
Setting Aside Policy

Municipal and Carter Owen Almshouse

Bree Norton-Smith - 31 May 2025

Policies and Procedures for Setting Aside an Appointment

1. Introduction

1.1. The Trustees may terminate the appointment of any resident as outlined in its Trust Deed and subsequent Charity Commission Schemes. However, it is important to remember that an almshouse is the resident's home so the Trustees should do everything possible to help a resident remain here.

1.2. The purpose of this policy is to lay out the conditions for terminating an appointment and the due process which must be followed by Trustees and officers to protect both the residents and the Charity in its duty of care.

2. The Grounds for Termination

2.1. The Trustees may terminate the appointment of any resident who:

- a. provided false or misleading information in order to meet our eligibility criteria and/or no longer satisfies our eligibility criteria; or
- b. persistently breaches the regulations referred to in the Letter of Appointment and/or Resident's Handbook; or
- c. is no longer suited to be a resident by reason of illness or disability (but a resident whose appointment has been terminated by reason of illness or disability may be re-appointed without notice in the event he or she has recovered from the illness or disability to such an extent whereby he or she is suited to be a resident); or
- d. persistently or without reasonable excuse either disregards the terms of occupation
for the residents or disturbs the quiet occupation of the homes or otherwise behaves in a vexatious or offensive manner; or
- e. fails to use their property as a primary form of residence.
- f. fails to abide by any special circumstances laid out in their terms of occupation.

2.2. The Trustees may follow an accelerated process to set an appointment aside in the following exceptional circumstances:

- a. acts or behaviour committed (including violence) that put other residents, staff or visitors at serious risk of harm; or
- b. it is found the property is being used for illegal purposes; or
- c. serious acts or behaviour that cause considerable damage to the Charity's Property; or
- d. serious case of abuse.

3. The Trustees' Powers

3.1. The power to terminate an appointment is assigned to the Board of Trustees and cannot be delegated. The Board of Trustees must pass a Special Resolution to terminate an appointment, in which the details of the resident's circumstances, the ground(s) relied on and the steps taken, should be recorded.

3.2. It is essential that before taking action to terminate an appointment the Board of Trustees should consider the facts objectively and with care, including any representations made by the resident (see below). All details must be carefully recorded and fully documented.

4. The Process for Setting Aside an Appointment

4.1. The Charity's policies and procedures highlight the importance of good and accurate record keeping and this is vital throughout the termination process by all Trustees or employees.

4.2. This will form the evidence, if the decision to terminate an appointment is challenged, or if it is necessary to apply to Court for a Possession Order following termination of an appointment.

4.3. The following steps should be taken, as soon as possible after information is received by any Trustee or employee, concerning a resident's conduct or circumstances, which is sufficiently serious for consideration to be given to termination of his/her appointment:

4.4. **Stage 1** - The Residents' Manager or Clerk shall meet with the resident within 7 days to review their circumstances and remind them of their responsibilities under the terms of occupation and of the Trustees' powers to set aside an appointment.

4.5. **Stage 2** - Any resolution or steps to be taken by the resident, agreed at the meeting shall be confirmed in writing to the resident, as soon as practicably possible after the meeting, but within 7 days. This should inform the resident that failing to abide by the agreed resolutions the Charity would consider setting the Appointment Aside and an explanation of the process be included in the letter.

4.6. **Stage 3a** - If the problem persists or any steps agreed or conditions stipulated at stage 2, are not complied with then Stages 1 & 2 are repeated and monitored for a period of three months. A copy of this Policy is also enclosed in the second **and subsequent letter during this stage**.

4.7. **Stage 3b** - If the problem persists or any steps agreed or conditions stipulated at stage 2, are not complied, within the three period referred to in 'Stage 3a', a full report shall be compiled within 7 days and presented to a Panel specifically convened to hear the case - the panel shall include a minimum of 2 Trustees, who are not normally Members of the Resident Welfare Committee and the Chief Executive.

(a) The report should include all evidence to date, referenced to the specific issues leading to the potential decision to set aside the appointment – e.g. terms & conditions of appointment, notes of meetings with the Residents' Manager, and any resolution (as per step 2) or letter (as per step 3 **Stage 2**).

(b) The resident shall then be invited to a Formal Hearing with the Panel where they will be able to make their own representations. The resident may choose to be accompanied during the hearing and they should advise the Residents' Manager in advance.

Stage 4 - Following the Panel Meeting and Formal Hearing meeting a letter will be sent to the resident within 7 days which informs the resident of the panel's decision, which may be a recommendation to terminate their appointment. If the latter the letter should detail the next step of the Charity's Policy to Set Aside an Appointment which is to refer the matter to Members of the Resident Welfare Committee, who will give their recommendations to the Full Board of Trustees to make a final decision.

(a) The Resident must be given the opportunity to make representations concerning the recommendation in front of Members of the Resident Welfare Committee, either in writing or in person. The timeframe for convening such a meeting will be at the discretion of the Members of the Resident Welfare Committee.

(b) The Board of Trustees shall consider all facts, reports and where applicable the Resident's representations regarding the panel's decision and Resident Welfare Committee's recommendation. The timeframe for making such a decision will be at the discretion of the Chair of the Board of Trustees.

(c) Any decision to terminate the resident's appointment shall be communicated to resident in writing (the **Notice to Set Aside**) with an explanation of the reason for the decision within 7 days.

(d) The resident shall be given at least 4 weeks' notice of the termination date to leave their property (to end on a Monday, see below). The exact date should be specified in the Notice to Set Aside.

(e) Whilst not considered legally necessary, a formal Notice to Quit ("NTQ"), in the form prescribed by the Protection from Eviction Act 1977, specifying the same termination date as in the Termination Letter, which must be a Monday (the day on which the Weekly Maintenance Contribution is paid) will be served "without prejudice" with the Termination Letter.

(f) Note also that upon termination of the appointment, possession of the property occupied by the resident can only be recovered by obtaining a County Court Order for possession, unless the resident vacates voluntarily.

(g) In an emergency, (e.g. accelerated process outlined in Section 2 of this policy) the decision to set aside an appointment may be swiftly made by the Chair, Vice Chair and the Chief Executive. In these circumstances, it is very important that the reasons for the urgency are documented and that the manner in which the decision is made complies with the Trust Deed and subsequent Charity Commission Schemes.

5. General

5.1. At all the stages the Trustees and officers shall consider whether any measures could be taken to overcome the problems identified. The resident shall also be made aware of his/her right to make representations to the Trustees or delegated individuals in person.

5.2. Advice from the Charity's solicitors should be sought at an early stage, particularly if it is anticipated that a Court Order will be necessary. It may be appropriate for the Termination Letter and NTQ to be at least approved, if not drafted by the Solicitors, in such circumstances.

This policy has been approved for issue by the board of trustees of Municipal and Owen Carter Almshouse.

Signature:

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Name:

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Date:

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