

ESTATE MANAGEMENT PROCEDURE GUIDE

PRIVATE GARDENS

A. Policy Summary

1. To ensure that all private and communal gardens in our ownership are maintained to an agreed standard.
2. To set out the legal and contractual responsibilities of landlord and tenant.

A. Legal Background

Housing (Scotland) Act 2001

B. Social Housing Charter

Tenants and other customers live in well maintained areas where they feel safe.

1. Tenant Responsibilities

The gardens clause is not in the tenancy agreement of all sheltered and most amenity tenants. The common parts clause has been amended for sheltered/amenity properties.

- 1.1 **Gardens** - If you have exclusive use of a garden attached to the house, you must take reasonable care to keep it from becoming overgrown, untidy or causing a nuisance (unless we have agreed to take care of it). If you fail to do this, we are entitled to decide exactly what work requires to be done so as to comply with this duty. Before making our decision, we will consult with you. Our decision will be binding on you. If you do not do the work contained in this paragraph we may do it ourselves and charge you for it. This is in addition to any other legal remedies we may have. You must not remove, chop down or destroy any bushes, hedges or trees without our written permission unless you planted them.

2. Our Responsibilities

- 2.1 **Structure and Exterior** - We will (in conjunction with other owners, if appropriate), keep in repair the structure and exterior of the property including:

Pathways, steps or other means of access;

Integral garages and stores;



Boundary walls and fences;

- 2.2 **Common parts** - We will (in conjunction with other owners, if appropriate), take reasonable care to keep common parts in repair and fit for use by the Tenant and other occupiers and visitors to the property.

F. Equal Opportunities

We are required to comply with the Sections of the Disability Discrimination Act 1995 relating to Goods, Facilities and Services.

G. Monitoring + Recording

Private Gardens – on React as we record these as incidents of anti social behaviour.

tenants who fail to keep their gardens to an acceptable standard, who have received a visit from us.

tenants where we have forced entry due to garden condition.

tenants where we have started legal action due to garden condition.



Private Gardens — Procedures

1.0 Introduction

It is our policy to ensure that all tenants who have private gardens (defined as gardens or designated garden areas for which they have sole responsibility) maintain them to the acceptable standard set by us.

2.0 Standards

2.1 All properties newly let or re-let will have the private garden tidied to the acceptable standard. Tenants are then expected to maintain their garden to this standard, which is:

- a. free of rubbish
- b. free of dog or other animal dirt
- c. grass to be tidy or strimmed (this will include grassed areas which are now mainly weeds).
- d. hedges and shrubs/trees to be cut
- e. fences and sheds owned by the tenant are to be secure and undamaged

3.0 Categories

3.1 All tenants have a responsibility to maintain their garden, however, we recognise that there will be three main categories of tenants.

- a. **Tenants who want to but cannot physically maintain their garden** - are not able because of age, ill-health or disability. Tenants in this category may be eligible to apply to the Council for their Garden Aid schemes, however it is recognised that many Councils now either charge for this service or no longer provide it. These tenants are still responsible and we will encourage them to find a contractor, a relative or a neighbour who can provide this service.
- b. **Tenants who want to, but claim they cannot afford to, maintain their garden** - no medical or disability reasons, but cannot afford the equipment necessary. These tenants are still responsible and we will encourage them to find a contractor, a relative or a neighbour who can provide this service. We will also make a referral to FIT to ensure they are maximising their income.
- c. **Tenants who will not maintain their garden** - refusal for no apparent or acceptable reason. Tenants in this category may have legal action taken against them for breach of a condition of tenancy (see Section 5.0).



We will provide advice and assistance to tenants who engage with us and indicate that they do want to keep their garden tidy. For those who ignore us, fail to engage and show no willingness to tidy their garden, we will progress to legal action.

4.0 Garden Inspections

4.1 Private garden inspections will be carried out by the Housing Officer as part of Estate Management duties. Where gardens are unsatisfactory (see 2.0 Standards above) the Housing Officer will follow the procedure below:

- a. check whether tenant is in a garden maintenance scheme. If so, advise the Council that the garden is untidy.
- b. attempt a face to face visit to discuss the garden condition. If no answer, leave card requesting contact to discuss.
- c. If no response within 5 working days, write requesting a Tenancy Review visit (or a specific visit to discuss the garden if Tenancy Review visit has recently been done). Enter the case on React as an ASB category.
- d. If no show for the tenancy review visit, write to request another meeting within 10 working days but indicate that if the tenant is not at home, we will force entry in accordance with 5.12 of the tenancy agreement. If no response, ensure we have a joiner present at the next visit. Attempt to speak to neighbours to gather any information about the tenant.
- e. If no show at this visit and we have to force entry, write to the tenant confirming the results of your property and garden inspection and the recharge cost of the forced entry. Set timescale of 10 working days for improvement to house and garden (as appropriate).
- f. Visual inspection at deadline to check if any improvement. Try to visit the tenant while you are there. If no improvement or no agreed timescale for improvement, arrange for notice to be served.
- g. Prior to the end of the notice period, visit to check garden condition. If no improvement, pass to solicitor for court action.

Note

At any point in this process, should the tenant make contact, the Housing Officer will agree a timescale for improvement with the tenant and check progress.



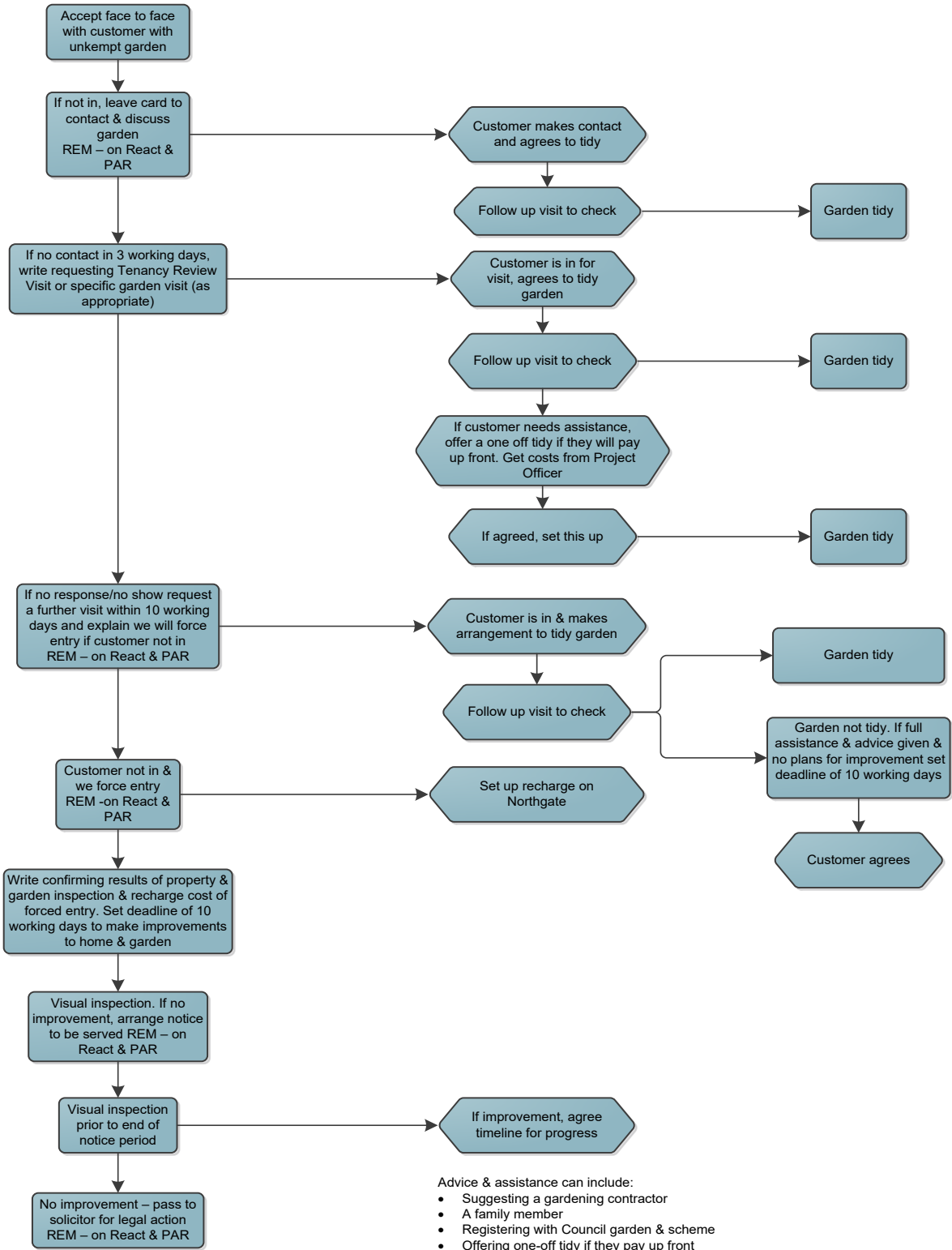
We should offer FIT referrals for those who are unfit or claim they cannot afford the equipment. We will broaden the scope of the Tenancy Sustainment Fund to include garden equipment if this will help sustain the tenancy.

We will advise tenants to apply for more suitable properties if they no longer want a property with a garden but we will **not** carry out management transfers.

We will **not** intervene and carry out a garden tidy ourselves unless this is a one off tidy agreed as part of the improvement plan and the tenant pays for this in advance. If a tenant refuses to address the condition of the garden we progress towards legal action.



Private Garden Procedures
Flowchart



Advice & assistance can include:

- Suggesting a gardening contractor
- A family member
- Registering with Council garden & scheme
- Offering one-off tidy if they pay up front
- Suggesting they apply for property without garden
- Make a referral to FIT if income is an issue

How far we support customers depends on their attitude and willingness to keep their garden tidy.

During the notice period it is good practice to speak to neighbours. If a case goes to Court the Sheriff will consider the impact of the tenancy breach so having statements from neighbours will help.



Letter 1 – Request Tenancy Review Meeting

Our ref:

Date:

{CUSTOMER ADDRESS}

1 Hay Avenue
Edinburgh
EH16 4RW

Telephone: 0131 657 0600
Fax: 0131 657 0700

Dear {CUSTOMER NAME}

Garden Inspection

I refer to the card I put through your door on {DATE} requesting that you contact me to discuss the condition of your garden.

You have not contacted me to discuss this and I now wish to visit you to review your tenancy and agree a plan to improve your garden condition. If you are having difficulty looking after your garden, we can discuss this when we meet.

I will visit you on {DATE} at {TIME}. If this is not suitable, please let me know and I will rearrange the visit.

Yours sincerely

{YOUR NAME}
Housing Officer



Letter 2 – Threaten Forced Entry

Our ref:

Date:

{CUSTOMER ADDRESS}

1 Hay Avenue
Edinburgh
EH16 4RW

Telephone: 0131 657 0600

Fax: 0131 657 0700

Dear {NAME}

Tenancy and Garden Inspection

I refer to my letter of {LETTER 1 DATE} requesting a visit to review your tenancy. You were not at home for this visit and you have not contacted me to arrange another meeting, nor have you tidied your garden.

I will now visit on {DATE} at {TIME} and if you are not at home or refuse entry I will force entry to carry out an inspection of your home. This is in accordance with Section 5.12 of your Scottish Secure Tenancy Agreement. If a forced entry is necessary, this will be a serious breach of your tenancy conditions and you will be recharged for any damage to the property.

Please contact me by {DATE} to confirm that this date and time is suitable or to re-arrange the visit. I can support you to help sustain your tenancy but you must agree to meet me and agree a plan to improve your house/garden condition.

Yours sincerely

{YOUR NAME}
Housing Officer



Letter 3 – Forced Entry and Property Inspection

Our ref:

Date:

{CUSTOMER ADDRESS}

1 Hay Avenue
Edinburgh
EH16 4RW

Telephone: 0131 657 0600
Fax: 0131 657 0700

Dear {NAME}

Tenancy and Garden Inspection

I refer to the forced entry to your home carried out on {DATE}. An inspection of the property and garden was carried out and the findings are set out below:

{LIST PROPERTY & GARDEN CONDITION & RECHARGE COST OF FORCED ENTRY}

It is regrettable that this action was necessary but you have failed to contact me and failed to tidy your garden.

I will inspect your garden on {DATE 10 DAYS TIME} and if there is no improvement I will arrange for a notice of proceedings to be served. This is the start of a legal process that could lead to court action and you losing your tenancy.

Please contact me to discuss this matter. I can support you to help you sustain your tenancy but you must agree to meet me and agree a plan to improve your house/garden condition.

Yours sincerely

{YOUR NAME}
Housing Officer



