

Cheshire West & Chester Council

West Cheshire Homes

Applicants guilty of unacceptable Behaviour



Introduction

This guide aims to give an overview of how we will deal with those applicants who have been found guilty of unacceptable behaviour relating to either their current or a previous tenancy.

What do we mean by unacceptable behaviour?

We define unacceptable behaviour as; where an applicant or any member of their current or perspective household has a history of unacceptable behaviour which, in our view makes them, at the point of their application, unsuitable to be a tenant. Unacceptable behaviour includes bullying, harassment and victimisation and may involve actions, words or physical gestures that could reasonably be perceived to be the cause of another person's distress or discomfort.

The rules relating to applicants guilty of unacceptable behaviour

The rules relating to applicants found guilty of unacceptable behaviour are twofold: in very serious cases of unacceptable behaviour we can exclude an applicant from being allowed to join the housing register alternatively; for more minor cases of unacceptable behaviour we would allow the applicant to join the housing register however, the applicant would not be allowed to bid for any vacant properties until they have demonstrated they had changed their behaviour.

Examples of serious cases of unacceptable behaviour resulting in exclusion

- Demonstrated a serious failure to adhere to the terms of any current or previous social housing or private rented sector tenancy agreement within the last 6-12 months such as: behaviour which has resulted in action being taken by the landlord, police or other body; Verbal, domestic or racial abuse; Conviction for drug dealing of a Class A substance, or dealing of any classification of drug that is deemed substantial enough for exclusion;
- They, or any member of their household, have assaulted a member of staff whether an injunction is being sought or has already been obtained;
- They, or any member of their household, have knowingly given false or misleading information, or withheld information, that has been reasonably requested to obtain social housing.

Examples of minor cases of unacceptable behaviour

- Conduct likely to cause noise nuisance or annoyance if they were to be offered a tenancy. This is conduct or behaviour that does not only relate to a previous social housing or private rented sector tenancy agreement but conduct or behaviour that the Council has assessed is still current. This includes where an applicant or a member of their current or prospective household is the subject of actions being taken by the Council (or some other competent body) on grounds of alleged anti-social behaviour (ASB);
- Demonstrated a serious failure to adhere to the terms of any current or previous social housing or private rented sector tenancy agreement within the last three years. This includes failing to maintain any previous social

rented or private sector rented property within the terms of their tenancy agreement, or committing acts causing or likely to cause nuisance or annoyance to neighbours or others in the locality of where they live or where they previously have lived.

We will decide on the facts of the case whether:

- a) The applicant does not qualify to join the housing register due to their behaviour, or
- b) Will be allowed to qualify but will not be allowed to bid until the behaviour has changed and been resolved to the satisfaction of the Council using the guidance adopted in this policy and set out below.

To help us decide we may also apply a test of whether the unacceptable behaviour would entitle the Council to an outright possession order (if they had been a tenant).

The procedure we will follow

1. Where an applicant in housing need can qualify but cannot bid for properties, they will be awarded a band that reflects their housing need but will not be allowed to actively bid until the unacceptable behaviour is resolved. The applicant will, however, continue to accrue 'time' (on the register and for the band awarded) despite not being able to bid.
2. Our staff will always notify an applicant in writing and will provide them with examples of how they can demonstrate that they have resolved their unacceptable behaviour.
3. Once the applicant has resolved their unacceptable behaviour, their date within the band awarded will be the date they were awarded that band for their housing need and will not be the date they resolved the unacceptable behaviour to our satisfaction.
4. Where an applicant is disqualified for unacceptable behaviour, they will be told in writing the reasons why and informed of the actions they are expected to take to resolve the problem. They will also have a right to ask for a review of the decision made to disqualify them.

Any new housing application will normally only be reconsidered at the request of the applicant and only where there has been no reasonable cause for complaint or concern against the applicant (or members of their prospective household) for a continuous period of 12 months.

Resolving unacceptable behaviour

Our policy is to encourage all applicants who have caused anti-social behaviour to take responsibility for this and demonstrate a commitment to changing their behaviour. Where an applicant has demonstrated a change in their behaviour to our satisfaction, there may be times when an individual Housing Association may not consider an applicant for housing; for example, where they have been previously evicted for their unacceptable behaviour. This will be dependent on the rules/policies adopted by each Housing Association. However, it will not prevent an

applicant from being considered for housing by the Council itself or by another Housing Association.

Checks into any court cases or unspent criminal convictions

In the interests of assessing an applicant's eligibility to join the register all applicants and members of their prospective household will be requested to disclose any pending court cases or unspent criminal convictions.

We may use any information disclosed, or any other information obtained during the assessment or following registration, to ascertain whether the applicant should be disqualified from joining, or remaining, on the register due to serious unacceptable behaviour and/or because, depending on the facts, they may pose a serious risk to a community where they might be housed. Where a criminal conviction is spent, we will not consider that an applicant had received a criminal conviction in assessing that person's eligibility to join the register. The assessment will reflect whether there is evidence of any current serious unacceptable behaviour regardless of whether a person has been convicted in the past for that behaviour.

If we decide, on the information obtained during the assessment process, that there is a real pressing need for a police check, an approach may be made to the Disclosure and Barring Agency for information but only to establish whether the person has been involved in a serious crime(s) that may come under the unacceptable behaviour non-qualification criteria.

Information gained will not automatically exclude an applicant from the register. It may also be used to make informed decisions about any nomination for a vacant property.

All assessments will be carried out in accordance with the relevant data protection and information sharing policies and legal requirements.

The table overleaf sets out the rules on spent and unspent conviction rehabilitation periods that apply under national legislation

The Rehabilitation of Offenders Act (ROA) allows most convictions and all cautions, reprimands and final warnings to be considered spent after a certain period. This period, known as the 'rehabilitation period', is determined by the sentence or disposal given, rather than by the type of offence. The rehabilitation periods for custodial sentences (including suspended prison sentences) and community sentences, after which a conviction will be spent, are shown in the table below.

Sentence	Time it takes to become spent (age 17 or under at time of conviction)	Time it takes to become spent (age 18 or over at time of conviction)
Prison [1] term of over four years	Never	Never
Prison [1] term of more than 30 months and less than, or equal to 4 years [2]	Sentence + 3.5 years	Sentence + 7 years
Prison [1] term of more than 6 months and less than or equal to 30 months [3]	Sentence + 2 years	Sentence + 4 years
Prison [1] term of 6 months or less [4]	Sentence + 18 months	Sentence + 2 years
Detention and Training Order (over 6 months)	As prison sentences	
Detention and Training Order (6 months or less)	As prison sentences	
Sentence of Detention (over 6 months but not exceeding 30 months) [5]	As prison sentences	As prison sentences
Sentence of Detention (6 months or under)	As prison sentences	As prison sentences
Removal from Her Majesty's Service [6]	6 months	1 year
Service detention [7]	6 months	1 year
Community Order [8]	6 months	1 year
Youth Rehabilitation Order [9]	6 months	
Fine [10]	6 months	1 year
Compensation Order [11]	Once paid in full	Once paid in full
Hospital Order [12]	End of the order	End of the order
Conditional discharge, binding over, Care Order, Supervision Order,	End of the order	End of the order
Reception Order	End of the order	End of the order
Absolute discharge	Spent immediately	Spent immediately
Disqualification	End of disqualification	End of disqualification
Relevant Order	End of the order	End of the order
Conditional cautions	Once conditions end	Once conditions end
Caution/warning/reprimand [14]	None	None

Notes:

If a sentence/disposal is not covered in the table above, under the changes it has no rehabilitation period and becomes spent immediately (unless it is attached to another sentence/disposal which does have a rehabilitation period).

- [1] The term 'prison' includes suspended prison sentences, youth custody, detention in a young offender institution or corrective training.
- [2] From the day on which the sentence (including any licence period) is completed.
- [3] From the day on which the sentence (including any licence period) is completed.
- [4] From the day on which the sentence (including any licence period) is completed.
- [5] Passed under Section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 or under Section 206 of the Criminal Procedure (Scotland) Act 1975
- [6] Starting from the date of conviction relating to the sentence.
- [7] Starting from the day on which the sentence is completed.
- [8] From the end of the order. This period starts from the last day of when the order given by the court has effect. Where no such date is provided, the rehabilitation period for the order is two years, starting from the date of conviction.
- [9] From the last day on which the order is to have effect.
- [10] From the date of conviction.
- [11] The date on which the payment is made in full.
- [12] Under the Mental Health Act 1983
- [13] The day provided for by or under the order as the last day on which the order has effect.
- [14] Spent as soon as issued.