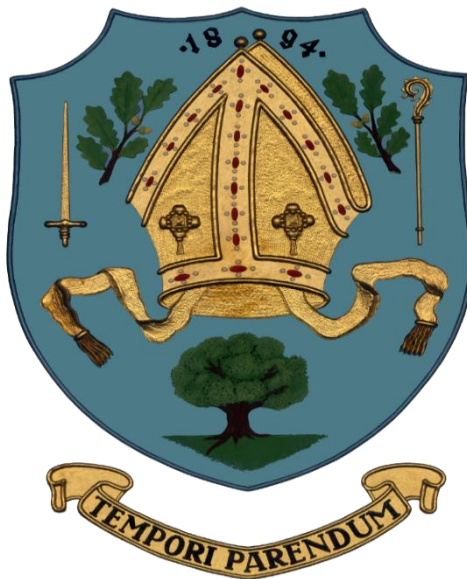


BISHOP AUCKLAND TOWN COUNCIL



Allotment Tenancy Enforcement Procedure

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In accordance with the Freedom of Information Act 2000, this document is available on the Council's Website www.bishopauckland-tc.gov.uk and copies of this document will be available for inspection on deposit in the Town Council Office, 54 Kingsway, Bishop Auckland, DL14 7JF.

Costs are as per the publication scheme.

Contents

Contents.....	2
Allotment Tenancy Enforcement Procedure	3
Stages of Enforcement	3
• Stage 1 - Informal Warning.....	3
• Stage 2 - Formal Warning	4
Stage 3 -Termination of Tenancy - Notice to Quit	4
Right to appeal.....	4
How to contact us	4

Allotment Tenancy Enforcement Procedure

The Council will enforce sanctions to allotment tenants for any breach of their Tenancy and/or Allotment Rules and Regulations via the following enforcement procedure. When evidence proves that a breach of tenancy has occurred, the Council will act, which ultimately may result in the termination of the Tenancy Agreement, and eviction from the plot.

Failure on the part of the Council to enforce any of the Rules and Regulations of the Allotment Tenancy cannot be seen as a waiver of that rule and does not in any way remove the Council's ability to enforce the rule again in the future.

Each breach of the Tenancy will be investigated on its merits; the types of evidence we look at include (but are not restricted to):

- Evidence from Council Inspection
- Written evidence submitted
- Witness statements¹ (must be submitted by witness directly and not through the tenant to who it relates)
- Complaints received
- Physical evidence on site
- Police statements
- Photographs, etc.

The Enforcement Procedure, has three stages, however in the event that the Council deems a breach to be very serious, the Council reserves the right to serve immediate Notice to Quit to terminate the Tenancy without going through Stages 1 and Stage 2.

Any breaches of tenancy (Stage 1 or Stage 2) received by the tenant will remain relevant for 3 years, and will be detailed on their tenancy record.

Tenants who, in one season, receive a stage 1 enforcement, for example for non-cultivation, then subsequently take adequate action that year, but then commit the same offence within the 3-year period, would receive a Stage 2 for that offence rather than another Stage 1. This system aims to prevent persistent abuse of the Allotment Rules and Regulations. Tenants who have a Stage 2 on record and then have another breach, regardless of what it is will immediately progress to Stage 3.

Stages of Enforcement

The three stages of the procedure are set out below:

- **Stage 1 - Informal Warning** – This gives the tenant an opportunity to remedy the breach. The warning will outline the nature of the breach(es), and will give instructions on required actions, and give a specified amount of time for the tenant to rectify the problem/s. It is the responsibility of the tenant to rectify and breaches and inform the Council of actions taken within 2 weeks² of the date on the warning. Failure to do so may result in escalation to Formal Warning or if the breach(es) are significant, a direct escalation to Stage 3 – Notice to Quit.

If a tenant wishes to surrender the plot at Stage 1, this should be in writing and as set out in the Allotment Rules and Regulations to the Council. The plot is to be returned to the Council with vacant possession, in a condition consistent with the provisions of the Allotment Rules and Regulations. Failure to do so may result in the tenant being charged for the plot to be cleared and left in a lettable standard.

¹ We cannot accept third party or anonymous statements or allegations. If you have any worries or concerns over other people's actions or conduct then please do contact us.

² Mitigating circumstances will be considered, but are at the discretion of the Council. It is the tenant's responsibility to communicate openly with the Council.

- **Stage 2 - Formal Warning** – Formal Warnings will be issued to tenants who fail to respond and put in place remedial action as set out in the Informal Warning. Formal warnings may also be issued without an informal warning if the Council deems the actions of the tenant to be serious enough to require a stronger sanction.

The Formal Warning will outline the nature of the breach and what remedial action is to be taken. It is the responsibility of the tenant to undertake any remedial actions within 2 weeks of the date of the warning. Failure to do so may result in escalation to Formal Warning or direct escalation to stage 3 – Notice to Quit.

If a tenant wishes to surrender the plot at Stage 2, this should be in writing and as set out in the Allotment Rules and Regulations to the Council. The plot is to be returned to the Council with vacant possession, in a condition consistent with the provisions of the Allotment Rules and Regulations. Failure to do so may result in the tenant being charged for the plot to be cleared and left in a lettable standard.

Stage 3 -Termination of Tenancy - Notice to Quit - If after the specified time from the warning being served in Stage 1 and/or Stage 2, it is found that no/insufficient action has been taken, the Tenancy will be terminated and the Tenant will be issued with a Notice to Quit. The Notice to Quit informs the Tenant that the Tenancy will be terminated, and that the eviction process has commenced. The Notice to Quit will specify the period for which the plot must be vacated, and it must be left in the condition as specified in the Tenancy Agreement and Allotment Rules and Regulations.

On termination of the tenancy, the Tenant at their own cost, must carry out any works which are required to bring the plot to a lettable standard (rubbish removal, removal of stored materials, derelict structures etc.) if the plot is not returned in a lettable condition, remediation works may be undertaken by the Council and the outgoing Tenant may be charged for these remedial works.

Right to appeal

Tenants have the right to appeal any enforcement sanction issued, as per the Council's Comments, Compliments and Complaints Procedure. The appeal must be made in writing within 7 days of the decision being issued. Upon receipt of the appeal, the Town Council will call the General Appeals Panels panel. The panel will be made up of three elected members. The panel will consider the evidence, based on the criteria set out in the Town Councils Comments, Compliments and Complaints procedure, and provide a final response. The Tenant may attend the appeal to present their case. The decision of the appeal panel is final, there is no further right of appeal.

How to contact us

You can contact the Council regarding the Allotment Service:

- By email on allotments@bishopauckland-tc.gov.uk
- In writing at Bishop Auckland Town Council, Kingsway Court, 54 Kingsway, Bishop Auckland, County Durham, DL14 7JF
- By telephone 01388 207110

Flow Chart of Enforcement Process