

# Eviction Policy



We can supply this information in large print, on audio tape or in your language. Please call 01202 264444 to discuss your requirements.

*Quality Homes In Strong Communities*

## What is eviction?

Eviction is the common term used when a landlord intends to take legal action to end a tenancy. In order to do this a landlord must apply to the court for a Possession Order and if this happens, the landlord must show clearly the reasons why it is taking such action.

The Housing Act 1985 and the Housing Act 1996 sets out the reasons when a landlord may apply to the court for a Possession Order and these reasons are commonly referred to as Grounds for possession. There are sixteen Grounds for eviction and these are divided into three parts:

**Part 1:** Covers the Grounds on which the court may grant the landlord possession if it considers it reasonable to do so (Grounds 1-8).

**Part 2:** Covers the Grounds on which the court may grant the landlord possession only if suitable alternative accommodation is available for the tenant (Grounds 9-11).

**Part 3:** Covers the Grounds on which the court may grant the landlord possession if it considers it reasonable and there is suitable alternative accommodation available (Grounds 12-16).

A list of all sixteen Grounds for possession is provided at the end of the Tenancy Agreement.

## Why does PHP have an eviction policy?

PHP is committed to supporting sustainable tenancies and strong, safe communities. To help achieve this we provide a wide range of information, advice and support services for tenants' and their families to ensure that anyone who needs it, regardless of their background, race or culture can access services that can help them manage their tenancy.

We have produced this policy to provide information for tenants and staff about the circumstances in which PHP considers it appropriate to apply to court to end a tenancy and to ensure that this is only ever considered when other measures have failed and there are no other options available. We also want to ensure that we follow due process when taking legal action to end a tenancy so that we do not unlawfully evict anyone.

## In what circumstances will PHP consider taking legal action to end a tenancy?

PHP will consider taking action to end a tenancy for serious breaches of tenancy conditions, such as (but not limited to):

- ◆ Not paying rent (rent arrears).
- ◆ Causing anti-social behaviour and / or neighbour nuisance.
- ◆ Using the property for illegal purposes.
- ◆ Living elsewhere or subletting the property without PHP permission.

Above are the most common reasons where PHP will consider taking action to end a tenancy but we can, if we think it is appropriate to do so, take action for any of the Grounds listed in the 1985 and 1996 Housing Acts.

## What will happen if PHP takes action to end my tenancy?

We have provided information about what will happen and what tenants can expect if PHP does take legal action to end a tenancy in the following circumstances:

### **Rent arrears.**

PHP has an obligation to ensure that all tenants pay their rent on time and that rent arrears are kept to a minimum. If we fail to do this it can have a negative impact on the services that we can provide on behalf of all our tenants. At the same time, we must also make sure that we remain customer focused and that we deal with all cases of rent arrears on an individual basis, taking account of the wider financial circumstances of each household. This means that if we are considering taking legal action for rent arrears, we will have worked very closely with the tenant(s) concerned to help them pay off any arrears and provided help and assistance, where possible.

Further details on PHPs approach to rent arrears can be found in our Arrears Policy and this is available on request. Here is a summary of the process that we follow and what a tenant facing legal action for rent arrears can expect.

**Stage 1:** We aim to identify rent arrears at an early stage and the Income Recovery Team will contact a tenant if there is more than two weeks outstanding on the rent account. If, at this stage the tenant pays off any outstanding rent or contacts PHP to make a payment arrangement we will take no further action. If, however there is no contact from the tenant we will move to Stage 2 of the arrears process.

**Stage 2:** The Income Recovery Team will check the circumstances of the household and make further attempts to contact the tenant. If the tenant fails to either pay the arrears in full or to make an arrangement, the Income Recovery Manager may at this stage take

the decision to issue a Notice Seeking Possession which gives the tenant 28 days notice that PHP is considering legal action to recover the arrears. After 28 days (this is known as the expiry date of the Notice Seeking Possession) PHP can then begin possession proceedings.

If at this stage the tenant makes contact with PHP to pay the arrears in full or makes an arrangement to pay we will take no further action.

The Notice Seeking Possession remains in place for twelve months from the expiry date and if further arrears occur within the twelve months, PHP may again consider taking legal action.

**Stage 3:** If PHP reaches stage 3 of the arrears process, it will be because the tenant has not paid the arrears in full or failed to maintain a payment arrangement. At this stage it may be decided to apply to the court for a Possession Order stating non-payment of rent as the reason for doing this.

In most cases the tenant will be advised by the court that they need to pay off the rent arrears at a specified amount. This will usually take account of the wider financial circumstances of the tenant(s). This is known as a Suspended Possession Order meaning that if the tenant keeps up payments as stipulated by the court then PHP will take no further action. The Income Recovery Team will monitor the rent account carefully to ensure that the payments are maintained. If not, we will consider moving to Stage 4.

**Stage 4:** If the arrears are not paid by this stage, the Income Recovery Officer can seek approval to apply to the court for an Eviction Warrant. If the court grants this, PHP will then seek approval from the Income Head of Service to evict the tenant.

The court will contact the tenant directly to advise them of the date of eviction and will also notify PHP. At this stage, the tenant has a right to appeal the decision and they may still be able to avoid losing their tenancy if they pay the arrears in full.

**Remember:** Even after a tenant is evicted for rent arrears they are still responsible for any outstanding debts and PHP will take action to recover these and all legal costs will be added to the outstanding debts.

Throughout the process detailed above, PHP will make every effort to work with the tenant(s) to avoid taking legal action and when we contact tenants we can provide information, advice and assistance to help the tenant deal with the rent arrears and any other financial difficulties they may be facing. We have provided information on the types of help and support available for tenants at the end of this leaflet.

### Anti-Social Behaviour and other breaches of tenancy conditions.

In cases of serious or persistent anti-social behaviour or where there have been other serious breaches of the tenancy conditions, PHP can consider taking legal action to end the tenancy. In line with our commitment to provide strong and sustainable communities, we will only do this if all attempts at working with the tenant and their household have failed to address the ASB and the problems persist.

PHP can also take action if the tenant, any member of their household or anyone visiting them causes anti-social behaviour or breaches the tenancy conditions.

If PHP does decide to take legal action we will usually serve the tenant with a Notice Seeking Possession which gives the tenant 28 days notice that PHP is considering this because of ASB or other breaches of the tenancy conditions. After 28 days (this is known as the expiry date of the Notice Seeking Possession) if the ASB or other tenancy breaches persist, we can then go to court, stating the reasons why we are doing so and ask the court for a Possession Order.

Before we serve a Notice Seeking Possession, PHP will usually make every attempt to work with the tenant and members of their household to address unacceptable behaviour and we will usually do this in partnership with other agencies in Poole who can provide advice, support and help to address unacceptable behaviour. If the tenant enters into a contract with PHP to keep to the terms of the tenancy agreement and behave in a way that is acceptable, we will not usually take action to end the tenancy. In these circumstances we may ask the tenant to abide by the terms of an acceptable behaviour contract and / or engage with one of our partner agencies. We will expect full compliance from the tenant and will manage such cases very closely.

In very serious cases of ASB and breaches of tenancy conditions, PHP can serve a Notice Seeking Possession and apply immediately for a Possession Order, meaning we do not need to wait 28 days before we can take legal action. Depending on the severity of the case, PHP may not consider early intervention measures to resolve the problems.

In some cases we may ask the court to demote the tenancy by applying for a Demotion Order. If this is granted it removes many of the rights enjoyed by secure tenants and it gives the tenant one last chance to change their behaviour and avoid losing their home. If we need to go back to court because of further breaches of the tenancy conditions where a Demotion Order is in place, the tenant will be evicted as it is a mandatory order, meaning the court has no discretion to give the tenant another chance.

If PHP is granted a Possession Order we will make every effort to contact the tenant to ensure they are aware of what will happen on the day and unlike eviction action for arrears, it is highly unlikely that the tenant can do anything at this stage that will stop the eviction going ahead.

Full details on the range of measures available to help us prevent and tackle ASB and other serious breaches of the tenancy conditions are provided in our Anti-Social Behaviour Policy and this is available on request.

## What will happen if I am evicted?

Being evicted can have very serious consequences for those involved and we have provided information about what tenants can expect if they are evicted.

On the day of the eviction, there will be a minimum of two members of staff from PHP, a Bailiff and a contractor who can help us gain entry to the property. We may also ask the police to attend if we think there may be a risk to those attending on the day. If there are children in the household, we may ask a member of staff from the Borough of Poole's Social Services Department to attend the eviction.

If the tenant does not allow the Bailiff access to the property, PHP staff will instruct the contractor to gain entry by removing locks, and the Bailiff in attendance will be responsible for removing the tenant and all other occupants in the property. If the police are not present PHP will call them to attend if there is evidence to suggest that problems may occur.

The tenant will have been advised in advance of the date and time of the eviction and PHP will have instructed the tenant to arrange to have all personal possessions removed from the property before or on the day of the eviction.

If the tenant does not remove all personal belongings from the property, PHP staff will take an inventory of everything left in the property and arrange to have this removed and stored safely for

28 days. PHP is legally obliged to store any belongings after an eviction for 28 days only. During this time, the person evicted can arrange to collect their belongings by contacting the Housing Officer or a member of the Voids Team on 0800 652 3900. If, however at the end of 28 days the belongings have not been collected, PHP has the right to dispose of any items left at the property. Soiled or contaminated goods will be disposed of immediately.

Remember: The tenant will be responsible for the cost of storing belongings after the eviction and, if applicable, any damage to the property and the cost of removing and replacing the locks to the property if we need to gain access in this way.

If you leave any pets in the property on the day of the eviction, PHP cannot guarantee that we can arrange to have these re-homed. We will take advice from the Animal Welfare Officer and we may be advised that the best course of action is to have any pets destroyed if we cannot guarantee their safety.

### **If I am evicted, can I be re-housed?**

If someone is evicted, the Borough of Poole may have no statutory duty to provide permanent re-housing even where there are children or others in the household who could be considered vulnerable in some way. Anyone who has been evicted is usually classed as intentionally homeless and this means that the Council may only have a duty to provide temporary accommodation while the case is investigated.

Eviction can also make it difficult to get housing in other sectors. Housing associations and private landlords will request references and may refuse housing to someone if they have been evicted for not paying the rent or breaching the terms of the tenancy agreement. Buying a house may also be difficult for anyone evicted as most mortgage lenders request references from previous landlords.

PHP can arrange a meeting with the Housing Options Team at the Borough of Poole for tenants facing eviction. The Housing Options Team can discuss possible options based on the individual circumstances of the household but as noted, options may be very limited for anyone evicted from their previous accommodation.

Difficulties in finding accommodation after an eviction is a key reason why PHP only considers eviction action as a last resort and we encourage any tenant(s) who are having difficulty paying their rent or managing their tenancy in any way to contact us as early as possible and we will strive to find an appropriate solution and avoid taking legal action wherever possible.

### **What types of help and support are available?**

PHP can provide a range of support and we can also make referrals to other services. Where appropriate, we will work in partnership with others to provide support and assistance for anyone with difficulty paying their rent or managing the tenancy.

**Housing and Sheltered Housing Officers:** All tenants, no matter where they live, will have an allocated Housing or Sheltered Housing Officer. If you are unsure who your Housing Officer is contact our Helpdesk on 0800 652 3900 and a Customer Service Officer can advise you. Your Housing Officer can be the first point of contact in providing help and assistance and will be able to advise you or make a referral on your behalf, if appropriate.

**Income Recovery Officers:** If you are having problems paying your rent or are worried about managing your finances or other debts you can contact a member of the Income Recovery Team who will be able to advise you or make a referral on your behalf.

**Financial Inclusion Service:** PHP has a dedicated Financial Inclusion Officer and Welfare Benefits Officer who can provide advice and support for tenants on the different types of financial service available to them. This includes bank accounts, home contents insurance, affordable credit and free money advice. We can also provide debt advice, help claiming benefits and finance checks to help tenants maximise their income and minimise their outgoings by identifying how to save on utility bills, for example. Tenants can call and make an appointment to speak to the Financial Inclusion Officer or Welfare Benefits Officer.

**Tenancy Support Service:** PHP has a Tenancy Support Team who can help tenants maintain their tenancies by providing practical support for everyday things such as budgeting household expenses, dealing with neighbours and help to get involved in local groups and activities. Any tenant who thinks they may benefit from the Tenancy Support Service can contact PHP and a member of the team will visit to do an assessment and identify what type of support is the most suitable for each individual household.

**Citizens Advice Bureau (CAB):** The CAB provides a wide range of advice and assistance to all members of the community and this includes debt and housing advice. A member of staff from CAB provides free independent help and advice for PHP tenants each week at Beech House. Anyone who thinks they may benefit from this service should contact the Financial Inclusion Officer or the Welfare Benefits Advisor in advance to make an appointment.

**Housing and Community Services at the Borough of Poole:** Housing and Community Services are located at the Civic Centre in Poole and offer residents housing advice and homelessness services. The Housing Options Team can provide information on the options available to residents across all housing sectors. Tenants can access housing services directly on 01202 633805 or emailing [housingadvice@poole.gov.uk](mailto:housingadvice@poole.gov.uk) or contact PHP and we can make a referral.

**Safer Poole Partnership:** The Safer Poole Partnership is made up of a range of services in Poole from the public and voluntary sectors whose main aim is to assist community safety and development and to help tackle ASB. Services include the Police and Social Services as well as local voluntary groups and organisations. PHP works closely with the Safer Poole Partnership where there is evidence of ASB to help and support tenants change unacceptable behaviour.

**Shelter:** Shelter is an independent organisation that provides free legal advice, assistance and representation for residents with housing issues or those facing homelessness. Tenants can contact Shelter on 0808 800 0380 and the Dorset branch is located at 30 Poole Hill, Bournemouth, Dorset BH2 5PS.

**Other types of support:** We can also make referrals to other agencies on behalf of tenants. This can include support for people with a learning disability, drug or alcohol problems or mental health issues.

Anyone wishing further information and advice on the types of support available can contact us by the methods shown on the next page.

## Contact us...

If you would like more information about PHP's Eviction Policy or would like to discuss your options if we have taken action to evict you from your home you can...

- ◆ call our helpdesk on **0800 652 3900** and ask to speak to your Housing Officer
- ◆ Email us at: [housingofficers.php@poole.gov.uk](mailto:housingofficers.php@poole.gov.uk)
- ◆ write to us at:

Poole Housing Partnership  
Beech House  
28-30 Wimborne Road  
Poole  
BH15 2BU

## Complaints.

If you are unhappy about the way we have dealt with your case or the service we have provided, please contact us for a copy of our Complaints Policy or call the Helpdesk on 0800 652 3900 and ask to speak to our Complaints Officer who will explain what to do and what happens when you make a complaint.

# Notes