



South Derbyshire District Council

Untidy Gardens Procedure

Directorate	Housing & Environmental Services
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Untidy Garden Procedure

1.0 Introduction

- 1.1 Tenants of South Derbyshire District Council have a legal obligation under the terms of their tenancy agreement to maintain and care for their garden
- 1.2 The purpose of this procedure is to enable housing officers to robustly enforce the District Council's tenancy agreement whilst giving due consideration to individual circumstances and vulnerabilities
- 1.3 In particular, this document provides direction on;
 - What actions to take to investigate and resolve breaches of the Council's tenancy agreement in relation to gardens
 - How to enforce the tenancy agreement through the Courts for those tenants who fail to maintain their garden(s) to an acceptable standard
 - What information is required by legal services in order to successfully instruct them to take action
 - What steps to take where tenants have a disability or vulnerability which prevents them from maintaining their garden(s)

2.0 Scope

- 2.1 This procedure enables housing officers to challenge breaches of the council's tenancy agreement (clause 6, sections g and h) which details the tenant's responsibility towards their gardens. The relevant clause is found below

6. Behaviour of tenants

g) You must care for the garden in a reasonable way and to a reasonable standard, including cutting back hedges regularly.

h) You must not move or remove boundary hedges and fences without our written permission

- 2.2 This procedure will be further reviewed to take account of changes to legislation to be introduced under the ASB, Crime and Policing Act (2015)

Ownership and Management of Cases

- 2.3 The type of tenure has a direct bearing on which agency / team is responsible for tackling the property under investigation (see below)

Tenure Type	Responsible Agency
SDDC Property	SDDC Housing Team
Registered Provider	Registered Provider
Owner Occupier	SDDC Environmental Health

3.0 Procedure

Initial Reports

- 3.1 Reports of untidy gardens can come from a variety of sources including tenants, Councillors, partner agencies as well as the observations of 'field-based' staff such as repair operatives and housing officers themselves.
- 3.2 If the property in question is identified as a property owned by South Derbyshire District Council then responsibility for resolving the breach of tenancy remains with the Housing department.
- 3.3 If the property is not owned by the Council then the officer receiving the complaint must acknowledge receipt and advise the complainant that they will refer their concerns on to the appropriate agency.
- 3.4 When referring an untidy garden to another agency or department, the officer must provide the complainants contact details (unless the complainant wishes to remain anonymous) to the agency and request that they contact the complainant to acknowledge receipt of their concerns.
- 3.5 When notified that a council owned property has an untidy garden, the housing officer must visit the property in question within 5 working days.
- 3.6 Photographs must be taken to show the extent of the breach of tenancy. Photographs must be of sufficient quality to be used as exhibits in court should the need arise.
- 3.7 Personal contact with the tenant is encouraged to discuss the breach of tenancy, and to advise the tenant what action is required, and in what timescales. (see 3.10 below)
- 3.8 Housing Officers must check the Orchard Housing Management system and existing risk registers prior to visiting the address to check if there are any warning markers in place for the tenant or a member of their household.
- 3.9 Personal contact with the tenant must be based on the Housing Officers judgement after considering any warnings held on the system.
- 3.10 If there are any vulnerability issues or support needs that may need to be considered – particularly any mental health issues or other disabilities, this may be a bar to court action
- 3.11 Knowledge of such issues within any department is considered to be implied knowledge for the Council who are the "Claimant" in legal proceedings, so a thorough investigation of any such issues should be carried out.

Formal Warnings

- 3.12 After completing the initial visit, the housing officer must write to the tenant using letter GA1.
- 3.13 The letter must include clear details of why the condition of the garden is unsatisfactory and what work must be completed to return the garden to an acceptable standard and that a further visit will be made to inspect the garden after 21 days of the letter being issued. Tenants must also be advised that failure to return the garden to a satisfactory standard may result further action being considered.
- 3.14 When re-visiting the property, if it is clear that the required work has been completed, the housing officer will send a letter to the tenant confirming that the garden is now in a satisfactory condition and that in future the garden must be maintained to that standard using letter GAX
- 3.15 If the work has not been completed or justified reason given by the tenant for the work not being completed the Housing Officer must take further photographs of the garden and retain them to be used as evidence at a later date if required.
- 3.16 After the visit the housing officer must write to the tenant using letter GA2
- 3.17 The letter must confirm that the garden has not been brought to an acceptable standard following the first letter and state that unless improvements are made within the next 7 days then the Council may consider legal action against the tenant.
- 3.18 After re-visiting the property, if it is clear that the required work has been completed, the housing officer will send a letter to the tenant confirming that the garden is now in a satisfactory condition and that in future the garden must be maintained to that standard using letter GAX
- 3.19 If the work has not been completed the Housing Officer must send the tenant a 'letter before action' signed by the Director of Housing and Environmental Services using letter GA3 requesting work to be completed within the next 7 days. Failure to do so will lead to the council considering legal action and the recovery of the costs associated with doing so
- 3.20 After re-visiting the property, if it is clear that the required work has been completed, the housing officer will send a letter to the tenant confirming that the garden is now in a satisfactory condition and that in future the garden must be maintained to that standard using letter GAX
- 3.21 If the work has not been completed the Housing Officer must take further photographs of the garden and instruct legal services to act.

Legal Proceedings

- 3.20 In cases where the tenant has failed to bring their garden(s) to an acceptable standard after receiving letter GA3, the housing officer must instruct legal services to take proceedings against the tenant for breach of tenancy
- 3.21 The housing officer must complete the 'Legal Services Request' form and have this counter-signed by the tenancy services team leader.
- 3.22 Upon receipt of the legal services request form, legal services will agree the most appropriate enforcement route with the housing officer and agree the timescales for resolving the issue.
- 3.27 The housing officer must prepare a witness statement, and email this to legal services together with the evidence. The statement must contain the following:
- Copies of letters sent
 - Details of visits made (dates and whether any contact was made)
 - Details of any discussions or telephone calls and agreed action
 - Copies of any notices served on the tenant
 - Details of any known vulnerabilities and disabilities. If these exist, then the housing officer should seek legal advice prior to referring the matter to legal services
 - The statement should also Exhibit copies of letters, notices, photographs and any other evidence e.g. letters received
- 3.28 Legal services will then check the documents and ask for any amendments. Once documents are finalised and signed by the housing officer, court proceedings may be issued, if still considered appropriate.
- 3.29 Legal Services will advise the housing officer of the hearing date, once this is received from the Court. The housing officer must attend the hearing and visit the property one day before the Court date to check if the work has been completed and advise legal services.
- 3.30 Following the Court hearing, the housing officer will check the property to ensure any work requested has been completed. In the event that it has not been undertaken the housing officer will discuss further action with legal services.

Vulnerable Tenants

- 3.32 Whereas vulnerability cannot be used as a reason not to fulfil the tenants' obligations in the tenancy agreement, housing officers must seek to ensure that the action we take is both proportionate and reasonable.
- 3.33 If a tenant has a disability which prevents them from maintaining their garden, the housing officer should explore alternate resolutions before considering legal action such as;

- Referral to external agencies (such as Age UK for elderly tenants)
- Assistance from nearby relatives / support networks
- Having work completed by the Council and re-charging the tenant.

Complex cases involving vulnerable or disabled tenants should be discussed with the Tenancy Services Team Leader to obtain advice prior to commencing legal action.

4.0 Version Control

Version	Date	Author	Details
1.0	June 2015	Chris Holloway	New Document
1.1	September 2015	Chris Holloway	Sections 3.19 – 3.30 altered following recommendations from legal services