



MANCHESTER CITY COUNCIL

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SECTION 1: Overview**1 Introduction**

1.1 This policy details the aims and objectives of Manchester City Council, Housing Services in undertaking its responsibilities in the management of rent arrears and associated charges.

1.2 This policy should be read in conjunction with the Pre-Action Protocol for Possession Claims for Social Landlords and refer to MCC Housing Services, Rent and Arrears Procedure. This details in more depth the stages in the process for managing and recovering rent arrears.

1.3 Arrears applies to outstanding rent payments due under the terms of the tenancy agreement including service charges and other costs on the rent account.

1.4 Manchester Housing Services adopts a fair and proportionate approach to rent collection and arrears management. Whilst it is essential that residents pay their rent in full and on time to ensure sufficient funding to the Housing Revenue Account (HRA). Non-payment of rent impacts our ability to provide high quality services and potentially has serious consequences for residents.

1.5 It is at the same time important to provide support to residents to meet their obligations. Rent and service charge income received from residents is used to manage important services, repair and maintain MCC properties.

1.6 The rent for a property let at 'social rent' (which constitute a majority of rented social housing properties) have been set based on a formula set by government. This creates a 'formula rent' for each property, which is calculated based on the relative value of the property, relative local income levels, and the size of the property. An aim of this formula-based approach is to ensure that similar rents are charged for similar social rent properties.

1.7 The main objective of the Rent Income Team is to collect the maximum amount of rent income due from residents. They support communities by helping residents sustain their tenancy and support residents where support is needed through money advice and referrals to support agencies. They meet all the statutory requirements of running the service and provide clear lines of accountability in the collection and management of housing income.

1.8 Approach

To achieve these objectives Housing Services has committed to the following:

- Promoting a payment culture to residents and throughout the organisation from let stage and then for the duration of the tenancy.
- Ensure a professional, highly respectful, fair, and consistent approach to rent recovery.
- Provide accurate, up to date information to enable residents to manage their accounts.
- To work closely with external agencies and other teams within Housing Services to ensure that all residents receive appropriate support from the first day of their tenancy.
- Working with residents to prevent arrears and other debt, directing them towards additional support, where necessary. Acting early and using preventative measures to assist residents in addressing any financial difficulties. Offering specialist advice and support to residents to sustain their tenancies through the dedicated Money Matters team.
- To communicate regularly with our residents in a variety of ways to ensure that they are aware of issues that affect them.
- Be accessible to our residents **but**
- Encourage methods of payment that achieve the best value for money for Housing Services, especially digital routes whilst ensuring all residents can reach us by their preferred method of contact.
- To continuously look at ways in which we can improve the service.

1.9 Context

Housing Services, Manchester City Council manages around 12,600 properties. The annual rent debit exceeds £60 million.

For most residents rent is collected over 50 weeks of the year except, in the case of residents with arrears where rent is to be paid over 52 weeks. The service has responsibility to collect current resident rent arrears and Manchester City Council's finance team retain responsibility for the collection of former resident arrears.

The service covers social rents, affordable rents, and shared ownership. Rent must be paid up front and must not be in arrears at any point. For instance, if a resident pays monthly this should be paid in full and an arrears balance must not accrue.

Shared ownership residents pay monthly and those living in Local Authority Housing Funded properties pay rent over 52 weeks and there are no rent-free weeks.

If a resident has arrears but transfers to a new tenancy, then the previous arrears are former tenant arrears and are not transferred to the new account.

An ever-decreasing percentage of rental income is derived from housing benefit following the roll out of Universal Credit. Housing Services' relationship with the Revenues and Benefits Service (RBS) and the Department of Work and Pension (DWP (Department for Work and Pensions)) is vital to ensure our continuous revenue stream. To assist with this Housing Services and RBS hold quarterly operational review meetings and representatives from Housing Services also attend quarterly liaison meetings with RBS and other Registered Social Landlords. Rent staff regularly liaise with the DWP on matters concerning rent collection.

To help with the speedier resolution of Housing Benefit claims. Rent staff also work closely with RBS via their On-Call service to progress cases that either require assessment or further clarification on outstanding issues. Housing Services staff benefit from policy training for the income management team offered by RBS, for example Discretionary Housing Payments and housing benefit claim validation training.

We also foster good working relations with the Department of Work and Pensions (DWP) as large numbers of residents move onto Universal Credit and the team has regular contact with the local Partnership Manager. The service is signed up to the Trusted Partner Portal for full service Universal Credit so that we can validate information from the DWP to facilitate Universal Credit claims as quickly as possible.

Joint promotional work is also completed, including community events, resident group meetings, in school events and articles in Housing Services publications.

Staff receive the most appropriate and regular training to ensure they can carry out their duties to the highest standard.

Money Advice

Housing Services operates "Money Matters" a free and confidential advice service offered to Housing Services residents around debt and welfare rights issues. Advisers carry out welfare benefit entitlement calculations with all residents who use the service and help them to look at expenditure, prioritise debts and complete budgets to ensure that rent is considered a priority.

Housing Services aim to help minimise the effect of rent and arrears recovery collection for those on a low income. Staff do this by supporting and agreeing affordable repayment plans and offering budgeting advice. Where residents have a debt problem access to money advice is offered as early as possible to support the resident.

Residents seeking independent debt advice will receive impartial advice from Money Advisers and will be advised on the priority order of debts first, such as rent and council tax.

Rent Caseworkers try to identify if residents have any debts during most of their phone/face to face interviews. Residents are signposted to the Money Matters drop-in surgeries which are held weekly at our local service offices. Alternatively, they can use the hotline for Money Matters or book a face-to-face appointment. If a resident does not wish to use the in-house service, we will offer advice on other agencies who many support them.

Many residents who have rent arrears have council tax arrears too. The Money Matters team has useful links with the Council tax team and can liaise with this team to help the resident resolve any issues.

SECTION 2: Purpose, functions, and responsibility

2.1 Functions

The Income Management Team sits within the Housing Services section of the Neighbourhoods Services Directorate, and the Director of Housing Services has overall responsibility for the function. The Director is responsible for the Housing Strategy and key appointments, but they are not involved in the day-to-day management of the team apart from in exceptional circumstances.

The Assistant Director of Housing Services carries out the delegated functions of the Director.

Day to day management of the function is the responsibility of the Head of Income Management who reports directly to the Strategic Lead for Resident Experience.

All casework is grouped geographically within three local service areas – Cheetham Hill, Monsall Street and White Moss. Each team is managed by a Team Manager, each of whom reports to the Head of Income Management. Teams comprise of Rent Legal Case Managers, Senior Rent Caseworkers and Rent Caseworkers.

In addition, the team also manages rent collection and arrears recovery for both Shout and Avro Hollows Resident Management Organisations (TMOs).

Sitting alongside the team is the Money Matters team who provide free and confidential debt and welfare rights advice and report to the Head of Income Management.

The Rent Team is also supported by the Resident Service Centre who assist by taking rent payments, ordering rent cards, and dealing with straightforward rent queries.

2.2 Key roles and responsibilities

It is the responsibility of all Housing Services staff to promote a 'payment culture' to ensure the best possible outcomes for our residents.

The key responsibilities of each role are listed below.

Head of Income Management

The post holder has overarching responsibility for delivery of the key performance indicators for the team and for the performance management of the team. They ensure that all teams work together with one purpose. They are the key individual in terms of technical knowledge and ensuring that all senior members of the team are up to speed with the latest knowledge and policies. They are responsible for reporting to the Housing Advisory Board on salient issues, will represent Housing Services at external events and will work with partners across GM to develop opportunities and share best practice ensuring we meet our commitments from the Housing Strategy and service delivery plans and contribute to both the MCC Anti-poverty and MCC Our Manchester strategies. They are responsible for the budget and for identifying key issues and opportunities to develop the team to deliver exemplary resident service to our residents and stakeholders. Their role also includes the tendering and procurement of contracts and leading on the interface with IT.

Income Managers

Team Managers primary responsibility is the performance management of those who report to them; the Senior Rent Caseworkers, Legal Case Managers and Rent Caseworkers. They monitor the activity, behaviours, and technical competency of their staff in the interest of maximising rental income. Team Managers regularly review work, identify training needs, and liaise with the Head of Service to ensure the team is operating effectively and efficiently.

Although Manager are focused on the activity of their own team, they must always consider the needs of the department and the wider organisation and ensure that there is effective communication between their staff and those from other parts of the service and wider.

They manage and make full use of external data to improve rent collection and help embed recent technology to improve performance.

Rent Legal Case Manager

The primary responsibility of the Rent Legal Case Manager is to prepare cases for legal action and to represent the organisation in court. In addition to this they provide legal guidance, support, information, and training to rent recovery staff on the full range of rent related legal issues. They have responsibility for representing the organisation in court on rent possession and application to suspend warrant hearings; preparing cases and serving Notices to Extend and Notices to Terminate Introductory tenancies, Notices of Seeking Possession for Secure tenancies and Section 41 notices for eviction cases and also include responsibility for managing shared ownership accounts and accounts that go into Breathing Space; dealing with enquiries relating to Individual Voluntary Arrangements (IVAs), Debt Relief Orders (DROs) and bankruptcy orders. They also have the delegated authority to write off rent arrears for both DROS and bankruptcy.

Senior Rent Caseworker

The Senior Rent Caseworkers are in place to support and deputise for the Rent Team Manager in all aspects of managing the service. Whilst they carry out many of the same tasks as caseworkers, they oversee the training of new members of staff and provide technical support and training to all members of the team.

They manage and make full use of external data to improve rent collection, specifically regarding static arrears, and share this with relevant staff.

They are the key point of contact with IT for QL (current Housing management data base) support and development and provide regular training and support for staff in relation to QL. This will require work outside of normal hours on occasions.

Rent Caseworker

As the frontline of the service, caseworkers deliver a professional and responsive rent service for the purpose of maximising rental income. In doing so they actively engage and support residents to help them sustain their tenancies. This requires offering advice, information, and assistance to help residents receive their full entitlement to benefits and other support available.

Money Adviser

The Money Advisers are in place to provide residents with welfare rights and debt advice, support, and guidance in finding options to their present financial situation so that they can pay their rent. In doing so they help residents to identify and understand the prioritisation of debts.

The service is there for all residents but is particularly important regarding new residents. Money Advisers assist the New Tenancy Team in assessing new residents and ensuring the right level of support is in place from the first day of the tenancy.

Residents

Residents are responsible for paying their rent including any service or heating charges as set out in their tenancy agreement and they are responsible for informing MCC of any changes that may impact their ability to pay these charges.

The tenancy agreement is a legal document that sets out rights and responsibilities and when a resident accepts a property, they agree a charge for occupying the property.

Section 3: Legal and regulatory requirements

3.1 Rent levels are set by the Manchester City Council in accordance with Government guidance. This creates a 'formula rent' for each property, which is calculated based on the relative value of the property, relative local income levels, and the size of the property. An aim of this formula-based approach is to ensure that similar rents are charged for similar social rent properties. Any properties that fall outside of this such as affordable rent or shared ownership will receive specific advice on their responsibilities.

3.2 Housing Services staff are required to assist MCC Strategic Housing and Finance in the calculation and administration of changes to rent. Housing Services is responsible for notifying residents of any changes within a timetable agreed within the Council.

3.3 Information and communication technology staff known as ICT staff are responsible for carrying out the Rent Increase Process Data Loading. The process for this involves ICT receiving the rent files from the MCC Finance Team that set out the new annual rents. This happens from January each year onwards. They then upload them onto the QL the housing management database for testing.

Data Validation: In collaboration with the Income Management Team, ICT then conducts testing to ensure the data has been accurately loaded. This process helps identify anomalies, such as potentially incorrect rent amounts on the wrong accounts. This is an internal data validation process.

Issue Identification: Any discrepancies or anomalies flagged during this testing phase are reviewed jointly by ICT and the Income Management Team to ensure accuracy before the rent increase letters are finalised and sent to residents. This is tested and the data validated by the Income management team.

Contingency Coordination: If the Head of Service is unavailable to lead the rent increase process, the **Strategic Lead for Resident Involvement** will take over coordination duties. They will work closely with the designated leads in ICT and the **Principal Finance Manager** to ensure the process continues smoothly.

3.4 The Income Management team is required to manage and conduct rent recovery in a manner that seeks to maximise the amount of rent collected and help support residents to sustain their tenancies wherever possible. Rent must be paid on time and up front at the start of the tenancy. The rent account must not be in arrears at any point. For instance, if a resident pays monthly this should be paid in full and an arrears balance must not accrue.

3.5 Legally MCC Housing Services must give residents 4 weeks' notice of any rent changes. A rent change letter is known as a notice of variation and is sent out before any rent increase can take effect. This letter gives the required amount of notice to the resident of the increase.

3.6 Residents may also be required to pay other charges such as service charges and heating charges. Service charges cover things like estate cleaning, concierge services, grounds maintenance as part of their tenancy agreement. There are other charges such as heating. Heating charges are not covered by housing benefit or Universal Credit and are paid for by the resident.

3.7 Early intervention

Preventing rent arrears from the outset of a tenancy is key in terms of managing debt and maximising income. It is important that all residents, especially new residents, are given sound advice to prevent rent and other debts from accruing. For any resident in financial distress and unlikely to be able to pay their rent, Housing Services Money Advisers offer specialist money advice and support around welfare benefits and debt.

Effective rent recovery advice begins before the resident signs for a property and forms an important part of the sign-up interview. The Income Management Team works closely with the Rehousing and Neighbourhood Services Teams to maintain good working practices.

We will tailor rent arrears actions to work with and recognise the needs of our vulnerable residents. At any stage during the rent recovery process a referral will be made to appropriate services if the resident is vulnerable or if we identify there are vulnerable household members.

3.8 Case Management

Processes for the day-to-day management of rent arrears cases have been developed for all the stages of rent collection.

The Rent arrears policy and procedure is compatible with and compliant with the following:

The Social Housing Act (Regulation) Act 2023
 Housing Act 1985
 Housing Act 1996
 Introductory Residents (Review) regulations 1997
 General Data Protection Regulation (GDPR)
 Data Protection Act 2018
 Freedom of Information Act 2000
 Pre-Action Protocol for possession claims by Social Landlords
 Welfare Reform Act 2012
 Universal Credit Regulations 2013

Local Government Act 1972, County Courts Act 984, Legal Services Act 2007, Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium)(England and Wales) Regulations 2020
 Equality Act 2010

On rare occasions Audit may need to be involved in cases if there is suspected Money laundering and MCC has its own internal processes should these situations arise. Relevant senior managers should take advice on these cases. Whilst these are unusual situations an example might be where a large cash deposit has been made onto a rent account that places the account in credit, a typical example might be anything over £5000. This needs to be verified and often checked with audit because it may be an attempt to hide money from official channels like bank accounts that would be scrutinised by HMRC or the DWP.

For residents with persistent arrears appropriate and realistic payment plans are offered. Compliance with these plans is closely monitored. The Caseworker decides an affordable supplement based on someone's ability to pay and does not just accept the bare minimum, even in cases where the resident is in receipt of benefits.

The approach to legal action is as follows:

- Notice of Seeking Possession (NOSPs) - served if rent arrears are 4 times the weekly rent and over £250. For example, the rent on a 1 bed flat of £68.98 x 4 weeks = £275.92, rent on a 3-bed house £88.62 x 4 = £354.48.
- Notice to Terminate (NTT) – Can be served if rent arrears are 4 times the weekly rent on an introductory tenancy and over £250.
- However, for Introductory residents a Notice to Extend is normally served before a NTT, if the account is in arrears and there is at least 8 weeks remaining before the tenancy is due to turn secure. This is because possession on these cases is mandatory and would result in the eviction of the resident.
- Court- requested if the arrears are arrears in the region of £800.
- Eviction - requested if the arrears are in the region of £1000.

However, in conjunction with the above, the individual circumstances of the case, the Pre-Action protocol for Possession Claims by Social Landlords (Appendix 11) Housing Services collection procedure and payment patterns must be considered. It is therefore accepted that not all cases will conform to the values listed above. All legal action taken will be in line with the pre-action protocol.

The Team will endeavour to complete an annual check of accounts in credit alongside arrears recovery work to ensure those in credit who are eligible to reclaim the credit are able to do so. The on- line account system where residents can pay rent and check their rent statement as well as order a rent statement. This also provides the opportunity for residents to identify eligible credits and request a refund.

3.9 Eviction

The aim is to sustain tenancies. Evictions are always a last resort and will have followed the Pre-Action protocol for legal action. We focus on the prevention of arrears by providing residents with the information, support and advice required to maximise income and prevent, minimise, or manage debt. The case worker will have worked through the rent arrears procedure and in the event, that eviction is the only option support and information will be

provided to the resident about where to seek support, how to apply for a stay on a warrant and a referral will be made under the duty to refer for vulnerable adults or residents with children.

3.10 Reporting

At present the team uses predictive analytical software to extract data from the HMS data base and this is used to generate a highly accurate caseload by using data and algorithms from 26 weeks of transactional data to predict future payment behaviours. It presents cases in a priority order each week. Caseload completion has a direct correlation with arrears reduction. Each case worked on is a resident in rent arrears, this ensures early recovery of debt, elevated level of resident contact and offers of support.

The caseload is allocated to rent caseworkers across three rent teams each week for completion. A legal report is also allocated to the Rent Legal Case Managers each week for completion.

3.11 Professional development

The changing nature of the policy landscape means that it is essential staff are as up to date as possible on new developments and challenges.

Formal training delivered by internal experts and external training experts is consistently delivered to the team and all other staff that will be affected by changes.

In addition to this all members of the team are required to keep up to date using resources like the Housing Systems website and disseminate this information to colleagues where necessary. If a member of staff identifies an issue that they or the wider team would benefit from training, then they should raise this with their line manager. Attendance at relevant conferences and courses is also available and encouraged.

If a member of staff believes that any external qualification or training would be of benefit to the organisation, then they are encouraged to request this through their line manager.

4.0 Equality impact assessment

To achieve our aims the service will treat residents fairly, conduct rent advice with the necessary due skill, ensuring any communication is clear and easily understood and ensuring the service is accessible to all residents. Discrimination on the grounds of race, nationality, ethnic origin, religion or belief, gender, marital status, sexuality, disability, and age is not acceptable: the Council will take action to ensure no person using the council's premises or services receives less favourable treatment or is disadvantaged by requirements or conditions that cannot be justified. The Council will tackle inequality, treat all people with dignity and respect, and continue to work to improve services for all service users. The legal framework for the Council's approach is provided by the Equality Act 2010 and specifically by the Public Sector Equality Duty, under which a public authority must work consciously to eliminate discrimination, harassment, victimisation, and to advance equality of opportunity and foster good relations between people with differing characteristics.

Staff will aim to provide information and advice face to face in our offices, by letter, email, telephone, text, and where extra support is required may conduct appointments at the resident's home or another location which is suitable and safe for us and the resident.

Appointments will normally only be provided during office opening hours. but exceptions can and will be made where there is no alternative, and any risk can. be managed.

Where necessary staff will arrange for interpreters and for communications to be translated where the need arises. They can also arrange for signers and to vary our communication to suit the needs of the resident such as large print.

Staff will deal tactfully with residents who are in rent arrears because of matters related to support needs this might be ill health, disability, or other personal circumstances.

Staff will ensure that residents who are vulnerable are not sent inappropriate letters for small arrears balances.

Staff will consult with Social Services, Support Services, Care Leaver support and other relevant agencies in dealing with arrears cases where there are support needs that could make the resident less able to manage their own financial affairs.

5.0 Write offs and adjustments to accounts.

If a resident is subject to a bankruptcy petition or a debt relief order then the Head of Income Management, or their delegated authority, can make the adjustment to the account to remove the arrears. This must be verified by a copy of the relevant order. Rent Legal Managers will be responsible for the compilation and recording of this information.

In rare circumstances it may be decided to make other adjustments to a resident's rent account. Such adjustments may be requested by officers but can only be authorised by Heads of Service, The Head of Income Management, or the Assistant Director of Housing Services. They may delegate the write off task to another Manager if they have approved this and the reason for this must be fully documented on our records. Court costs and warrant fees are currently added to the rent account as an adjustment.

6.0 Monitoring and performance management data

The following data will be monitored weekly, produced quarterly and annually for the Board and weekly for the teams to consider and act upon team performance.

- Rent collected as a % of the total amount due.
- Total arrears
- Rent arrears as a % of the annual debit.
- Income gains because of money advice.

Strategic policy and other relevant links:

This policy links to: The Housing Act (1985) and (1996) Ministry of Justice's Pre-Action Protocol for Possession Claims based on Rent Arrears, Manchester City Council's Anti-Poverty Strategy , Equality Act 2010 section 1(1) the duty which is " An authority to which this section applies must, when making decisions of a strategic nature about how to exercise its

functions, have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage” .

7.0 Legal guidance

SECURE TENANCIES

Notice of Seeking Possession

A Notice of Seeking possession (NOSP) is the first step towards requiring a person to give up possession of the property. Possession is sought on Ground 1, schedule 2 to the Housing Act 1985 which reads: ‘Rent lawfully due from the resident has not been paid or any obligation of the tenancy has been broken or not performed’.

A NOSP can be served on arrears which are 4 x the weekly rent and over £250

The NOSP must state a date after which court proceedings can start. The general rule is that proceedings cannot commence earlier than the date on which the tenancy could be ended by notice to quit (i.e. a complete period of the tenancy, or four weeks whichever is the longer).

The NOSP will expire four weeks from the date of service.

An NOSP will become invalid 12 months after the expiry date in which court proceedings could first be issued. Proceedings beyond that period will need to be served with a new NOSP.

Should the rent arrears be cleared within the 12 months that the NOSP has been served, the NOSP will become void.

A NOSP must be served on all residents. Where there is a joint or multiple tenancy each resident receives a copy of the NOSP with an enclosed letter. A certificate of service is completed to prove in court that the NOSP has been served.

INTRODUCTORY TENANCIES

Notice to Terminate

A Notice to Terminate (NTT) is the first step towards requiring a person to give up possession of the property. Possession will be sought pursuant to the provisions of Part V of the Housing Act, 1996. The reason(s) why the Council are seeking to terminate your introductory tenancy is/are:

You have broken clause 2.1 of your tenancy agreement, which states:

You must pay your rent. It must be paid on time. Your rent is due every week, but you can pay in advance every two weeks or every month if you prefer. There are occasional "free" weeks when no rent is due (although people with rent arrears must continue to pay in these weeks).

A NTT can be served on arrears which are 4 x weekly rent and over £250.00.

The NTT must state a date after which court proceedings can start. The NTT will expire 35 days from the date of service.

A NTT will become invalid 12 months after the expiry date in which court proceedings could first be issued.

Should the rent arrears be cleared within the 12 months that the NTT has been served, the NTT will become void.

A NTT must be served on all residents. Where there is a joint or multiple tenancy each resident will receive a copy of the NTT letter. A certificate of service is completed to prove in court that the NTT has been served.

All cases where we are considering possession must be presented to the eviction panel which comprises of Heads of Neighbourhood Services. This ensures that appropriate checks and balances are in place before proceeding with action that could lead to a resident losing their home. The decision to sign off a case for possession and any subsequent review or eviction request must be conducted by a different senior manager in each decision-making stage, to ensure proper scrutiny of the case.

Review Procedure

Upon being served with a NTT, the resident has the right to request a review of the decision to be served with the notice. This request must be made within 14 days of service of the notice. It is advisable that this is done in writing. A request for a review cannot be made after the 14-day period has passed.

The review hearing must be held and concluded within 35 days from the date of service of the notice.

The Rent Legal Team will prepare review hearings to be considered by the Heads of Service.

The review can either be upheld – to proceed with possession proceedings. Or overturned which then renders the NTT void.

Notice to Extend an Introductory Tenancy

It may be more appropriate to extend the introductory tenancy instead of seeking to terminate via the NTT process.

A Notice to Extend is normally served before a NTT, if the account is in arrears and there is at least 8 weeks remaining before the tenancy is due to turn secure.

An introductory tenancy can be extended by a further six months. The Notice can be served after a few weeks of the tenancy starting. However, there must be at least 8 weeks remaining on the introductory tenancy at the point of serving the Notice.

To request a NTE an email should be sent to serve a Notice to Extend to the appropriate Team Manager for authorisation and then passed to the Rent Legal Case Manager.

Upon being served with a NTE, the resident has the right to request a review of the decision to be served with the notice. This request must be made within 14 days of service of the notice. It is advisable that this is done in writing. A request for a review cannot be made after the 14-day period has passed.

The review hearing must be held and concluded within 35 days from the date of service of the notice.

The Rent Legal Team will prepare review hearings to be considered by the Heads of Service.

SECURE AND INTRODUCTORY TENANCIES

Possession Proceedings

After being served with a NOSP/NTT and the rent arrears continue to increase possession proceedings may be considered to recover the arrears and property.

Court proceedings can only be started after four weeks from the date of service of the NOSP or 35 days from service of the NTT.

Before requesting court action, the Pre Action-Protocol for Possession claims by social landlords must be fully complied with. Please see attached copy for full details of the Protocol. The aim of the Protocol is to encourage more pre action contact between parties and to enable court time to be used efficiently.

Written warning must be sent to each resident warning of the intention to commence proceedings as soon as reasonably possible.

Caseworkers must check alerts on accounts and ensure the required communication needs are met. For example, translating letters, large text, home visits for a resident unable to read/write.

They should also check with Universal Credit and Housing Benefit for the status of any housing costs claims and attempt to make affordable payment plans, recording all agreements.

Caseworkers should assist with appropriate claims for benefits and arrange for arrears to be paid direct from benefits where appropriate and check the status of the claim and refer to Money Advice Services or other agencies, where appropriate.

To request court the following documentation is required:

- Court request form

- Pre action protocol questionnaire
- NOSP/NTT and Certificate of Service
- Tenancy agreement (including page 3 if subject to extra charges for example, heating charges, furniture charges) [[103](#)]

If a case has previously been to court and an adjournment on terms has been granted, this will be treated as a relist. An adjourned order is valid for 12 months from the hearing date it was ordered on. The Legal Team will write to the courts to relist the case for a rent possession hearing.

If at any time an account goes into credit, the court order will become invalid.

All joint residents must be written to individually at all stages.

For Introductory residents it is mandatory that the Court order possession if the landlord has followed the correct procedures regarding the NTT and Review of the decision to seek possession.

Introductory residents are warned prior to proceedings being issued that possession is mandatory and the courts will order them to leave their home.

The rent team notify the Head of Neighbourhood Services of court requests for Introductory residents because possession is mandatory.

If the court makes a possession order against an introductory resident, it cannot postpone the date for giving possession for more than 14 days unless possession by that date would cause exceptional hardship, in which case the postponement can be for up to 6 weeks or the landlord consents to a longer period.

Possession Orders

A – Withdrawn. Possession proceedings withdrawn. No order for possession or payment of debt.

B - Adjourned to another date.

C -Adjournment on terms. The resident is ordered to pay the current weekly rent plus an amount towards reducing the rent arrears. If the order is not complied with, we can request a further hearing date within 12 months of the original order. There should be at least 8 weeks remaining on the order before requesting a further hearing date.

D - Possession Forthwith. Allows for a warrant to be requested immediately.

E - Immediate Possession (14/28 days). Allows for a warrant to be requested within a specified number of days.

I - Suspended Possession Order. The resident is ordered to pay the current weekly rent plus an amount towards reducing the rent arrears. The Judge may order possession in 14 or 28 days. After this date, if the order has not been complied with, we can proceed to eviction stage

If at any time an account goes into credit, the court order will become invalid.

All joint residents must be written to individually at all stages.

Evictions

Eviction is always the last resort in any case for rent arrears. After the possession date the warrant can be requested, and an eviction date and time will be set by the Bailiffs.

The process we follow is designed to prevent eviction, allows for early intervention, and supports residents where they might fall into difficulty.

The resident has the right to apply to the court to suspend or stay enforcement of the warrant at any time up until the date of the eviction.

If the resident requests a stay of the eviction the court has the right to suspend enforcement for as long as they see fit and may enforce further arrears repayment terms. If the terms are not complied with, we can reapply back to the courts (within 12 months from the date the warrant was originally issued) for a further eviction date without any further costs.

A warrant may be withdrawn by a Rent Manager or Rent Legal Case Manager before the eviction is due to take place. If a further warrant is required, the usual eviction process will follow and will incur further costs.

If at any time an account goes into credit, the court order will become invalid.

The court can usually only suspend or stay a warrant if the original order was made on discretionary grounds. As possession orders for introductory residents are made on mandatory grounds the court's power to suspend a warrant is limited. The court has no discretion to stay or suspend execution of the possession order beyond the possession date.

The introductory tenancy will, however, only end with the eviction of the resident on execution of the possession order.

All joint residents must be written to individually at all stages.

Appendix one Pre-action protocol

PART I AIMS AND SCOPE OF THE PROTOCOL

1.1 This Protocol applies to residential possession claims in England and Wales brought by social landlords (such as local authorities and housing associations). This Part sets out the aims and scope of the protocol. Part 2 relates to claims which are based solely on rent arrears. Part 3 applies to claims brought by social landlords where the court must, in principle, grant possession and where s89 (1) Housing Act 1980 applies. The protocol does not apply to claims in respect of long leases.

1.2 Part 2 reflects the guidance on good practice given to social landlords in the collection of rent arrears. It recognises that it is in the interests of both social landlords and residents to ensure that rent is paid promptly and that difficulties are resolved, wherever possible, without court proceedings.

1.3 Part 3 seeks to ensure that, in cases where human rights, public law or equality law matters are or may be raised, the necessary information is before the Court at the first hearing so that issues of proportionality may be dealt with summarily, if appropriate, or that appropriate directions for trial may be given.

1.4 The aims of the protocol are:

- (a) To encourage more pre-action contact and exchange of information between landlords and residents.
- (b) To enable the parties to avoid litigation by settling the matter, if possible; and
- (c) To enable court time to be used more effectively if proceedings are necessary. [OB]

1.5 Courts should consider whether this protocol has been followed when considering what orders to make. Social landlords should also comply with guidance issued from time to time by the Regulator of Social Housing, the Ministry for Housing, Communities and Local Government and, in Wales, the Welsh Ministers. [OB]

- (a) If the landlord is aware that the resident has difficulty in reading or understanding information given, the landlord should take reasonable steps to ensure that the resident understands any information given. The landlord should be able to demonstrate that reasonable steps have been taken to ensure that the information has been appropriately communicated in ways that the resident can understand.
- (b) If the landlord is aware that the resident is particularly vulnerable, the landlord should consider at an early stage—
 - I. whether the resident has the mental capacity to defend possession proceedings and the extent to which CPR 21 applies.
 - ii. Whether any issues arise under the Equality Act 2010; and
 - iii. In the case of a local authority landlord, whether there is a need for a community care assessment in accordance with the Care Act 2014.

Initial contact

2.1 If the resident falls into arrears, the landlord should contact the resident, as soon as reasonably possible, to discuss: the cause of the arrears; the resident's financial circumstances; the resident's entitlement to benefits; and repayment of the arrears. Where contact is by letter, the landlord should write separately to each named resident.

2.2 The landlord and resident should try to agree affordable sums for the resident to pay towards the arrears, based upon the resident's income and expenditure (where such information has been supplied in response to the landlord's enquiries). The landlord should clearly set out, in pre-action correspondence, any time limits with which the resident should comply.

2.3 The landlord should provide, on a quarterly basis, rent statements in a comprehensible format showing rent due and sums received for the past 13 weeks. The landlord should, upon request, provide the resident with copies of rent statements in a comprehensible format, from the date when arrears first arose, showing all amounts of rent due, the dates and amounts of all payments made (whether through housing benefit, discretionary housing payments or directly by the resident) and a running total of the arrears.

2.4 If the resident meets the appropriate criteria, the landlord should apply for arrears to be paid by the Department for Work and Pensions ['DWP'] by deductions from the resident's benefit.

2.5 The landlord should offer to assist the resident in any claim that the resident may have for housing benefit, discretionary housing payments or universal credit (housing element).

2.6 Possession proceedings for rent arrears should not be started against a resident who can demonstrate that—

- (a) The local authority or DWP have been provided with all the evidence required to process a housing benefit or universal credit (housing element) claim.
- (b) There is a reasonable expectation of eligibility for housing benefit or universal credit (housing element); and

(c) They have paid other sums due that are not covered by housing benefit or universal credit (housing element).

The landlord should make every effort to establish effective ongoing liaison with housing benefit departments and the DWP and, with the resident's consent, make direct contact with the relevant housing benefit department or DWP office before taking enforcement action.

The landlord and resident should work together to resolve any housing benefit or universal credit (housing element) problems. [obj]

2.7 Bearing in mind that rent arrears may be part of a general debt problem, the landlord should advise the resident to seek assistance from citizen's advice bureaux, debt advice agencies or other appropriate agencies as soon as possible. Information on debt advice is available on the Money Advice Service website <https://www.moneyadviceservice.org.uk>.

After service of statutory notices

2.8 After service of a statutory notice, but before the issue of proceedings, the landlord should make reasonable attempts to contact the resident to discuss: the amount of the arrears; the cause of the arrears; repayment of the arrears; and the housing benefit or universal credit (housing element) position. The landlord should send the resident a copy of this protocol. [obj]

2.9 If the resident complies with an agreement to pay the current rent and a reasonable amount towards arrears, the landlord should agree to postpone issuing court proceedings for so long as the resident keeps to such agreement. If the resident ceases to comply with such an agreement, the landlord should warn the resident of the intention to bring proceedings and give the resident clear time limits within which to comply again and avoid proceedings. [obj]

Alternative dispute resolution

2.10 The parties should consider whether it is possible to resolve the issues between them by discussion and negotiation without recourse to litigation. The parties may be required by the court to provide evidence that alternative means of resolving the dispute were considered. Courts take the view that litigation should be a last resort, and that claims should not be issued prematurely when a settlement is still actively being explored.

2.11 The Civil Justice Council and the Judicial College have endorsed The Jackson ADR Handbook by Susan Blake, Julie Browne, and Stuart Sime (2013, Oxford University Press). The Citizens Advice Bureaux website also provides information about ADR. Information is also available at: <https://www.gov.uk/guidance/a-guide-to-civil-mediation>

Court proceedings

2.12 Not later than ten days before the date set for the hearing of the possession claim, the landlord should—

(a) Provide the resident with up-to-date rent statements; and

(b) Disclose what knowledge it possesses of the resident's housing benefit or universal credit (housing element) position to the resident.

2.13 (a) The landlord should inform the resident of the date and time of any court hearing and provide an up-to-date rent statement and the terms of the order that will be applied for. The landlord should advise the resident to attend the hearing as the resident's home is at risk. Records of such advice should be kept. [obj]

(b) If the resident complies with an agreement made, after the issue of proceedings, to pay the current rent and a reasonable amount towards arrears, the landlord should agree to

adjourn the court proceedings for so long as the resident keeps to such agreement. [obj]

(c) If the resident ceases to comply with such agreement, the landlord should warn the resident of the intention to restore the proceedings and give the resident clear time limits within which to comply again and avoid restoration of the proceedings. [obj]

2.14 If the landlord unreasonably fails to comply with the terms of this protocol, the court may make one or more of the following orders—

- (a) An order for costs.
- (b) An order adjourning the claim; or
- (c) An order striking out or dismissing the claim (other than a claim based on a mandatory ground).

2.15 If the resident unreasonably fails to comply with the terms of this protocol, the court may take such failure into account when considering whether it is reasonable to make a possession order. [obj]

ORY GROUNDS FOR POSSESSION

3.1 This Part applies in cases where, if a social landlord proves its case, the court must, in principle, grant possession and where s.89 (1) Housing Act 1980 applies.

3.2 Before issuing any such possession claim a social landlord—

- (a) Should write to the occupants explaining why it currently intends to seek possession and requiring the occupants, within a specified time, to notify the landlord in writing of any personal circumstances or other matters which they wish to have considered. In appropriate cases, such a letter could accompany any notice to quit, or notice seeking possession and so would not necessarily delay the issue of proceedings; and
- (b) Should consider any representations received and, if they decide to proceed with a claim for possession, give brief written reasons for doing so.

3.3 The social landlord should include with its claim form, or in any witness statement filed under CPR 55.8(3), a schedule stating—

(a) Whether it has (by a statutory review procedure or otherwise) invited the defendant to make representations of any personal circumstances or other matters which they wished to be considered before the social landlord issued the proceedings.

(b) If representations were made, whether and how they were considered and with what outcome; and

(c) Brief reasons for bringing proceedings.

Copies of any relevant documents which the social landlord wishes the court to consider in relation to the proportionality of the landlord's decision to bring the proceedings should be attached to the schedule.

<https://www.justice.gov.uk/courts/procedure-rules/civil/protocol/pre-action-protocol-for-possession-claims-by-social-landlords>

