

Prohibition Orders Protocol

Protocol agreed: 6th May 2009

Reviewed: February 2022

Next review: February 2023

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1. Introduction

In Newcastle, the Council's approach to homelessness prevention includes identifying all possible situations which might lead to people losing their accommodation and finding ways to bring in earlier interventions so that, where possible, crises can be averted, and people can retain the accommodation they have, or diverted into other accommodation without needing to use temporary accommodation.

Several protocols have been developed in Newcastle with the aim of preventing homelessness amongst particularly vulnerable groups of people. Protocols are agreements which set out how different parts of the Council and other agencies will work together to prevent homelessness amongst particular groups, and what the responsibilities of each agency are. More information on our approach is available at [Information for professionals - homelessness prevention | Newcastle City Council](#)

Purpose of the Protocol

The aim of this Prohibition Orders Protocol is to prevent homelessness amongst people whose house is the subject of a Prohibition Order (including a Prohibition Notice under Article 31 of the Regulatory Reform (Fire Safety) Order 2005), which stops all or part of it from being used for habitation (either on a short- or longer-term basis) because of the conditions seen in the property. The Protocol should ensure that together we are able to plan to help any households likely to be made homeless as a result of a Prohibition Order, in a way that, as far as possible, does not result in them needing to use temporary accommodation.

The Protocol clarifies who is responsible for which type of action, and how agencies will work together most effectively. It was developed by a cross-agency group including all signatories.

2. Signatories

This Protocol is an agreement between the following agencies and departments:

- Newcastle City Council (including Housing Advice Centre and Private Rented Service, and the Public Protection & Neighbourhoods Team)
- Tyne & Wear Fire and Rescue Service

3. Good practice principles to follow when a Prohibition Order is being considered

Our main aspirations are that:

- By signing up to this Protocol, partners agree to share information with others as soon as possible once it becomes likely that a Prohibition Order may be served
- Partners also recognise that, where there is a possibility that alternative accommodation might be needed, the earlier information is shared with

others, the easier it will be to avoid homelessness and other consequent problems

- By working effectively together, agencies and departments will allow the best short and long term solutions to be found, so that any need for temporary accommodation, and disruption to the lives of tenants, is minimised
- The aim of the action is to ensure that people are not put at risk by the action being taken or proposed to be taken, and all partners will ensure that they are aware of and try to minimise the risk to staff, local residents, and the local community.

4. Background information about Prohibition Orders

What are Prohibition Orders?

Prohibition Orders are orders which can be served by either the Council's Public Safety and Regulation department, to address hazards in residential accommodation which are so severe that the resident or residents are at risk of significant harm.

For local authorities, the orders are served under Part 1 of the Housing Act 2004, known as the Housing, Health and Safety Rating System (HHSRS). Prohibition Orders served under the HHSRS apply to single occupancy housing, multi-occupied housing (HMOs), and to communal areas.

For Fire and Rescue Services, Prohibition Notices are served under Article 31 of the Regulatory Reform (Fire Safety) Order 2005 (FSO) and applies to "premises" which includes domestic premises other than premises consisting of or comprised in a house which is occupied as a single private dwelling. The FSO applies to common parts of HMOs, common parts of buildings containing flats and maisonettes, and common parts of sheltered housing.

Any residential premises should provide a safe and healthy environment for any potential occupier or visitor. Prohibition Orders under the Housing Act may be used where conditions present a serious threat, or an imminent risk to health and safety

5. The process to be followed

Once there is a possibility that a Prohibition Order might lead to tenants being asked to leave the property, the following steps should be taken:

1. As required the initiating agency (Public Safety and Regulation or the Fire & Rescue Service) will consult the other of these two authorities, and provide information when a property inspection has led to a Prohibition Order being considered. If the prohibition order is not in relation to fire safety there is no requirement for the Public Safety and Regulation team to consult with the Fire & Rescue Service
2. Wherever possible, at this stage the initiating agency will inform the Housing Advice Centre so that they can make a start on preventing homelessness by talking to the tenant or tenants about their options. Public Safety and Regulation will inform the relevant university or college, if it is known that any

tenants are students, so that the students can learn of their options as soon as possible.

3. If any Order is proposed which will mean that any or all current tenants will not be able to stay in the property (on either a short or long term basis), the Officer involved will, on each occasion, inform a representative at the Housing Advice Centre during that working day. If the matter arises outside office hours, the Emergency Homeless Service will immediately be informed of the decision to serve an Emergency Order.
4. Where appropriate the Police Neighbourhood Beat Team will also be informed where a Prohibition Order restricting access to a property is to be enforced. This would ensure that they were able to be present to prevent a breach of the peace if the situation appears to warrant it.
5. Where any occupier is asked to leave and has nowhere they can go during the time that they are prohibited from staying in the property, they will be advised about alternative accommodation by a Homelessness Prevention Officer through contact with the Housing Advice Centre
6. Occupiers will be given advice on their housing options by staff at the Housing Advice Centre (or the Emergency Housing Service, outside office hours), to include information about whether they are likely to be provided with temporary accommodation, and what other options they could consider
7. The agency serving the Prohibition Order will inform all signatories of the outcome of the enforcement action, including (where it is known) any action taken by the landlord to end the tenancy in order to carry out the works, so that the occupants can be advised of their long term housing options.
8. The Housing Advice Centre will keep the Public Safety and Regulation Officer informed about outcomes of any assessment of the need for temporary accommodation.

6. Helping the tenant(s) to find alternative housing

The responsibility for providing alternative accommodation lies with the landlord of the property, and some landlords may have other accommodation they can use in this case. However, although this would be a breach of contract by the landlord which the tenant would have to take (lengthy) action to resolve, and the local authority accepts that many landlords are not able to provide alternative accommodation. The local authority will therefore take action to try to ensure that no-one is left without accommodation whilst an Order is in place:

7. Each agency's responsibilities if serving a Prohibition Order could result in homelessness

Public Safety and Regulation

- Informing a representative at the Housing Advice Centre, or Emergency Homelessness Service, as soon as it appears likely that an Emergency or

other Prohibition Order may be served which would result in people being told they could not stay in a property until specified works or have been carried out, or the number of people living in the property has reduced to satisfactory level.

- Keeping the Fire Officer informed about such action, where relevant
- Contacting the relevant University / College accommodation office where the property is let to any students
- Keeping all partners informed about progress on serving and enforcing a Prohibition Order (including Fire Safety Notices) which could result in homelessness

Fire Officer

- Informing the Public Safety and Regulation team who will contact the Housing Advice Centre or Emergency Homelessness Service, as soon as it appears likely that a Prohibition Notice (Article 31) may be served which would result in people being told they could not stay in a property until it was made safe
- Keeping the Public Safety and Regulation Officer informed about such action
- Keeping the Public Safety and Regulation Officer informed about progress on serving and enforcing the Prohibition Notice which could result in homelessness or if the notice has been withdrawn and the property is safe to occupy

Housing Advice Centre

- Responding within 24 hours to notification that an Emergency or other Prohibition Order could result in tenants being asked to leave the premises
- Informing any tenants affected by a Prohibition Order of the Council's response to any request for alternative accommodation, either short or long term, and helping anyone affected to find alternative accommodation
- Keeping other partners informed about outcomes of requests for help with accommodation

Private Rented Service

- Helping tenants affected to find alternative accommodation
- Signposting landlords and tenants to the Housing Advice Centre for advice, and to appropriate training and other support services

8. Reviewing and monitoring, and reporting any problems

This process will be monitored by the Private Sector Liaison Group, through the following steps:

- Each case, including the outcomes of any action, will be recorded by the Council's Public Safety and Regulation team

- An exception record will be held by Active Inclusion Newcastle of instances where the protocol has not been followed or has resulted in unplanned use of emergency accommodation
- Problems encountered by any of the signatories will be resolved between the contact people set out in the list below, or raised at the monthly Liaison Group meeting, or raised with the Active Inclusion Newcastle Unit (activeinclusion@newcastle.gov.uk)
- Use of the Protocol will be discussed annually at the Private Rented Sector meeting, with the Fire Service invited to that part of the Liaison Group meeting (and the Universities and College if appropriate)
- The Protocol will be reviewed on an annual basis

9. Compensation and Home Loss Payments

Home Loss Payments

The Council will have a duty to make a home loss payment when a person is displaced from their dwelling as a result of a Prohibition Order made under section 20 or 21 of the Housing Act 2004. There is no duty to make a home loss payment where a person is displaced as a result of an Emergency Prohibition Order.

To qualify for a home loss payment, a person must have occupied the land as their only or main residence for at least one year up to the date of displacement and have an interest or right to occupy the dwelling.

Payment will be made by Public Safety and Regulation department following the making of a claim in writing from the tenants of the property.

Disturbance payments

Disturbance payments are mandatory payments to assist persons displaced from land, and apply when a person is displaced as a result of a Prohibition Order. There is no duty to make a disturbance payment where a person is displaced as a result of an Emergency Prohibition Order.

Where a prohibition Order becomes operative in respect of any premises, the local housing authority shall pay every owner an amount determined by the legislation. The owner is entitled to compensation, and the amount is calculated on the reduction in the value of the owner's interest.

Payment will be made by Public Safety and Regulation department.

10. Contact details for all agencies

Agency	Name of key contact	Phone details	e-mail
Housing Advice Centre	Catherine Hattam (in absence Debra Shiel)	0800 1707 008	Catherine.hattam@newcastle.gov.uk Housingadvicecentre@newcastle.gov.uk
Emergency Homeless Service		0800 1707 008	5.30pm – 8am Mon – Fri 5.30pm Friday – 8am Monday
Public Health and Private Sector Housing	Gwen Smith Andrew Huddleston	2771456	gwen.smith@newcastle.gov.uk andrew.huddleston@newcastle.gov.uk Psr@newcastle.gov.uk
T & W Fire & Rescue Service	Joe Haustead	444 1500	Jan.Bell@twfire.gov.uk Joe.Haustead@twfire.gov.uk
Newcastle City Council Legal Services Division	Rebecca Atkinson	211 5104	rebecca.atkinson@newcastle.gov.uk
Private Rented Service	Emma Knowles	2771456	Emma.knowles@newcastle.gov.uk privaterentedservice@newcastle.gov.uk