



## Resident Caution Notice Policy

### **1. Introduction**

**1.1** The policy sets out Medway Council Landlord Services approach to recording and sharing information where it has been assessed that a tenant may pose a risk towards staff or contractors.

### **2. Purpose**

**2.1** The policy is in recognition that as employers the Council has a duty of care towards staff to ensure their safety, in addition to contractors and sub contractors working on behalf of the council.

**2.2** The Resident Caution Notice policy also aims to:

**2.2.1** ensure that the Council acts fairly, openly and consistently when identifying service users who pose a threat to staff, and adheres to the General Data Protection Regulation (GDPR) 2018

**2.2.2** ensure that affected tenants (unless there is justified reason not to, see 6.1.3 below) are made aware that they have been identified as a risk to staff and that they can appeal the decision made.

**2.2.3** ensure that information regarding the warning of risk to staff marker is reviewed at least every 12 months, and any information that is held that is out of date or not relevant is removed from Housing management system.

### **3. Scope**

**3.3.1** The policy extends to all tenants where it has been assessed that they pose a risk and to those that have access to this information, including: full time and part time employees on a substantive or fixed-term contract; associated individuals who are employed by the Council; agency staff; contractors and others employed under a contract of service.

### **4. Legislation and Guidance**

#### **4.1 External**

**4.1.1** General Data Protection Regulation (GDPR) 2018

**4.1.2** Data Protection Act 2018

**4.1.3** The Health and Safety at Work Act 1974

4.1.4 European Convention on Human Rights

4.1.5 Information Commissioner

## **4.2 Internal**

4.2.1 Medway Council Tenancy Agreement(s)

4.2.2 Tenancy Management Policy

4.2.3 Lone Worker Policy

4.2.4 Medway Council Corporate Data Protection Policy

## **5. The Policy**

5.1 A decision to place a tenant on a Resident Caution Notice will be based on a specific incident or expression of a genuine risk or clearly identifiable concern by a professional, based on the criteria listed below.

- Incident of physical violence or incident or credible threat of violence
- Tenant has been verbally abusive or intimidating to staff, which has continued following written warning. No previous warning is required if the abuse or intimidation was serious.
- Tenant has made or indicated inappropriate behaviour (e.g. opening the front door inappropriately dressed/undressed, inappropriate sexual remarks)
- Tenant has a history of being dishonest, or of making unfounded accusations about visiting officers.
- Known history of violence or credible threats of violence
- Confirmed behavioural health condition which may result in unpredictable violent actions.

5.2 Contact with the tenant following a decision to place them on the Warning of Risks register will depend on the circumstances and will be agreed by the Housing Services Manager. Options include (but not necessarily limited to

- Do not visit alone – physical safety reasons
- Do not visit alone – non-physical staff protection e.g. where customer has been known to make false accusations against staff
- Male/female staff only to visit
- No home visits – call into office
- Check with (named individual) before contacting tenant. In case of emergency e.g. emergency repair, do not visit alone

5.3 It is acknowledged that the restrictions above may result in appointment times being affected, but staff and contractor safety is paramount.

6. The Housing Manager is responsible for making these decisions based on recommendations that are in line with the criteria.
  - 6.1.1 If a recommendation is refused, the reasons for this should be clearly explained to the staff member who initiated the recommendation.
  - 6.1.2 When a decision is taken to add a tenant to the Warning of Risk register, they will be written to informing them of this and the reasons for it. They will be informed of their right to request a review of the decision.
  - 6.1.3 Prior to writing if we believe that informing the individual will create a substantial risk of a violent reaction from them, we will not inform the individual. In such cases, a written record must be kept setting out why we believe that informing the individual would be a substantial risk of violent reaction.
- 6.2 We provide the officer on 'out of hours duty' with an updated list of tenants with 'warning of risk' markers. Measures will be taken to ensure that the information is retained securely.
- 6.3 We will make sure that potentially sensitive information is only made available to employees that have a clear need to be aware of the information.
- 6.4 The Housing Manager should determine whether there is good reason to provide the information to other organisations to alert them of potential risk to their staff. They will only provide the information to an individual of a similar level in the other organisation.
- 6.5 Decisions to share data with third parties will be made and justified on a case by case basis as well as the decision to inform the individuals that their data have been passed on, and to whom unless it would cause a serious risk to the person or another individual.
- 6.6 When sharing information with partners with whom we have a data sharing agreement, we will still follow the relevant process. We will require that if the information is no longer relevant then it is destroyed.
- 6.7 Each case will be reviewed at least every 12 months. The case will be removed when it is considered that there is no longer a risk associated. Notes referring to the incident that led to the tenant being added to the register will be retained and accessible to HRA managers in addition to a summary of the flag including date applied and removed and organisations to which the information was disclosed.
- 6.8 When conducting a review, relevant persons will be consulted to determine if there is still a potential risk. This includes visiting

contractors, or other agencies that are involved with the tenant. Reasons must be specified if a tenant is to remain on the register.

- 6.9 Retention will depend on the nature and severity of the original (if based on a specific incident) incident, the length of time since the incident, the previous and subsequent behaviour of the individual and whether it was likely to have been a 'one-off incident', and the current risk associated with the individual. If there has been no contact with the tenant during the restriction period, it may be difficult to determine whether there is any continuing risk, and careful consideration of all available information will be required before reaching a decision. This may include a meeting with the tenant.
- 6.10 Information will not be kept longer than necessary and so we will securely delete information that is no longer needed for this purpose.
- 6.11 When a tenancy ends, and the tenant is subject to a current warning of risk register entry, the records will be retained in line with the Council's data retention policies.

## **7. Right to request a review**

- 7.1 Section 10 of the Data Protection Act 2018 gives individuals the right to require us to stop processing their personal information if this is likely to cause them substantial and unwarranted damage or distress. If a tenant issues a section 10 notice relating to an entry in the Warning of Risk register, the Council must be able to justify the entry.
- 7.2 Where a decision has been made to place a tenant on the Warning of Risk register, the tenant should be advised that they have a right to request a review of the decision by writing to the Head of Housing within 28 days of being notified of the decision.
- 7.3 The Head of Housing will review the decision and inform the tenant of their decision within 10 working days.
- 7.4 If it is decided that the entry on the Register cannot be justified, it should be removed, and the decision confirmed in writing to the tenant.

## **8. Sign posting support for tenants**

- 8.1 Tenants who have either posed a threat to staff or shown signs of aggressive or unreasonable behaviour could need further support to enable them to sustain their tenancy.
- 8.2 Several factors may contribute to this behaviour, these may include;
- Unrealistic expectations of what we can do for them

- Mental illness;
- Certain medical conditions
- Reaction to authority
- Environmental factors;
- Alcohol, drug and/or solvent misuse or withdrawal;
- Stress, frustration, feelings of inadequacy;
- Anxiety and fear by relatives and/or friends;

7.3 Staff should discuss the case with the Tenancy Services Manager and agree if it is appropriate to sign-post/refer the tenant to an appropriate support agency in order to sustain the tenancy.

## **9. Role, Responsibilities and Authority**

- 9.1 The Assistant Director of Physical and Cultural Regeneration has the responsibility for ensuring that this policy complies with Regulatory and Legislative requirements.
- 9.2 The Head of Housing is responsible to ensure that all staff involved in any contact with tenants are responsible for implementing this policy.

## **10. Monitoring, Review and Evaluation**

- 10.1 Senior Management will review and monitor flags that warn risks.
- 10.2 This policy will be reviewed on a biennial basis or in line with legislative or regulatory changes.

This policy cross references: Anti-social Behaviour Policy, Lone Worker Policy, and Tenancy Management Policy.

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Lead Officer: Housing Manager