



Ramsgate Town Council

APPEALS PROCEDURE - ALLOTMENTS.

INTRODUCTION: This appeals procedure is designed to cut in when an individual RTC Allotment tenant wishes to ask for a review of a decision made by the **Chair of Council** pertaining to **his/her** plot.

Where will it apply?

- Where a tenancy is to be terminated because of non-cultivation or a gross breach of the Allotment rules.
- Where a tenant wishes to erect a structure that is non-compliant with RTC rules and policy.
- Where a tenant is instructed to remove a structure or a plant(s) because of a health and safety risk or nuisance to other tenants or the public.
- Permission is refused to allow the keeping of livestock or removal is ordered because of the condition of the livestock.

Where does it not apply?

- General complaints on RTC policy.
- Increases in rent or water charges.
- Election of Site representatives.
- Use of any delegated powers by RTC Staff such as the issue of non-cultivation orders or requests to tidy up a plot.
- Disputes with site representatives.
- Disputes that can be resolved by means of conciliation and arbitration which is most of them. Therefore, only the most serious cases where tenancy termination is envisaged are appropriate for this procedure.

What is the standard of proof of evidence? The Civil test of 'On the balance of probabilities'.

What is the Appeal hearing procedure?

1. A decision is given in writing to a tenant by an RTC Officer, under delegated powers. The original decision will have been made under delegated powers by the **Chair of Council**.
2. Decisions will be sent by recorded delivery to the address where the tenant is known to the Council and/or by email where available. Delivery will be deemed to have happened when the letter is accepted by the Post office.
3. The decision letter will include a section which will inform the tenant that he/she may make an appeal and how they may make that appeal.
4. The grounds for appeal will be: Insufficient evidence, wrong evidence, an unreasonable decision (the reasonable person test), not enough weight given to a plea of mitigation, and predetermination.
5. The Appellant will be given **14** days from the date of the letter to appeal in writing or by email.
6. A panel will be set up consisting of the **Chair of Council** and at least two other RTC Councillors.
7. An appeal hearing should take place within 1 (one) calendar month.
8. It should be as informal as possible, yet business like and objective.
9. The hearing should be held in private and the persons attending will be the **Chair of Council** and panel members, the appellant and a friend, an RTC Officer to submit the evidence behind the original decision and a person to record the appeal hearing.
 - The meeting should start with the Panel Chairman opening proceedings and reading out the details of the decision to the hearing.
 - The RTC Officer will next present the evidence on which the decision was based; updated with any new corroborative evidence gathered subsequent to the decision being made.
 - The Appellant, (**or** the appellant friend), is then invited to submit evidence or argument to persuade the panel to overturn in part or in full the original decision.
 - Each side should take no more than 20 minutes to submit their evidence. Evidence can be in the form of a written documents, photographs or witness

evidence (personal testimonials should be restricted to a maximum of 2 for brevity of process). No other restriction

- After the evidence is given by both sides, the panel can ask questions of the Appellant and RTC Officer to satisfy themselves on various points arising in the appeal.
- The Appellant and the RTC Officer will each be given 5 minutes to sum up their argument.
- The Chairman will close the hearing and tell the Appellant when a decision on the appeal will be made. The Appeal decision should be delivered to the Appellant within 7 days.
- All parties are reminded that they should not interrupt the other party or the Chairman and should behave with dignity and forbearance. If the Appellant will not come to order; the Appeal Panel can dismiss the appeal forthwith. Poor professional behaviour by the RTC Officer can be dealt with RTC internal disciplinary processes.
- The decision of the appeal hearing is final under delegated powers from the Council and cannot be revoked by appeal to the Council.

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