Possession or fails to issue proceedings within 6 months from the date of service of the Notice of Proceedings for Possession, the Demoted Tenancy will end and a Secure Tenancy will be restored.

If proceedings are commenced, the tenant will continue to be demoted until either:

- possession of the property is obtained
- the Notice of Proceedings for Possession is withdrawn
- the proceedings are determined in favour of the tenant or
- the period of six months beginning on the date upon, which the Notice of Proceedings for Possession is given ends and no possession proceedings have been issued

The contents of this guide are for general information only. If you have any concerns about your personal situation, you are recommended to seek independent legal advice from a solicitor, Citizen's Advice Bureau or other qualified legal advisers.

Obtaining information and advice on the tenancy

Any tenant who would like further information about their rights and obligations as an Introductory Tenant or if they are having any issues with their tenancy, are advised to contact their Tenancy Services Officer / Rent Income Officer.

The officer will give the tenant information and advice about their Introductory Tenancy and can tell them about or refer them to support agencies that may offer further assistance.

Below are a few advice sources that a tenant may contact:

- **London Borough of Waltham Forest Supporting People Team**

Silver Birch House, Uplands Business Park, Blackhorse Road,

Walthamstow, London, E17 4GG

Telephone: 0208 496 3000

Email: supporting.people@walthamforest.gov.uk

- **London Borough of Waltham Forest Supporting People Team**

Website: www.citizensadvice.org.uk

167 Hoe Street, Walthamstow, London, E17 3AL

and

547-551 High Road, Leytonstone, London, E11 4PB

- **Local councillor**

Telephone: 0208 496 3000

Website: www.walthamforest.gov.uk

- **Local law centre**

Telephone: 0207 833 2931

Website: www.lawcentres.org.uk

- **Local solicitor**

Telephone: 0207 242 1222

Website: www.lawsociety.org.uk

Glossary of terms

| | |
|---|--|
| Court Order | An Order issued by a Court that requires a person to do or not to do a specific acts or acts. |
| Demotion Period | This is the duration of the Demoted Tenancy. |
| Demoted Tenancies | A type of tenancy awarded by a Court to replace a secure tenancy on the grounds of anti-social or nuisance behaviour, which reduces a tenant's security of tenure. |
| Demoted Tenants | An existing tenant who has been granted a demoted tenancy by Order of the County Court. |
| Extending Demoted Tenancies | The duration of a Demoted Tenancy may be increased by six months in cases where the Council serves a Notice of Proceedings for Possession. |
| Nominated Agent | The organisation nominated by the Council [i.e. Ascham Homes Limited] to monitor Introductory Tenancies and if necessary, take steps on the Council's behalf to end a Demoted Tenancy. |
| Notice Before Proceedings for a Demotion Order | A legal notice that will be served by the Council advising the tenant that the Council intends to apply to the Court for a Demotion Order. |
| Notice of Proceedings for Possession | A Notice served by the Council to end a Demoted Tenancy. The Notice states how the Council alleges the tenant has failed to comply with the terms of their tenancy and will give a date before which Court action will not be started. The Notice lasts a year from when it is served, and Court action can be started at any time within that year. |
| Possession Order | A legal document from Court, informing the tenant that the Demoted Tenant must leave their home on a specific date. |
| Rent Income Officer | An officer who is responsible for all rent accounts income and recovery of debts. |
| Review Panel | A group of independent and experienced senior housing officers, who will carry out a Review of the Council's decision to end a Demoted Tenancy. The Panel Members would have not been originally involved in the decision to evict the tenant. |
| Review Request Form | A form which the tenant has the right to Request a Review of the Council's decision to end a Demoted Tenancy. |
| Reviewing a decision | The group of senior housing officers will consider the tenants' case, any representations and the evidence provided by Officers of the Council. |
| Secure Tenant | A tenant who has been granted a secure tenancy by a Local Authority as defined under the Housing Act 1985 (as amended). |
| Tenancy Agreement | A legal signed housing contract, explaining what the Council expects from the tenant and what the tenant can expect from the Council, as a landlord. |
| Tenancy conditions | The Conditions of Tenancy is a set rules that all tenants in Council homes agree to live by and follow and set out the obligations of the Council. |
| Tenancy Services Officer | An officer who provides housing management services to residents. Ensuring that the tenancy agreement is adhered to and managing anti-social behaviour |

Comments

This is our first guide for this scheme. We welcome comments about how helpful this guide has been in explaining this scheme to residents.



For more information

Visit: You can visit us at Ascham Homes, Customer Services, 869 Forest Road, Walthamstow, London, E17 4UH – open hours Monday to Friday from 9.00 am to 5.00 pm
or

Ascham Homes, 16 Morris Avenue, Billericay, Essex, CM11 2JR – open hours Tuesdays and Thursdays from 9.00 am to 11.00 am

Write: You may write to us at Ascham Homes, Policy and Development Team, 869 Forest Road, Walthamstow, London, E17 4UH

Website: Visit our website at: www.aschamhomes.org.uk

Email: Email us on: feedback@aschamhomes.org.uk

Telephone: Phone Ascham Direct on 0208 496 4197 – Lines are open Monday to Friday from 8.00 am to 8.00 pm. Minicom: 0208 527 1750 and quote AH 192.



Wheelchair accessible



Induction loop provided

This Demoted Tenancy Guide tells you about how the scheme will affect secure tenants if their Waltham Forest Tenancy Agreement is breached. A copy of this guide is also available in the following community languages (Bengali, Gujarati, Somali, Turkish and Urdu). If you would like to obtain a large print or speak with an interpreter about this guide, please contact Ascham Direct on 020 8496 4197 and quote AH 196 or tick the appropriate box and write your name, address and telephone number and return to the address below.

Interpreter

Large Print

এই পরিকল্পনাটি কীভাবে সুরক্ষিত ভাড়াটেনের ক্ষতিগ্রস্ত করবে যদি তাদের ওয়াশথাম ফরেস্ট প্রজান্স চুক্তি ভঙ্গ করা হয় এই অবনতি হওয়া প্রজান্স নির্দেশিকা সেই বিষয়ে আপনাকে জানাবে। এই নির্দেশিকার একটি নকল নিম্নলিখিত গোষ্ঠীর ভাষাগুলিতেও সত্য (বাংলা, গুজরাটী, সোমালী, তুর্কী এবং উর্দু)। আপনি যদি বড় ছাপার অক্ষরে নকল চান অথবা এই নির্দেশিকার বিষয়ে একজন দোভাষীর সাথে কথা বলতে চান, তাহলে অনুগ্রহ করে 020 8496 4197 নম্বরে অ্যাসচাম ডাইরেক্ট-এর সাথে যোগাযোগ করুন এবং AH 196 উল্লেখ করুন অথবা উপযুক্ত খোপে টিক চিহ্ন দিন এবং আপনার নাম, ঠিকানা এবং টেলিফোন নম্বর লিখে নীচের ঠিকানায় ফেরৎ পাঠান।

দোভাষীর

বড় ছাপার অক্ষরে

Bengali

આ સવનત ભોગવટો માર્ગદર્શિકા દર્શાવે છે કે જો તમારો ભાડૂતની વેલ્થમ વન ભોગવટો સમજૂતીમાં ભંગાણ પડે તો આ સ્કીમની તેમના પર કેવી અસર થાય. આ માર્ગદર્શિકાની નકલ ળીજી નિમ્નલિખિત ભાષાઓમાં પણ ઉપલબ્ધ છે. (બંગાળી, ગુજરાતી, સોમલી, તુર્કી અને ઉર્દુ). જો તમારે આ માર્ગદર્શિકાની મોટી પ્રિન્ટ મેળવતી હોય અથવા તો તે રંગો દુભાષિયા સાથે વાત કરવી હોય તો સંપર્ક સાધો, એસચેમનો સીધો 020 8496 4197 પર અને ટાંકો AH 196 અથવા યોગ્ય ળોકસ પર ટિક કરો. અને તમારું નામ સરનામું અને ટેલીફોન નંબર લખીને નીચેના સરનામે ળોકલી આપો.

દુભાષિયા

મોટી પ્રિન્ટ

Gujarati

Hagahan kireysiga ee la soo koobay waxa uu kuu sheegayaa sida uu nidaamkani u saameyn doono kirestayaasha damaanada ah hadii ay jabiyaan Heshiiska Kireysiga ee Waltham Forest. Nuqul ka mid ah hagahan ayaa sidoo kale ku heli kartaa lugadaha bulshooyinkan soo socda (Bengali, Gujaarati, Soomaali, Turki iyo Urduu). Hadii aad rabto daabacaad far waayen ku qoran in aad hesho ama aad hagahan turjumaan kala hadasho, fadlan la soo xidhiidh Ascham Direct 020 8496 4197 una sheeg tiradan AH 196 ama sax godka ku haboon kuna qor magacaaga, cinwaankaaga iyo telefoon lambarkaaga kuna soo celi cinwaanka hoos ku qoran.

Turjubaan

Dabacaad Farwaaweyn Ku Qoran

Somali

Elinizdeki bu broşürde anti-sosyal davranışları nedeniyle güvenceli kiracı statüsünün kısa süreli kiracı düzeyine düşürülmesiyle ilgili bilgiler verilmekte, Waltham Forest Belediye Evleri Kira Sözleşmesine aykırı hareket ettikleri takdirde güvenceli kiracılara karşı alınacak önlemler ve uygulanacak işlemler anlatılmaktadır. Broşür Türkçe'ye de çevrilmiş olup Türkçe baskısını doğrudan okumak, iri harfli baskısını edinmek veya bu konuda Türkçe bilen bir tercümandan bilgi almak istiyorsanız lütfen 020 8496 4197 numaraya telefon ederek AH 196 referans numarasını belirtip *Ascham Direct* ile iletişim kurunuz. Ya da uygun kutucuğu işaretleyip adınızı, soyadınızı, adresinizi ve telefon numaranızı yazdıktan sonra bunu aşağıdaki adrese gönderiniz.

Sözlü çevirme

İri harfli baskı

Turkish

یہ تنزیلی شدہ کرایہ داری گائیڈ آپ کو بتاتی ہے کہ سکیم محفوظ کرایہ داروں پر کیسے اثر انداز ہوگی اگر ان کے والتھم فاریسٹ کے ساتھ کرایہ داری کے معاہدے کی خلاف ورزی کی جاتی ہے۔ اس گائیڈ کی ایک نقل برادریوں کی مندرجہ ذیل زبانوں میں بھی مل سکتی ہے (بنگالی، گجراتی، صومالی، ترکش اور اردو)۔ اگر آپ یہ بڑی چھپائی میں حاصل کرنا چاہیں یا اس گائیڈ کے بارے میں کسی مترجم سے بات کرنا چاہیں، تو برائے کرم، ایشیم ڈائریکٹ سے 020 8496 4197 پر رابطہ قائم کریں اور AH 196 کا حوالہ دیں یا مناسب خانے میں نشان لگائیں اور اپنا نام، پتہ اور ٹیلی فون نمبر لکھیں اور اس کو نیچے دئیے گئے پتہ پر واپس بھیج دیں۔

بڑی چھپائی

مترجم

Urdu

Tenant's name: _____

Tenant's address: _____

Telephone number: _____

Please return to: Ascham Homes, Policy and Development Team, Willow House,
869 Forest Road, Walthamstow, London, E17 4UH