

Draft Demoted Tenancy Policy

This Demoted Tenancy Policy sets out Dartford Borough Council's approach to the use of demoted tenancies as a tool to deal with anti-social behaviour

March 2026

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1. INTRODUCTION

1.1. Anti-social behaviour is:

- Conduct that has caused, or is likely to cause, harassment, alarm or distress to any person
- Conduct capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises, or
- Conduct capable of causing housing-related nuisance or annoyance to any person¹.

1.2. If not properly addressed, anti-social behaviour can have a negative impact on the quality of life of those directly affected and the wider community.

1.3. Dartford Borough Council's [Corporate Plan](#) sets an objective to utilise the tools and powers available to the Council to tackle anti-social behaviour. One such available tool is the use of demoted tenancies.

1.4. This policy sets out the approach to the use of demoted tenancies, where the Council, as a social housing landlord, can apply to the Court to end a secure tenancy and replace it with a demoted form of tenancy for 12 months.

2. STRATEGIC CONTEXT

2.1. The policy and its delivery is intended to be compatible with the Council's obligations consequent to all relevant legislation and regulations, but not limited to:

- Anti-social Behaviour Act 2003
- Housing Act 1985
- Housing Act 1996
- Demoted Tenants (Review) Regulations 2004 – Statutory Instrument 2004 No. 1679
- Part 55 and Part 65 of the Civil Procedure Rules
- Pre-action Protocol for Possession Cases by Social Landlords
- Neighbourhood and Community Standard
- Equality Act 2010
- Anti-Social Behaviour, Crime and Policing Act 2014
- Care Act 2014
- Human Rights Act 1998
- Data Protection Act 2018
- UK GDPR

¹ Section 2 of the Anti-Social Behaviour, Crime and Policing Act 2014

2.2. This policy and its delivery is intended to be compatible with the following Council policies and documents:

- [Anti-Social Behaviour and Hate Incident Policy](#) – sets out the Council’s overall approach to tackling anti-social behaviour.
- [Vulnerable Adults Housing Policy](#) – sets out how vulnerable adults, who access the Housing Service, are supported, signposted and referred to other organisations, when they require additional support.
- [Corporate Plan](#) – sets out the strategic direction the Council will take in relation to its powers, functions and responsibilities. The plan includes a housing ambition to provide a high quality and responsive housing service that’s built on respect for aspiring and existing tenants. We want to be practical, honest and straightforward in all the information and advice we give
- [Equality and Diversity Document Framework](#) – sets out how the Council will meet the Public Sector Equality Duty under the Equality Act 2010.

3. POLICY AIMS

3.1. This policy aims to:

- Encourage and support tenant’s awareness of their obligations and responsibilities as detailed in the current **secure** Tenancy Agreement and to make clear that breaches of the Agreement may result in a demotion order being sought by the Council
- Provide a procedure that outlines how the Council can apply for a demotion order and how to end a demoted tenancy to ensure that cases are not dismissed from court because applications have been incorrectly issued
- Offer an alternative option to requests for possession orders in cases of anti-social behaviour
- Administer the use of demotion orders in a fair and consistent manner
- Contribute towards promoting safe and sustainable communities within the Borough

4. GOOD NEIGHBOUR RESPONSIBILITIES

4.1. Council tenants are required by law to meet the tenancy conditions set out in the Tenancy Agreement. Tenants must therefore meet their good neighbour responsibilities and not:

- Engage or threaten to engage or allow any visitors to engage in, or threaten to engage in, any form of anti-social behaviour or crime or nuisance in the locality of your home.
- Commit, or allow any visitors to commit, any form of harassment, violence or intimidation motivated by hostility or prejudice based on a person’s race, religion, sexual orientation, disability, or gender reassignment.
- Use the property or any communal area for any improper, illegal, immoral or anti-social activity, which includes dealing, selling or abusing any illegal or controlled drugs or storing or handling stolen goods or riding motorbikes on communal land.

- Allow the property to be used, or allow anything to be done in your property, which interferes with the peace, comfort or quiet enjoyment of any person living in, visiting or otherwise engaged in lawful activity in the locality of your property.
 - Cause a nuisance, annoyance, inconvenience or damage to neighbouring, adjoining or adjacent properties or to the owners or occupiers of neighbouring properties, their visitors or any person visiting or otherwise engaged in lawful activity in the locality of your property.
 - Engage in or allow any visitors to use or threaten violence, (including verbal abuse) or to carry out domestic abuse, against any other person living in the property so that they are forced to leave by reason of your violence or fear of such violence.
- 4.2. The Council will take action where a tenant does not meet their good neighbour responsibilities. Actions range from early intervention tools, such as the use of Good Neighbour Agreements and Mediation, to enforcement action, such as Community Protection Warnings and Notices, and as a last resort, possession proceedings.
- 4.3. Demoting tenancies is one other enforcement option which can be considered. Demotion is an alternative option to requests for possession orders. It is considered appropriate for more low-level forms of anti-social behaviour where possession proceedings are not deemed appropriate. Demotion orders therefore serve as a last chance incentive for the tenant to improve their behaviour before possession proceedings are taken.
- 4.4. Further information on the overall approach to how the Council tackles anti-social behaviour can be found in the [Anti-Social Behaviour and Hate Incident Policy](#).

5. AN OVERVIEW OF DEMOTED TENANCIES

- 5.1. The Council can apply for a demotion order under Section 14 of the Anti-social Behaviour Act 2003 and Section 82A of the Housing Act 1985.
- 5.2. Because a demoted tenancy is no longer secure it has fewer rights. The overall objective is to provide a clear linkage between the enjoyment of the benefits and rights of security, and responsible behaviour.
- 5.3. The rights that a demoted tenancy holds bear similarities with introductory tenancies, which are probationary tenancies for 12 months before the tenancy is converted to a secure lifetime tenancy provided the conditions of the introductory tenancy have not been broken. Should subsequent court action be required because of further anti-social behaviour, the Council does not have to prove reasonableness when applying for possession. **The court has a duty to grant mandatory possession.** A review of the right to bring proceedings can only be requested at the time of serving the Notice of Possession Proceedings.

- 5.4. Any arrears of rent payable at the termination of the secure tenancy become payable under the demoted tenancy. Once the tenancy is demoted it can be ended for reasons other than further incidences of anti-social behaviour, for example rent arrears or any other breach of the Tenancy Agreement.
- 5.5. Once a demotion order is granted the tenancy will last for a period of 12 months (demotion period) unless possession proceedings are started. If the behaviour of a demoted tenant has noticeably improved and is considered satisfactory after the 12 month period, then the demoted tenancy ends and reverts back to a secure lifetime tenancy.

6. RIGHTS OF A DEMOTED TENANT

- 6.1. Demoted tenants have fewer rights than secure tenants. The table below shows the main differences in rights:

Tenancy right	Secure tenancy	Demoted tenancy
Right to succession of spouse, civil partner or partner or family member subject to certain criteria.	Yes	Succession rights are limited in that a tenant's spouse or partner will, like other members of a tenant's family, have to satisfy a 12 months residence requirement
Right to assign	Yes	Assignments are limited to circumstances that arise in family proceedings
Right to buy	Yes	No (time spent as a demoted tenant will not count for discount purposes)
Right to mutual exchange	Yes	No
Right to repair	Yes	Yes
Right to take in lodgers	Yes	No
Right to be consulted on housing management issues	Yes	Yes

- 6.2. Under a demoted tenancy, the following terms will remain the same as a secure tenancy:

- The parties to the tenancy agreement
- The period of the tenancy (weekly)
- The amount of rent
- The date the rent is payable (Monday in advance)
- Any arrears of rent payable
- Any rent paid in advance is carried over
- Any other terms that are notified to the tenant

7. PROCEDURE TO OBTAIN A DEMOTION ORDER

- 7.1. The Council will follow the [Anti-Social Behaviour and Hate Incident Policy](#) and associated procedure for dealing with reports of anti-social behaviour.
- 7.2. The Council may seek a demotion order if instances of anti-social behaviour occur.
- 7.3. The Council will gather evidence to support the claim that conditions of the Tenancy Agreement have been breached and will keep a log of this.
- 7.4. Careful assessment will be made to the suitability of demotion, and the following factors will be taken into account when deciding on the appropriate course of action:
- The number of incidents reported
 - The seriousness of the incidents
 - The actions taken to resolve the issues such as agreements made and whether they have been broken
 - Evidence which supports the reports of anti-social behaviour (this could be for example direct witness statements, hearsay evidence, CCTV footage, letters of complaint and Abatement Notices for noise)
 - The vulnerability of the tenant causing the anti-social behaviour.
 - Any involvement with other agencies in terms of referrals, for example to social services, mental health services, education, Youth Offending Service
- 7.5. The Housing Service will liaise with the Community Safety Unit to advise of cases where demotion is being considered where there is a criminal aspect to the anti-social behaviour and/or concern to the wider community. However, the ultimate decision to apply for a demotion order will remain with the Council as the landlord.
- 7.6. Prior warning of the action that is being considered will be given to the tenant causing the anti-social behaviour with a full explanation of the consequences of this if it goes ahead. If no acceptable agreement is reached or the behaviour continues then, if suitable, an application for a demotion order will be submitted without further warning.
- 7.7. For a demotion order to be instigated the following grounds must be evidenced²:
- a) that the tenant or a person residing or visiting the dwelling-house has engaged or has threatened to engage in:
 - i. conduct that is capable of causing nuisance or annoyance to any person and that directly or indirectly relates to or affects the landlords housing management functions; and
 - ii. that the conduct consists of or involves using housing accommodation owned or managed by the landlord for an unlawful purpose; and
 - b) that it is reasonable to make the order.

² Section 82A of the Housing Act 1985 and Section 14 of the Anti-Social Behaviour Act 2003

7.8. Serving a Notice before Proceedings for a Demotion Order

- 7.8.1. A 'Demoted Tenancy Report' will be signed by a Tenancy Services Manager to authorise the decision to proceed with the application for a demotion order.
- 7.8.2. When this has been done a 'Notice before Proceedings for a Demotion Order' will be served on the tenant (Section 83 of the Housing Act 1985) which gives at least 28 days notice of the Council's intention to seek a demotion order.
- 7.8.3. It is possible for the Council to apply for a demotion order alongside other measures including community protection warning and notices, criminal behaviour orders and civil injunctions. These other measures will be considered if appropriate and depending on the seriousness of the case.
- 7.8.4. The notice period of the Notice before Proceedings for a Demotion Order must expire before application to demote the tenancy is lodged at the court. There are two main circumstances when a demotion order will be applied for: as a stand-alone remedy or as an alternative to seeking a possession order. The type of application that will be submitted depends on the situation and level of anti-social behaviour.

7.9. Procedure for a stand-alone remedy

- 7.9.1. A stand-alone remedy is used if the anti-social behaviour is such that it is likely that:
 - The Council can work with the tenant to improve the situation
 - Where, if the situation is left unchecked, the behaviour could escalate
 - Lower-level incidences of anti-social behaviour will occur
 - Possession proceedings are not deemed appropriate
- 7.9.2. The process for applying for a stand-alone claim is outlined in Part 65 of the Civil Procedure Rules.
- 7.9.3. The forms that will be completed by the Council for a stand-alone case and submitted to the County Court for the district, in which the property to which the claim relates to is situated, are:
 - Form N6 - Claim form for demotion of tenancy
 - Form N122 – Particulars of claim for demotion order
- 7.9.4. A copy of Form N7D which provides notes, and also the defence Form N11D, which gives explanation and guidance on the effects of demotion, will be given to the defendant.
- 7.9.5. At the court hearing date there will be two possible outcomes of the claim:
 - Grant a demotion order
 - Refuse to grant a demotion order

7.10. Procedure for a demotion order as an alternative to seeking a Possession Order

7.10.1. Seeking a demotion order as an alternative to seeking a possession order means that the Council will apply for a demotion order at the same time as a possession order. It will then be up to the court to decide which solution is the most suitable in the circumstances, based upon the evidence brought forward.

7.10.2. The level of anti-social behaviour would be more serious than in stand-alone cases as the court does have the option to decide it is serious enough to grant possession.

7.10.3. The process for applying for a demotion order as an alternative to seeking a possession order is outlined in Part 55 of the Civil Procedure Rules.

7.10.4. The claim will be made by the Council at the County Court of the district in which the property to which the claim relates to is situated. The forms that will be completed by the Council are:

- Form N5 – Claim form for possession of property
- Form N119 – Particulars of claim for demotion order

7.10.5. A copy of Form 7A which provides notes, and also the defence Form N11R, which gives explanation and guidance on the effects of demotion, will be given to the defendant.

7.10.6. At the court hearing date there will be four possible outcomes of the claim, as listed below:

- If the court is satisfied that the grounds of the Tenancy Agreement have been breached and possession is the most suitable outcome, then either a suspended or outright order will be granted
- If possession is not the most appropriate outcome and a demotion order would be more suitable then this will be granted
- The proceedings could be adjourned if the court feels that further consideration is required based on the need to receive additional evidence
- The court could refuse to grant an outright/suspended possession order or a demotion order

7.11. When the court reaches a decision

7.11.1. When the court reaches a decision, the outcome will be confirmed immediately in writing to the tenant concerned. If a demotion order is granted, then a statement of the terms of the demoted tenancy will be provided to the tenant with information about the demoted tenancy.

8. ENDING DEMOTED TENANCIES

8.1. When a demoted tenancy can be ended.

8.1.1. There are five reasons why a demoted tenancy can end:

1. When the 12 month demotion period elapses and the demoted tenancy is converted back to a secure tenancy.

A secure tenancy will be offered provided there have been no further incidences of anti-social behaviour or any other breach of the Tenancy Agreement. The Housing Officer will monitor the demoted tenancy throughout the demotion period. If the Council is satisfied, the tenant will receive confirmation in writing of the conversion to a secure tenancy on the 12 month anniversary of the demotion order.

2. When applying for possession of the property.

This will be in cases where the demotion order has been breached and it is clear that the tenant will not resolve the breaches of the Tenancy Agreement.

Possession proceedings will not be restricted to incidences of anti-social behaviour and illegal activity. Possession will be applied for other conduct such as rent arrears or any other breach of the Tenancy Agreement.

3. If the landlord is no longer a local housing authority or housing action trust.

4. If the tenant or joint tenants no longer occupy the property as their only or principle home.

5. If the tenant dies and no one is entitled to succeed the tenancy.

8.2. Applying for possession of the property when the demotion order has been breached

8.2.1. If the decision is reached to apply for possession of the property, a Notice of Possession Proceedings will be served on the tenant. The statutory process for following this course of action is contained in sections 143 D – F in Chapter 1A of Part 5 of the Housing Act 1996.

8.2.2. The Notice will:

- State that the court will be asked to make an order for the possession of the property
- Set out the reasons for the decision to apply for the order
- Specify the date after which proceedings for the possession of the property may be begun, which is no less than 28 days after the service of the Notice
- Inform of the right to request a review of the decision to terminate the tenancy and when this request must be made by

- Advise that if help or advice about the Notice or what to do about the Notice is required it should be taken immediately to a Citizen's Advice Bureau, housing aid centre, law centre or solicitor
- 8.2.3. Three copies of the Notice will be produced, one for the tenant that the application is made against, one for the tenancy file and one for the court for when an application will eventually be made for possession. The Notice will also contain a leaflet explaining the review procedure and a review request form.
- 8.2.4. No court proceedings can be issued until the Notice expires.
- 8.2.5. Serving a Notice will extend the period of the demoted tenancy for a further six months.
- 8.2.6. Where possession proceedings are being considered after demotion due to further breaches of the Tenancy Agreement, the Council will follow the Pre-Action Protocol for Possession Claims by Social Landlords. This includes that:
- where the Council is aware that the tenant has difficulty in reading or understanding information given, it should take reasonable steps to ensure that the tenant understands any information given and be able to demonstrate this.
 - if the Council is aware that the tenant is particularly vulnerable, it will consider at an early stage:
 - whether or not the tenant has the mental capacity to defend possession proceedings and the extent to which CPR 21 applies;
 - whether or not any issues arise under the Equality Act 2010; and
 - whether or not there is a need for a community care assessment in accordance with the Care Act 2014.

9. THE RIGHT TO REVIEW A DECISION TO END A DEMOTED TENANCY

- 9.1. If a Notice of Possession Proceedings is served the tenant has a right to an internal review of the Council's decision to serve the Notice as contained in Section 143F, of the Housing Act 1996. The regulations governing the review procedure are in the Demoted Tenants (Review of Decisions) Regulations 2004 – Statutory Instrument 2004 No. 1679.
- 9.2. A review must be requested within 14 days of the service of the Notice. Verbal requests for a review will be accepted as well as requests in writing. If the request for a review has not been received one week after the service of the Notice and the demoted tenant is vulnerable, a home visit will be made to remind the tenant of the deadline and the consequences of not requesting a review. Any agency involved in providing care and support to the person concerned will be contacted. If no request is made then the case will proceed to court upon expiry of the Notice.

- 9.3. The review will take place before the expiry date indicated on the Notice. Proceedings cannot commence if a review remains outstanding.
- 9.4. The review will be carried out by an Officer not involved in the case and senior to the Housing Officer who made the decision to serve the Notice.
- 9.5. The review can either be by way of an oral hearing or in writing. If a tenant would like an oral hearing then this must be requested at the time of the request for the review.
- 9.6. When a request for a review is received, the Housing Officer will contact the Officer conducting the review (Review Officer) with details of the case by completing a form called 'Notification of Details of a Request to Review the Decision to Terminate a Demoted Tenancy'.
- 9.7. The Housing Officer will then complete a Review Report that provides details of the case, which will be presented to the Review Officer as evidence.
- 9.8. The Review Officer will respond to the Housing Officer with the time, date and place of the review not more than 5 days after the receipt of the review request. Upon confirmation of this the Housing Officer will write to the demoted tenant with the date, time and place of the review including copies of any evidence that will be presented. The demoted tenant will receive no less than 5 days notice of the date of the review and copies of the evidence.
- 9.9. A demoted tenant has the right to make written representations. However, these must be received by no less than 2 clear days of the review and the Council will consider any such representations received by this date.
- 9.10. At an oral review hearing a demoted tenant has the right to be:
 - Heard
 - Accompanied or represented (whether professionally qualified or not)
 - Call persons to give evidence
 - Put questions to anyone who gives evidence
- 9.11. A demoted tenant can ask for the review to be postponed, however, it is up to the Review Officer as to whether to grant or refuse this request. If the hearing is postponed the Council will give reasonable notice of the date, time and place of the postponed hearing.
- 9.12. The Review Officer has the power to adjourn the hearing to another date, either on their own instigation or at the request of the tenant or representative. The Review Officer will give reasonable notice of the date, time and place of the adjourned hearing.
- 9.13. Where more than one Review Officer is assigned to carry out the review by way of an oral hearing, the hearing will be adjourned on each occasion where either of the Review Officers are absent, unless the tenant or representative agrees otherwise.

- 9.14. If the Review Officer carrying out the review at the adjourned hearing is not the same officer assigned to be the Review Officer at the earlier hearing, the review will proceed by way of a complete rehearing of the case unless the tenant or representative agrees otherwise.
- 9.15. If a demoted tenant or their representative does not attend the hearing the Review Officer can proceed or give such directions to the conduct of the review as the Review Officer considers appropriate.
- 9.16. The role of the Review Officer is to:
- Ensure all of the evidence is provided in a clear manner which enables the facts to be established
 - Ensure the Notice has been correctly served and is appropriate based on the evidence provided and the seriousness and persistency of the breach of the demoted tenancy conditions
 - Check that steps have been taken to resolve the breach (unless it is deemed so serious it could not be resolved) and that agreements have been broken
 - Ensure that where counter-allegations have been made these have been investigated and dealt with appropriately
 - Be satisfied that the evidence proves 'on the balance of probabilities' that the demoted tenant is in breach of the Tenancy Agreement
- 9.17. The Review Officer will set down rules of conduct at the start of each verbal hearing which everyone must comply with.
- 9.18. The Review Officer will receive evidence from the Housing Officer responsible for the case. Evidence from other parties may also be provided where it is relevant. This may be provided as hearsay evidence if it is not appropriate to identify complainants.
- 9.20. If the Review Officer decides that the original decision to serve the Notice was incorrect, the demoted tenancy will be allowed to continue as if no Notice had been served. If the Review Officer upholds the original decision to serve the Notice, two possible courses of action can take place:
- The matter proceeds to court for eviction. If this course of action is taken an outright order will be granted providing the correct legal proceedings have been followed. There is no right of appeal
 - An agreement is reached where the Review Officer is satisfied that the demoted tenant can and will comply with it
- 9.21. The decision of the review will be confirmed in writing within two days of the hearing and it will also detail the reasons for the decision.
- 9.22. Notes of the review will be taken by the Review Officer and kept on the tenancy file.

10. COMPLAINTS

- 10.1. If any person is not satisfied with the service they have received regarding the application of this policy, the Council's [Corporate Complaints Procedure](#) can be followed. Complaints leaflets are also available from the Council offices.
- 10.2. The [Housing Ombudsman](#) can be contacted if further advice and support is needed on making a complaint to the Council.

11. DATA PROTECTION

- 11.1. The Data Protection Act 2018 and the UK GDPR regulate the processing of information relating to individuals, which includes the obtaining, holding, using or disclosing of such information.
- 11.2. The Council needs to collect and use certain types of information about its service users in order to carry out its everyday business and to fulfil its objectives and its statutory functions.
- 11.3. The Council's:
 - [Data Protection Policy](#) sets out how it will protect special category and criminal convictions personal data; and
 - The [Housing Services \(landlord and tenant\) Privacy Notice](#) explains that the Council collects personal information to administer these services.

12. EQUALITY AND DIVERSITY

- 12.1. The Council is committed to welcoming and valuing diversity, promoting equality of opportunity and tackling unlawful discrimination in accordance with the Equality Act 2010. The Council, in delivering this Policy, will have regard to the Public Sector Equality Duty and ensure that no individual is discriminated against based on their sex, sexual orientation, marital status, pregnancy and maternity, gender reassignment, race, religion, belief, disability or age.
- 12.2. The Public Sector Equality Duty is a duty on the Council and that responsibility cannot be delegated to a contractor/service provider and is a continuing duty.
- 12.3. A [Customer Access Review](#) has been undertaken to assess the impact this Policy will have on affected persons with protected characteristics.

13. MONITORING AND REVIEW

- 13.1. The Council will monitor the use of demoted tenancies to measure the extent they have contributed towards greater tenancy sustainment rather than possession of property and to assess the impact of the policy in terms of reducing anti-social behaviour.

13.2. Monitoring records will be kept on the following:

- Number of Notice before Proceedings for a Demotion Order that have been served
- Number of Demotion Orders granted
- Number of Notice of Possession Proceedings that have been served
- Number of demoted tenancy reviews following service of a Notice of Possession Proceedings and their outcomes
- Number of evictions granted following a review where the outcome was to uphold the decision to terminate the tenancy
- Number of anti-social behaviour incidents reported

13.3. This Policy will be reviewed every three years, or in the event of major legislative or operational changes, within this time.

If you or anybody you know requires this or any other council information in another language, please contact us and we will do our best to provide this for you. Braille, Audio tape and large print versions of this document are available upon request.



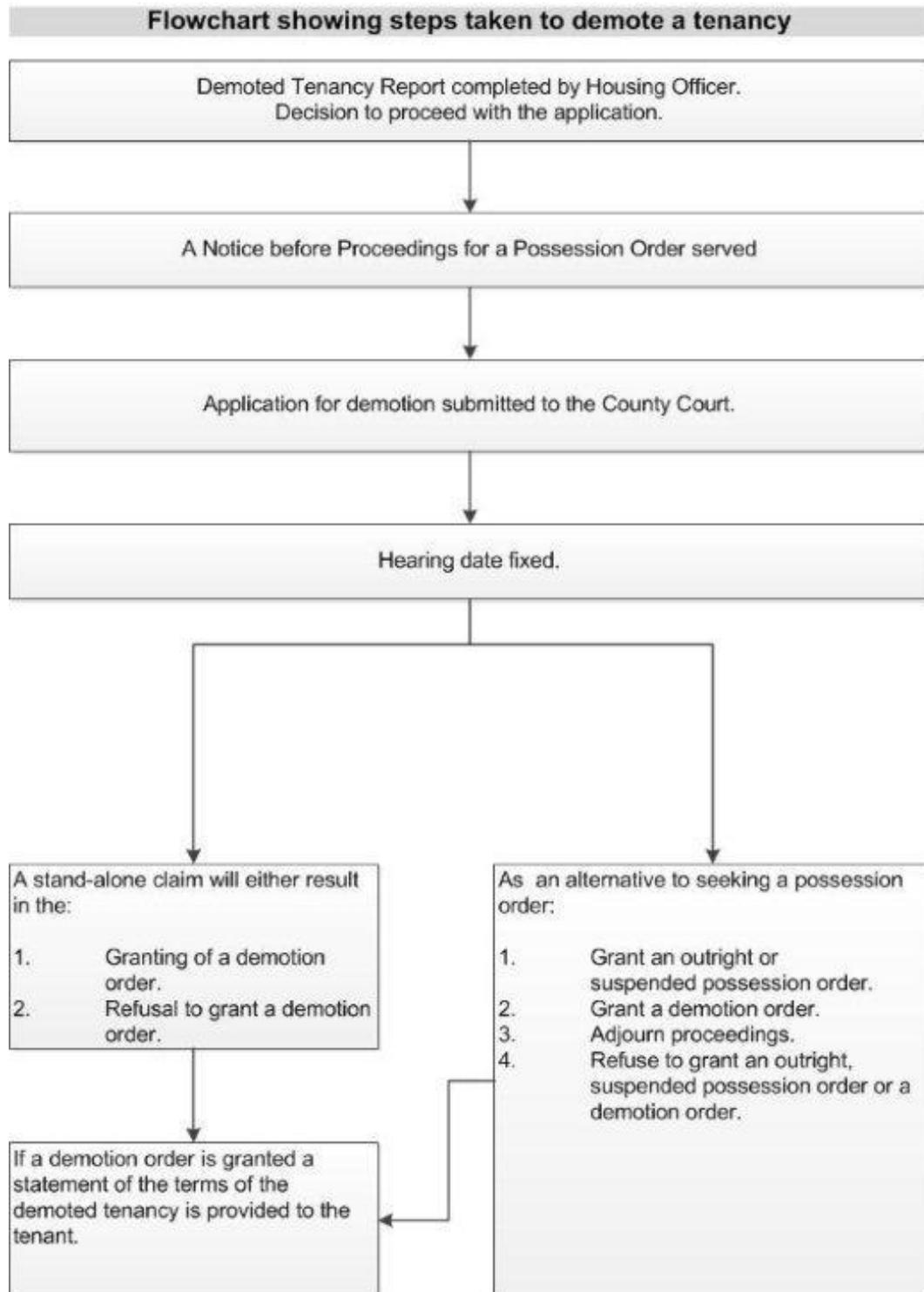
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Calls are welcome via Relay UK

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APPENDIX A – FLOWCHART SHOWING STEPS TAKEN TO DEMOTE A TENANCY

APPENDIX A



APPENDIX B – FLOWCHART SHOWING STEPS TO END A DEMOTED TENANCY BECAUSE OF FURTHER BREACHES

APPENDIX B

