

Rent Arrears Recovery Policy

Date written: June 2010

Date reviewed: December 2023

Purpose: To set out the policy with regard to rent arrears and their recovery across the Bernicia Group.

Scope: All Bernicia Assured, Assured Shorthold and Protected Tenancies.

Definitions: Arrears – “something overdue in payment”, in this policy refers to overdue rent (and / or service charges / water rates).

Bailiff’s Warrant – a legal document which entitles a Court Bailiff to enforce the possession order, by re-possessing a property.

Associated documents:

Rent and Rent Collection Policy
Tenancy Agreements
Rent Arrears Recovery Procedure

Date for review: October 2024

Responsibility: Head of Housing Operations

Policy

1. Introduction

- 1.1 We are committed to promoting a payment culture to all our tenants and will promote the importance of rent payments at sign up, during - visits, and by having a number of ways to pay.
- 1.2 In addition, the arrears action that we take will be based on an approach focusing on early intervention and the taking of firm, fair action tailored to the needs of individuals.
- 1.3 Throughout all our dealings with tenants in regard to rent and rent arrears we are committed to offering assistance and support. This may include signposting, debt advice, visits, and intensive housing management at an early stage.
- 1.4 Where initial action to contain and reduce arrears is not successful, legal action will be instigated.
- 1.5 We will use eviction as a last resort and only where the tenant is not engaging with Bernicia in order to resolve their payment difficulties.

2. Policy statements

- 2.1 It is our policy to prevent and manage rent arrears at an early stage to:
 - Help tenants maximise their income and prevent them getting into financial difficulty
 - Prevent tenants' losing their home through eviction
 - Maximise the rental income we receive
- 2.2 We require payment of rent in line with the tenancy agreement. For tenants who pay monthly, for example, by direct debits, standing order, payment in advance is encouraged.
- 2.3 When a tenant signs up for a tenancy, advice will be given about the payment of rent and any benefits that may be available (on an individual basis).
- 2.4 We encourage tenants, wherever possible, to arrange for the payment of Housing Benefit direct to us, in order to prevent arrears building up, and to help them manage their income.
- 2.5 Where Universal Credit is in payment, we will seek direct payments of the Housing Cost element where there is a reasonable justification to do, for example significant arrears or a recognised money management issues in order to prevent financial difficulties from escalating.

- 2.5 We will take early action to ensure tenants are aware of any arrears they have and the importance of keeping rent accounts up to date and to offer support before it escalates beyond easy remedy.
- 2.6 We will keep detailed records of any support and advice that we offer in regard to rent arrears and financial management.
- 2.7 Standard letters are sent to tenants at key 'trigger' points in the automated arrears process. These may be adapted to suit individual tenants' circumstances.
- 2.8 We may also make arrangements to visit the tenant or invite them in to discuss their situation, at various points in the process.
- 2.9 Where there remains no response from the tenant, or where payments are not forthcoming, or agreements are not made or maintained, we will inform tenants that we are considering the serving of a Notice of Seeking Possession (NOSP).
- 2.10 Where practicable, we will aim to serve NOSP's on the tenant (by hand) or on the property.
- 2.11 If after serving a NOSP, there is a persistent failure to pay and there has been no attempt by the tenant to clear or reduce their arrears, possession proceedings will be considered. Permission to begin court proceedings will be sought from the Head of Service (Operations) and Director of Housing Services after completion of a proportionality assessment.
- 2.12 We are committed to the principles set down in the Pre [Court]-Action Protocol for Possession Claims based on Rent Arrears.
- 2.13 We will request from the Court Suspended Possession Orders, Outright Possession Orders, or adjournments, as appropriate.
- 2.14 Where a possession order (of either type) is granted, we will make a request to the Court for any Court and legal Costs to be added to the arrears, which will then be recoverable from the tenant.
- 2.15 If a tenant does not comply with the terms detailed in the Suspended Possession Order, we will advise the tenant that they must keep to the terms of the order, or we will apply for a Bailiffs Warrant.
- 2.16 Should a tenant continue to fail to keep with the terms of the order and fail to engage with us to manage or reduce their rent arrears, we may apply for a Bailiff's Warrant to enforce the possession order with the agreement of the Head of Service (Operations) and Director of Housing.
- 2.17 In the case of an Outright Possession Order being granted, and the tenant failing to vacate the property by the specified date, we will apply for a Bailiff's Warrant to enforce the possession order following further agreement with the Head of Service (Operations) and Director of Housing.

- 2.18 In the case of Starter Tenancies where Bernicia is forced to seek possession of a property due to rent arrears, it will normally rely on Grounds 10 and 11 in Schedule 2 of the Housing Act 1988, as amended by the Housing Act 1996, however the Ground 8, 'mandatory possession ground' may also be utilised. The use of mandatory grounds is to be used in exceptional circumstances and with the authorisation the Head of Service (Operations) and Director of Housing Services after completion of a proportionality assessment.
- 2.19 As part of our Commitment to Refer we will notify the relevant Homeless Department (subject to tenant agreement) as required before we apply for an eviction warrant.
- 2.20 Bernicia will adhere to safeguarding protocols and where required will notify any relevant agencies when we apply for an eviction warrant against a household that contains a vulnerable adult or child.
- 2.21 We will cancel any eviction (enforcement of a possession order) where the arrears and costs are paid in full, by the tenant before or by the eviction date, unless there are other circumstances in place that make this inappropriate.
- 2.22 Any items left in the property after a Warrant has been executed may be stored for up to 28 days and the tenant can access these at a later date with a member of Staff. At no stage will we allow a former tenant access to a re-possessed property without a member of staff present.
- 2.23 In cases where rent arrears proceedings are due to be brought against people in older persons or supported accommodation, the principles of this policy will be adhered to. However, the procedures followed will be tailored to the needs of the individual and where approval is needed to operate outside of the procedure this must be sought from the Head of Living or the Head of Care and Support.

3. Responsibility for implementation

- 3.1 It is the responsibility of the Heads of Service, in conjunction with the Service Managers/Team Leaders and all Housing Officers to ensure that this policy is complied with.

4. Actioning the policy

- 4.1 This policy will be actioned whenever it is identified that a tenant has rent arrears.

5. Monitoring the policy

- 5.1 There are a variety of key performance indicators that are used to monitor the effective implementation of this policy, and these include; current arrears, percentage of rent collected, and former tenant arrears, as well as other indicators.

6. Resources

- 6.1 There should be no additional resources required in order to fulfil the commitments in this policy.

7. Equality and Diversity

- 7.1 A policy risk and compliance assessment has been undertaken on this policy. In carrying out its services, we are committed to:
- Treating all customers and employees positively regardless of any personal characteristics including gender, age, ethnicity, disability, sexuality, gender reassignment or religion.
 - Taking seriously all complaints and investigating and responding accordingly.
 - Using plain language and providing information in other languages, large print, audio, and Braille on request.

Uncontrolled if printed – This may not be the latest version of the policy

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