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# Rent Arrears Policy and Procedure

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## **1 Purpose**

- 1.1 The purpose of the Rent Arrears Policy and Procedure is to set out the Council's Housing Service's approach for preventing and managing rent arrears, collecting rent, offering support to sustain tenancies and maximising income to tenants and licensees living in accommodation provided by the Council who accrue rent arrears in the course of their tenancy or license.
- 1.2 This policy and procedure will be applied ensuring that there is early contact and support in order to prevent arrears accruing and that the tenant or licensee can receive the right advice at the earliest opportunity.
- 1.3 When appropriate, legal action will be taken to minimise arrears increasing, seek possession of the property. This action must be reasonable, proportionate and adhere to statutory requirements.

## **2 Applicability**

- 2.1 This policy and procedure is applicable to all tenants who are accommodated in temporary accommodation under section 188 or section 193 of the Housing Act 1996 (as amended by the Homelessness Reduction Act 2017), who are licensees on Four Houses Corner or are secure tenants of the Council. This policy and procedure does not apply to leaseholders (including equity share).
- 2.2 This policy was approved 16<sup>th</sup> March 2021

## **3 Roles and Responsibilities**

- 3.1 The Head of Development and Planning has overall responsibility for ensuring that action taken due to rent arrears accrued is managed appropriately in accordance with this policy and procedure and delegated authority as per the Council's constitution.
- 3.2 The Housing Service Manager is responsible for:
  - Directing and reviewing this policy and procedure.
  - Ensuring that there is effective consultation and communication on tenancy related matters in terms of legal action required to resolve rent arrears and seek possession proceedings.
  - Publishing and implementing this policy and procedure to Housing staff.
  - Ensuring compliance with published standards, procedures, working practices and technology changes in relation to housing services relevant to this policy and procedure.
- 3.3 The title "Responsible Officer" allows flexibility to enable not just one person being solely responsible and to provide support during periods of absence so that the timeframes are adhered to. The "Responsible Officer" will include, but is not limited to, the Housing Management Officer, Business Support Assistant, Housing Support Officer and Homelessness Prevention & Relief Officer.
- 3.4 The "Responsible Officer" will;
  - Record annual rent increases on Abrisas.

- Ensure all properties / property details are accurately recorded.
- Ensure Temporary Accommodation license/agreements and Mobile Homes Tenancy agreements that form part of sign up documents are fully completed. A copy of these documents and the Housing Benefit form is sent to the relevant departments i.e. Revenues and Benefits and Council Tax.
- Accurately record the property charges on the Housing IT System.
- Ensure the day-to-day processing of rent arrears collection and monitoring, including ensuring implementation of this policy and procedure is adhered to.
- Ensure that file notes of all actions taken under this policy and procedure are documented on the Housing IT System to ensure that sufficient evidence can be provided in the event that possession action is taken.

3.5 Legal Services are responsible for checking and signing the Notice to Quit (NTQ) to enable rent arrears cases to proceed to court, if appropriate. The Responsible Officer will serve the signed NTQ along with a certificate of service.

3.6 All Housing staff are responsible for familiarising themselves with, and ensuring that they comply with this policy and procedure.

## **4 Background**

4.1 Rent pays for the services provided to tenants, including tenancy management and repairs to homes. It is therefore essential for rent collection to be maximised through effective management of rent arrears and tenancy sustainment.

4.2 The Housing Service strives to promote tenancy sustainment and prevent revolving-door homelessness. Applicants who are residing in accommodation that is managed by the Council will be given support to ensure that their tenancy is maintained to a satisfactory standard and that they are subsequently able to move on into settled accommodation. Where tenants have accrued rent arrears, every effort will be made to ensure that the payments are brought up to date and that the tenancy continues until the household is no longer in need of the accommodation. However, the Council needs to balance supporting households with the need to cover the costs of providing the accommodation so may need to take steps to regain possession of the property if rent arrears accrue.

4.3 The Pre-Action Protocol for Possession Claims by Social Landlords came into effect on the 6<sup>th</sup> of April 2015 (updated 13<sup>th</sup> January 2020) and sets out the responsibilities of local authorities and housing associations who may be seeking to take possession action against tenants, including Part 2 which is solely based upon actions taken due to rent arrears. Presiding judges will have regard to whether the protocol has been adhered to during possession hearings and failure to adhere to the protocol may result in the Council being unable to regain possession of the property in question. The protocol is very clear that possession claims should only be brought as a last resort.

## **5 Rent arrears procedure**

5.1 In order to deliver the policy to an agreed procedural standard that is concise and clear, the rent arrears procedure is set out in more detail below:

## 6 Stage One

- 6.1 All rent accounts will be reviewed on a weekly basis by reviewing the rents module on the Housing IT system, Abritas. This is broken down into households who are 1 week, 2 weeks and 3 (or more) weeks in arrears. Housing Benefit claims should be reviewed where there is reason to believe a tenant has entitlement, but is not receiving payments to check the progress of the application.
- 6.2 For clarity, when reviewing the rent accounts and deciding what action is appropriate in light of accrued rent arrears, regard should be given to Housing Benefit or Universal Credit claims/payments that are due and the frequency of such payments. A tenant will have accrued rent arrears at the point where expected Housing Benefit or Universal Credit payments would be made and may still leave at least one week's rent owing.
- 6.3 As soon as a tenant falls into rent arrears exceeding the equivalent of one week's rent, 'Rent Arrears 1' letter should be sent with a copy of the rent statement, asking the tenant to bring their account up to date and to make contact to arrange a repayment plan also known as a debt agreement. In cases where the tenant has known literacy or language issues, in addition to sending out the 'Rent Arrears 1' letter, telephone contact should be made with the tenant to read out the contents of the letter and utilise Language Line Services where needed.
- 6.4 If the household is accruing small ongoing arrears, as a result of non-payment of a service charge or a shortfall in Housing Benefit due to an overpayment for example, the tenant should be contacted by telephone, text message or email to notify that they are falling behind with their payments and should bring the rent account up to date to prevent further action. If the tenant fails to respond, 'Rent Arrears 1' letter should be sent out when the arrears equate to one weeks rent.
- 6.5 In relation to case 6.3 or 6.4 above, if no contact has been successful by one week after sending 'Rent Arrears 1' letter, the Housing Management Officer should attempt to visit the tenant at the property or a face to face visit to discuss a resolution. The allocated Homelessness Prevention & Relief Officer and the Personalised Housing Plan (PHP) should be updated, adding mandatory actions for the tenant to clear the rent arrears and make contact with the service.
- 6.6 When arranging a repayment plan comprehensive enquiries such as, reviewing bills, bank statements and consumer credit reporting should be undertaken to understand the tenant's financial situation and ability to pay. This should be compared to the income and expenditure form completed prior to signing the license/tenancy agreement. A repayment plan which is affordable for the tenant, taking into account their individual circumstances and the level of surplus funds remaining on the income and expenditure form should be agreed. All repayment plans should be confirmed in writing, entered onto the Housing IT system and include the consequences of not maintaining the repayment plan. This must also be captured within the PHP as a mandatory action for the tenant and the revised PHP must be re-issued to the tenant.
- 6.7 During any contact with the tenant they should be informed of their right to obtain independent legal advice regarding their situation, and should be signposted to support agencies including, but not limited to, Shelter, Citizen's Advice Bureau and the Money Advice Service ([www.moneyadviceservice.org.uk](http://www.moneyadviceservice.org.uk)). All contacts with

tenants should be recorded on the housing IT system as well as this may be used as evidence in any subsequent court proceedings.

6.8 The Housing Service can provide tenants with tailored advice and support on:

- Debt, including priority debts.
- Financial management, including budgeting and understanding income and expenditure.
- Maximising income, including accessing welfare benefits and employment opportunities if benefit capped.

## **7 Stage Two**

7.1 Where a tenant has been sent the 'Rent Arrears 1' letter and has not bought their rent account up to date or to set up a repayment plan, the 'Rent Arrears 2' letter should be sent after a period of two weeks has elapsed since the 'Rent Arrears 1' letter was sent out. A copy of a rent statement should accompany the letter. In cases where the tenant has known literacy issues, in addition to sending out the 'Rent Arrears 2' letter, telephone contact should be made with the tenant to read out the contents of the letter.

7.2 Where a tenant has agreed to a repayment plan following receipt of the 'Rent Arrears 1' letter, but has not adhered to the repayment plan, the 'Rent Arrears 2' letter should be sent after 7 days has elapsed since the first missed repayment was due. A copy of a rent statement should accompany the letter. In cases where the tenant has known literacy or language issues, in addition to sending out the 'Rent Arrears 2' letter, telephone contact should be made with the tenant to read out the contents of the letter and use Language Line services where needed.

7.3 Following initiation of Stage Two, attempt to contact the tenant weekly by telephone, text message and email to try and set up a repayment plan. If not successful then visit the tenant at the property to discuss a resolution in person.

7.4 Where, during the course of contact with the tenant the "Officer" becomes aware that the tenant is not in receipt of any benefits that they are entitled to, the "Officer" should advise the tenant to make the relevant applications for assistance and should offer support to do this as a face to face meeting which can be in person or through an alternative digital channel. The Officer must record this on the Housing IT system and follow this up in writing and also notify the relevant Homelessness Prevention & Relief Officer.

7.5 When arranging a repayment plan comprehensive enquiries such as, reviewing bills, bank statements and consumer credit reporting should be undertaken to understand the tenant's financial situation and ability to pay. This should be compared to the income and expenditure form completed prior to signing the license/tenancy agreement. A repayment plan which is affordable for the tenant, taking into account their individual circumstances and the level of surplus funds remaining on the income and expenditure form should be agreed. All repayment plans should be confirmed in writing and should confirm the consequences of not maintaining the repayment plan.

7.6 During any contact with the tenant they should be informed of their right to obtain independent legal advice regarding their situation, and should be signposted to

support agencies including, but not limited to, Shelter, Citizen's Advice Bureau and the Money Advice Service ([www.moneyadviceservice.org.uk](http://www.moneyadviceservice.org.uk)). All contacts with tenants should be recorded on the housing IT system as well as this may be used as evidence in any subsequent court proceedings.

## **8 Stage Three**

- 8.1 Where all attempts to engage with the tenant and to arrange a repayment plan have failed at Stages One and Two, formal possession proceedings may be initiated. All contacts with tenants should be recorded on the housing IT system as well as this may be used as evidence in any subsequent court proceedings. Advice may also be sought from the Council's Legal Services team.
- 8.2 Two weeks after the 'Rent Arrears 2' letter has been sent, the Housing Management Officer should notify the Housing Support Team Leader of the arrears balance and the steps taken to resolve the arrears on the Approval to Seek Legal Action form. Following consent from the Housing Support Team Leader, the Housing Management Officer will liaise with Legal Services to have a NTQ drafted and signed by the Head of Legal Services.
- 8.3 Following receipt of the signed NTQ, the Housing Support Team Leader will check the NTQ and support the Housing Management Officer to hand deliver the NTQ and certificate of service to the tenant. The 'Rent Arrears 3' letter, a rent statement and a copy of the Pre-Action Protocol for Possession Claims by Social Landlords will be included with the NTQ. The Housing Management Officer should ensure that they are accompanied by the Housing Support Team Leader and that the Certificate of Service form is fully completed signed and dated upon serving the NTQ. If the tenant has abandoned the property, the NTQ must be attached to the door and a copy must be attached to the tenants housing file.
- 8.4 Following initiation of Stage Three, the Housing Management Officer should attempt to contact the tenant weekly by telephone, text message and email to try and set up a repayment plan. If contact has not been successful by the third week after delivering the NTQ and associated documents, the Housing Management Officer should attempt to visit the tenant at the property to discuss a resolution in person.
- 8.5 If the tenant fails to engage with the Housing Management Officer and agree to a repayment plan prior to the expiry of the NTQ, the Housing Management Officer should inform the Housing Support Team Leader, who will seek approval from the Housing Operations Manager to seek advice from Legal Services regarding initiating court proceedings to regain possession of the property. The Housing Management Officer should then send a copy of the expired NTQ along with the tenancy agreement, particulars of claim and a rent statement to Legal Services, who will review the evidence and prepare the relevant application to the County Court for a possession hearing.
- 8.6 Upon expiry of the NTQ, the Housing Management Officer should continue to attempt weekly contact with the tenant by telephone, email and text message and should attempt to arrange a repayment plan. If these attempts are successful, the Housing Management Officer should confirm the repayment plan in writing and inform the Housing Support Team Leader who will monitor the case until seven days prior to the court hearing, when a final decision will be made on whether the

proceedings continue. In cases where the tenant has begun to adhere to a repayment plan prior to the court date, the Housing Support Team Leader should seek approval from the Housing Operations Manager to adjourn the court action.

- 8.7 As soon as possible but no later than 10 days prior to the court hearing, the Housing Management Officer should write to the tenant, enclosing a full rent statement from the commencement of the tenancy, or the last three years, whichever is shorter. The letter should advise of the court date, time and location, the order that the Council will be applying for and should specify what is known about the tenant's current entitlement to Housing Benefit or Universal Credit. Tenant's should also be advised of the importance of attending the hearing, should be informed of their right to obtain independent legal advice regarding their situation and should be signposted to support agencies including, but not limited to, Shelter, Citizen's Advice Bureau and the Money Advice Service ([www.moneyadviceservice.org.uk](http://www.moneyadviceservice.org.uk)).
- 8.8 In the event that the tenant clears the outstanding rent arrears in full, plus the court costs associated to the claim for possession, further action should be approved by the Housing Operations Manager. If the tenant subsequently accrues further arrears, the Housing Management Officer should notify the Housing Support Team Leader and continue the standard rent arrears procedure.

## **9 Stage Four**

- 9.1 Following expiry of the possession order, if the tenant remains in occupation at the property and is still in rent arrears, the Housing Management Officer should notify the Housing Support Team Leader who will seek approval from the Housing Operations Manager to sanction the request for Legal Services to apply for an application for a bailiff's warrant. The Housing Service Manager must be informed of any bailiff applications in order to manage any issues that arise or result in media enquiries.
- 9.2 In the event that the tenant makes an offer of repayment to the Council to clear the debt in full following the date that the possession order comes to an end, the Housing Management Officer should discuss these terms with the Housing Support Team Leader prior to entering into any agreement and the Housing Support Team Leader will seek approval to either cancel or continue with the bailiff's warrant being applied for.
- 9.3 Upon confirmation from the Housing Operations Manager that a bailiff's warrant should be applied for, the Housing Management Officer will make a referral to Children and Family Services to notify them of the impending loss of accommodation, for all tenants where children form part of their household. A copy of the bailiff's warrant should be forwarded to Children and Family Services upon receipt of notification and to the Homelessness Prevention & Relief Officer.
- 9.4 When the Housing Operations Manager has authorised the application for a bailiff's warrant, the Housing Management Officer should refer the tenant to the allocated Homelessness Prevention & Relief Officer so that they can be offered advice about their future housing options.
- 9.5 When the eviction date has been received from the County Court, the officer must notify the tenant, Children and Family Services, Housing Support Team Leader,

Housing Operations Manager and the Housing Service Manager of the date of the eviction. The officer must book a locksmith for the date of the eviction and ensure that they attend the property with the Housing Support Team Leader or the Housing Operations Manager to execute the bailiff warrant. Depending on the level of risk the officer should also consider opening a URN with the police on the non-emergency number so that if assistance is required it can be provided.

- 9.6 The Housing Management Officer will ensure that the locks are changed, the property is free from rubbish and clear. If the tenant has not removed their belongings they will be given 24 hours or longer by agreement to return to the property to remove their belongings, but must not be given access without a council officer being present. Any rubbish or belongings left at the property will be removed and destroyed and Children and Family Services, if relevant, will be notified that the family have left the property. The Housing Management Officer will carry out a property inspection including taking photographs of the property and record this on Abritas and the status when terminating the tenancy will be 'eviction'. The Housing Management Officer will ensure that the gas and electric checks are booked 24 hours after the eviction.

## 10 **Links to other policies**

This policy and procedure is also linked to the Council's Housing Allocations Policy which makes reference to the sanctions associated with being in arrears and being able to apply for social housing through the housing register. The sanctions from the sections 8.7 onwards in the Housing Allocations Policy states:

### 8.7 Sanctions

The Council wishes to encourage financial responsibility and independence and being a good neighbour within the community. In order to assist with this, the sanctions listed below will be applied in the following circumstances:

#### 8.7.2 Money owed to the Council for a housing-related debt where no regular payments are being made

If the applicant has been given financial assistance by the Council to facilitate access to private rented accommodation and is failing to adhere to the repayment plan, or has not paid ineligible charges arising from a temporary accommodation placement, or has other housing-related charges (e.g. housing benefit overpayment, court, travel, or storage costs or repair recharges) their application will be suspended. Applicants will need to demonstrate that they have made and adhered to an agreed payment plan for a period of at least three months before the suspension will be lifted.

#### 8.7.3 Rent arrears or where no regular repayments are being made with a private landlord or Registered Provider

If the applicant has rent arrears that exceed eight weeks their application will be suspended. They will need to demonstrate that they have maintained a repayment plan for at least three months and that the arrears have been cleared or reduced to below eight weeks rent before the suspension is lifted.

Therefore, where a tenant owes the equivalent of eight week's rent and has no repayment plan in place, the Housing Management Officer should notify the Housing



Allocations Team Leader of the arrears so that the tenants Housing Register Application can be updated accordingly.

## 11      **Legislation**

Housing Act 1985 and 1988, 1996

Homelessness Reduction Act 2017

Protection from Eviction Act 1977

Equality Act 2010

General Data Protection Regulation tailored by Data Protection Act 2018

Welfare Reform Act 2012

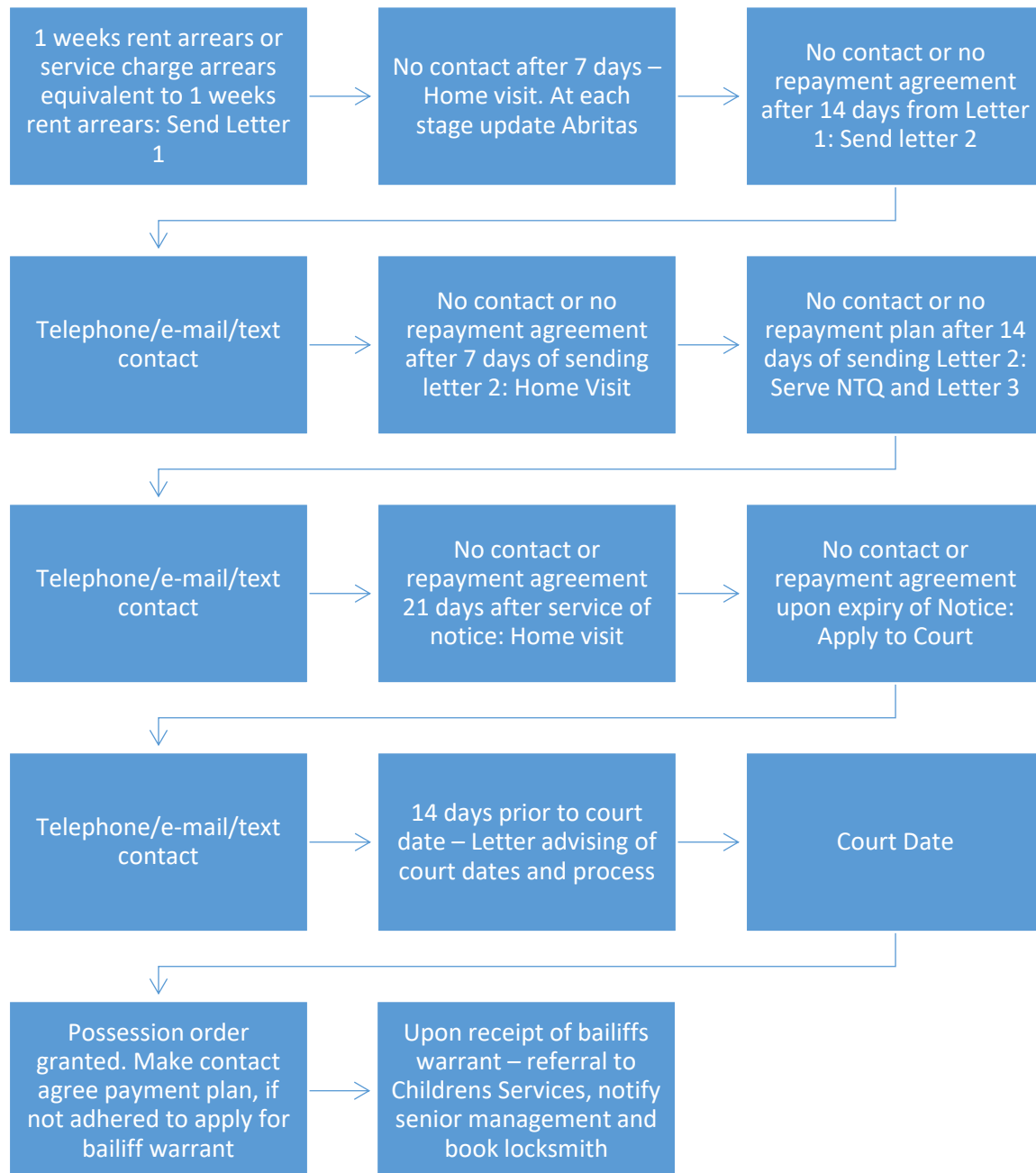
Human Rights Act 1998

Pre-Court Action Protocol – Civic Procedure Rules

Coronavirus Act 2020

## Rent Arrears Flow Chart

## Appendix A



### AT ALL TIMES REMEMBER:

- **Repayment Plans** – seek to agree and monitor but reinstate next step of action 7 days after any breach
- Always look at benefits and income maximisation
- Always include rent statements and advice on where to seek independent legal advice in letters/discussions with tenants/licensees
- Raise any concerns about vulnerability with the HSTL
- Decisions to proceed/or cancel action once notice has been served must be taken by Housing Operations Manager or Housing Service Manager

## Appendix B

### Document Control

<b>Document Ref:</b>	RAPP 1	<b>Date Created:</b>	25 <sup>th</sup> February 2021
<b>Version:</b>	0.2	<b>Date Modified:</b>	1 <sup>st</sup> March 2021
<b>Revision due</b>			
<b>Author:</b>	Janet Weekes	<b>Sign &amp; Date:</b>	
<b>Head of Service:</b>	Gary Lugg	<b>Sign &amp; Date:</b>	
<b>Equality Impact Assessment: (EIA)</b>	Date undertaken:		
	Issues (if any):		

### Change History

Version	Date	Description	Change ID
0.1	25 <sup>th</sup> February 2021	New policy and procedure drafted for appropriate approval and adoption	JW
0.2	2 <sup>nd</sup> March 2021	Feedback from consultation updated on the document	JW

### Related Documents

Reference	Title	Tier
	Housing Allocations Policy	
	Pre-Action Protocol for Possession Claims by Social Landlords	