

Rent Arrears Recovery Procedure (Retirement Housing)

Bernicia Title: Rent Arrears Recovery Procedure (Retirement Housing)

Refers to Policy: Rent Arrears Recovery Policy

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Responsibility: Retirement Housing Manager

Bernicia provides accommodation and support to a range of tenants and therefore has two Arrears Recovery Procedures (working instructions for staff) to reflect this.

1. Tenants living in our Retirement Housing properties.
2. Tenants living in our General Needs properties

Tenant Support

Bernicia recognises that our tenants can face a number of challenges, many of which can present financial difficulties or create situations where they find dealing with their rent payments challenging. We offer advice at the outset of a tenancy, checking affordability and assisting with benefit claims.

As part of the day to day monitoring of rent accounts, Housing Officers regularly liaise with customers to identify any difficulties and additional support that may be required and assist with signposting or completion of HB/UC applications, DHP's or Direct Payment Applications.

At any stage throughout the arrears process a number of referrals can be Made, however, where more serious concerns are identified or where the Housing Officer is not in a position to provide the level of support required to resolve an issue directly the following can be considered:

Intensive Housing Management – The IHM Team can engage directly with tenants providing in depth support to both vulnerable tenants and those with multiple financial issues. The IHM Team will work closely with the tenant and the Housing Officers to review and understand issues affecting the ability to pay and where possible work to find a solution to the problem. This may include income maximisation, carrying out income/expenditure assessment, help with benefit claims, applying for Discretionary Housing Payments or making approaches on behalf of the tenant to appropriate charities for support.

In addition, Bernicia has entered into a referral partnership with StepChange, an independent UK Debt Charity providing free and impartial advice and solutions. StepChange Debt Charity, previously known as Consumer Credit Counselling Service (CCCS), has over 20 years' experience of helping people become debt free. Through their telephone debt helpline (0800 138 1111), and online Debt Remedy tool (www.stepchange.org), they provide expert, tailored advice and practical solutions to debt problems. Officers can make a referral to StepChange at any time in the process as required, however this should be particularly considered as an option at NOSP and Court Action stages.

If a referral is to be made, the Officer will offer to make the referral on behalf of the tenant via the 'hot key' facility if the discussion takes place over the telephone. If the Officer is having the discussion in the tenant's

property, the Officer will leave a StepChange advice leaflet with the tenant, if the referral is agreed during discussion over the telephone, the tenant will be given StepChange contact details. The Housing Officer will note whether StepChange was discussed and a referral made. It is important that the Housing Officer records when a referral offer is made and refused.

1.0 Arrears Actions

- 1.1 On a weekly basis, Housing Officers generate the Arrears Report for their allocated patch in QL.
- 1.2 Each report is divided into sections based on Arrears Stage. Each stage has accounts listed under for the Housing Officer to review the payment activity and consider what action is to be taken. The action is to be proportionate and in line with checking outstanding benefit claims, Northumbrian Water Discount Scheme, prior agreements and any other information which may be relevant.
- 1.3 Officers will include information stating what the arrears balance is on each letter. Officers will attempt to contact tenants either by telephone or through a specified contact to inform them of the arrears prior to sending a letter 1 (Appendix A) out. Officers can withhold the sending of the letter should they feel this is appropriate. All letters up to and including NOSP warning will be posted via office services after confirmation in QL by Housing Officers.
- 1.4 Tenants who fail to make payment or contact following the receipt of a letter 1 will be escalated into the next arrears action stage upon the generation of the Arrears Report the following week. Officers may apply discretion and move tenants accounts back a stage depending on the circumstances.
- 1.5 The officer will review all visit 1's, confirm them (where appropriate) and arrange them as a visit to a tenant's property. If a tenant is unable to accommodate a visit this can be done as a discussion over the phone. Officers may withhold a visit and confirm a previous action should this be appropriate or undertake the visit and escalate the account to NOSP Warning the next week.
- 1.6 Should no contact be made with tenants, and where rent accounts remain in arrears after a visit 1, a NOSP warning letter (Appendix B) will be prompted. The officer will review all NOSP warning letters. Officers can withhold the sending of the letter should they feel this is appropriate and move the tenants accounts back a stage. NOSP warnings will be posted via office services after confirmation in QL by Housing Officers.
- 1.7 Following the serving of a NOSP Warning, if no agreement is reached or payments received, accounts will escalate to Serve NOSP.

2.0 Notice of Intention to Seek Possession

2.1 Bernicia's Rent Arrears Recovery Policy provides for the use of both Mandatory and Discretionary Grounds for possession of a property.

Mandatory Grounds for possession - see section 7
Discretionary Grounds for possession – see below

2.2 For tenants whose arrears continue to increase following receipt of the NOSP warning letter, a NOSP (Appendix C) will be generated by QL. The officer will review all NOSP's in a given week, complete the arrears activity Notice Approval, ensure contact history and balance is detailed and send to Team Leader – Retirement Housing for authorisation. Officers can withhold the sending of the NOSP should they feel this is appropriate. Officers may confirm a previous action should this be appropriate.

2.3 A NOSP, explanatory letter and rent statement will be generated by the Housing Officer in QL. NOSP's will be printed by the Housing Officer accompanied with a NOSP serving receipt.

2.4 Officers will, when practical and safe, serve the NOSP in person by hand to the tenant, at the property, or on the premises if the tenant is unavailable by the NOSP served by date. The NOSP receipt is completed by the Housing Officer following the serving of the NOSP and scanned into Documotive and added to the recording Spreadsheet.

2.5 Where appropriate, when serving a NOSP in person on the tenant or in contact as a result of the NOSP being served, the Officer should discuss the referral partnership Bernicia has with StepChange. If a referral is to be made, the Officer will offer to make the referral on behalf of the tenant via the 'hot key' facility if the discussion take place over the telephone. If the Officer is having the discussion in the tenants property, the Officer will leave a StepChange advice leaflet with the tenant, if the referral is agreed during discussion over the telephone, the tenant will be given StepChange contact details. The Housing Officer will note whether StepChange was discussed and a referral made on QL notepad, recording when a referral offer is made and refused.

2.6 For tenants whose arrears continue to increase following serving of the NOSP a Post NOSP Letter (Appendix D) will automatically be generated by QL. The officer will review all Post NOSP Letters in a given week, and approve them appropriately. Officers can withhold the sending of the Post NOSP Letter should they feel this is appropriate.

- 2.7 Tenants who fail to make payment or contact with the Officer following the issue of a Post NOSP Letter, they will be escalated to a visit 2 by QL.
- 2.8 Each Housing Officer will receive notification of all visit 2's in any given week, within the weekly arrears report in QL. The officer will review all visit 2's in a given week, confirm them (where appropriate) and arrange them as a visit to a tenant's property. If a tenant is unable to accommodate a visit this can be done as a discussion over the phone. Officers may move the account back to Post NOSP letter stage if they feel appropriate.

3.0 Court Action

- 3.1 Should no contact be made with tenants, and where rent accounts remain in arrears after a visit 2, a Court Warning Letter (Appendix E) will be prompted by QL. The officer will review all Court Warning Letters in a given week, prior to taking further action to ensure there are no outstanding benefit claims, or other relevant circumstances. Officers can withhold the sending of the letter should they feel this is appropriate. All letters will be posted confirmed and printed by Housing Officers. Officers may confirm a Post NOSP letter or visit 2 should this be appropriate.
- 3.2 Prior to any application to Court, four weeks (or the legally required period of the time if different) must have elapsed from the date of any NOSP being served for NOSP's prior to April 2020 or whereby the NOSP was served where arrears exceeded six months' rent at the time of service. In addition, all actions past this point in the procedure may be postponed or ceased if a tenant significantly reduces their arrears, makes an agreement, or clears their account at any point.
- 3.3 Should no contact be made with tenant, and where rent arrears continue to increase after receipt of a Court Warning Letter, and four weeks have elapsed from the date of a NOSP being served, an application to court should be referred to the Head of Retirement Housing by the Team Leader, prior to authorisation being sought from Director Housing Services. This must include a fully completed Proportionality Assessment (Appendix F) for sign off by both the Head of Retirement Housing and Director Housing Services.
- 3.4 The Head of Retirement Housing will review the account to ensure court action is appropriate and that all necessary pre-court steps have been taken. In addition, an attempt to contact the tenant by phone by the Team Leader to discuss the arrears and to make a final agreement to avoid court action will be made. Should a satisfactory agreement be reached, court action will be deferred, however where a tenant has defaulted on such an agreement made with the Team Leader within the previous six months, court action may be authorised without further attempt to contact in this way.
- 3.5 Once the Apply to Court process has been authorised, prior to making the application to court the Team Leader will send a letter to the

tenant requesting details of how COVID19 has impacted on their ability to pay their rent.

- 3.6 If the COVID19 letter does not generate a response or identify any issues and a satisfactory agreement is still not in place, the Team Leader will then begin the application to Court, via the online Court system (PCOL).
 - 3.7 The online Court system (PCOL) will provide the Team Leader with a judicial review date which will consider the setting of an agreed order or a court hearing date.
3. The Homelessness Reduction Act 2017 (section 213b) sets out a duty for public authorities, which includes Bernicia, to refer households we consider to be homeless or threatened with homelessness to the local authority. In order to do so, a referral consent form needs to be completed. Officers should ask the tenant to complete this consent form at the Apply to Court stage. This document can then be held in the event is required at a later date. Documents relating to this, including guidance can be found at: J:\Housing\Bernicia Homes North\Commitment to Refer.

4.0 Court Hearing

- 4.1 Once a Court date has been received, QL will produce a Court Notification Letter (Appendix H). The Team Leader will input the Court, time and date, and the letter is then printed and posted by the Team Leader.
- 4.2 The Apply to Court process in QL is moved by the Team Leader into the "Waiting for Court Date" worktray in QL.
- 4.3 14 days prior to any given Court date, the Apply to Court process will automatically be returned to the Team Leader's worktray. The Team Leader will select in the process the type of Order being sought at Court (Suspended or Outright), and input the Court, time and date. Following completion of these stages a Court Protocol Letter (Appendix I) will be generated and printed and posted by the Team Leader.
- 4.4 The Team Leader will attend Court on the given date, having encouraged the tenant to attend (which is not required).
- 4.5 The Team Leader will take the following to Court with them:
 - Tenancy Agreement
 - NOSP and details of how and when it was served
 - Details of current arrears figure and weekly rent
 - Arrears action history
 - Witness statements
 - Details of tenant and any family circumstances

- 4.6 Within the Apply to Court process in QL the outcome (outright, postponed or suspended) of the Court hearing must be entered and a Court Outcome Letter (Appendix J) will then be automatically generated stating the outcome, and printed, then posted by the Team Leader.
- 4.7 QL will then prompt the Team Leader to set up the terms of the outcome of the court hearing.
- 4.8 The Team Leader will then apply Court Costs if applicable to the rent account in QL.
- 4.9 The Apply to Court process in QL is then completed.

5.0 Defaulting on a Court Order

- 5.1 All rent accounts with a live Court order will be generated in the Post Court Action section of the arrears report on a weekly basis and the Team Leader will monitor for agreements being maintained or breached.
- 5.2 Where tenants fail to maintain their Court order a Post Court Visit 1 (or contact) will be undertaken by the Team Leader. This may be arranged as a home visit or via a telephone conversation.

6.0 Eviction Proceedings

- 6.1 Should tenants fail to positively respond to the Post Court Visit 1 or make a payment in line with the Court order, an Eviction Warning Letter (Appendix K) is generated by the Team Leader and posted.
- 6.2 Should tenants fail to positively respond to the Eviction Warning Letter or make a payment in line with the Court order, the Team Leader will change the level of the case from Post Court Action to Eviction in QL.
- 6.3 The Team Leader will complete the form in the Eviction process to notify the Head of Retirement Housing of the case details. The Team Leader sends this, via QL, to the Head of Retirement Housing for approval.
- 6.4 Once the Head of Retirement Housing has approved the eviction in QL, an Eviction Letter (Appendix L) is sent by the Team Leader. The Head of Retirement Housing may decline permission to proceed with Eviction and confirm an Eviction Warning Letter or other Post Court Action if appropriate.
- 6.5 The Team Leader will then make an application for a Bailiff's Warrant, and will inform the Homelessness service and Safeguarding Team.
- 6.6 See Eviction Procedure for next stages.

7.0 Mandatory Grounds possession proceedings

- 7.1 The Housing Act 1988 Schedule 2 grounds for possession are:
- 1 to 8 mandatory grounds which, if proved, the court **must** order possession and
 - 9 to 17 discretionary grounds which, if proved, the court **may** order possession
- 7.2 Bernicia's Rent Arrears Recovery Policy and Eviction Policy provide for the use of both mandatory and discretionary grounds for possession.
- 7.3 The use of mandatory grounds is to be used in exceptional circumstances and with the authorisation of the Head of Retirement Housing or in their absence the Team Leader.
- 7.4 Mandatory grounds can be used for Assured Shorthold or Assured Tenancies, when the following apply

Ground 8

Both at the date of the service of the notice under section 8 of this Act relating to the proceedings for possession and at the date of the hearing

- (a) if rent is payable weekly or fortnightly at least eight weeks' rent is unpaid;
- (b) if rent is payable monthly, at least two months' rent is unpaid;
- (c) if rent is payable quarterly, at least one quarter's rent is more than three months in arrears; and
- (d) if rent is payable yearly, at least three months' rent is more than three months in arrears

and for the purpose of this ground "rent" means rent lawfully due from the tenant.

- 7.4.1 Before a Notice is served on mandatory grounds, a Notice Warning letter (Appendix L) will be generated and passed to the Team Leader to authorise.
- 7.4.2 Prior to issuing a NOSP a fully completed Proportionality Assessment must be completed by the Housing Officer, reviewed by the Team Leader and signed off by the Head of Retirement Housing and Director of Housing Services.
- 7.4.3 When the NOSP is generated it will include the mandatory ground 8 as well as discretionary ground 10 and if appropriate ground 11.

7.6 When a mandatory notice is served a referral will be made to Bernicia's Safeguarding team if there are any dependent children living in the property or there are any suspected vulnerabilities regarding the tenant.

7.7 Appeal

7.7.1 There is an addition to the pre-action protocol for possession claims based on mandatory grounds which provides that Registered Providers should offer an opportunity for an internal review on mandatory possession cases before proceedings are issued and there must be evidence of this being offered and of the response and outcome of any review in the claim form or witness statement.

Part C of the revised protocol says:

***3.1** This part applies in cases where if a social landlord proves its case, there is a restriction on the Court's discretion on making an order for possession and/or to which s. 89 Housing Act 1980 applies (e.g. non-secure tenancies, unlawful occupiers, succession claims, and severing of joint tenancies).*

***3.2** In cases where the court must grant possession if the landlord proves its case then before issuing any possession claim social landlords—*

(a) should write to occupants explaining why they currently intend 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 take into account. In many cases such a letter could accompany any notice to quit 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** In these cases the social landlord should include in its particulars of claim, or in any witness statement filed under CPR 55.8(3), a schedule giving a summary—*

(a) of whether it has (by statutory review procedure or otherwise) invited the defendant to make representations of any personal circumstances or other matters which they wish to be taken into account before the social landlord issues proceedings;

(b) if representations were made, that they were considered;

(c) of brief reasons for bringing proceedings; and

(d) 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 proceedings."

Any notice served on mandatory grounds must therefore include a covering letter and a Request Review of Decision form.

7.7.2 All appeal requests must be received within 14 days of the serving date of the mandatory notice.

7.7.3 If no review request is received the case will be progressed with an application to court for possession.

7.7.4 If a review request is received within 14 days of the serving date of the mandatory notice, this will be forwarded to the Head of Retirement Housing. If the Head of Retirement Housing authorised the mandatory notice, an alternative appropriate Head of Service will be tasked with the review.

7.7.5 The review will be undertaken by the Head of Retirement Housing within 14 days of receipt and the outcome will be confirmed in writing.

7.7.6 If the review request is received there are 3 options:

- Appeal is rejected and the case will be progressed to court as soon as possible.
- Appeal is upheld, the Notice remains served, and the case is progressed to court if any agreement/payment is not maintained.
- Appeal is upheld and, for procedural reasons, the Notice is rescinded. The case will be reset to pre-notice warning stage.

7.7.7 If the appeal is upheld, notice rescinded and arrears stage 'reset', and the case subsequently progresses to the notice stage again, a further right of appeal will be given with any notices served.

7.7.8 The tenant will be advised in writing of the decision.

7.7.9 The rent account notepad will be updated accordingly.

7.8 Court Hearing

7.8.1 See section 4.0 however with mandatory possession an Outright Order is being sought therefore all correspondence, for example Appendices G and H, must refer to this and not a Suspended Order.

The witness statement will also state that the application is for an Outright Order.

7.9 Eviction Proceedings

7.9.1 On expiry of the date set by the Court for possession, section 6.3 to 6.6 should be followed.

7.10 Further Information

7.10.1 Does the court have the power to adjourn a case to allow the tenant to reduce the arrears below the ground 8 threshold?

Under section 9 of the Housing Act 1988 the Court has a statutory power to adjourn proceedings for possession brought against an assured tenant. However, this power is removed once the court is satisfied that ground 8 is made out (i.e. that there were 8 weeks arrears at the time of the NOSP and the arrears are still outstanding at the date of the hearing).

There are limited circumstances in which the Court can grant an adjournment. Following the Court of Appeal case of *North British Housing Association v Lorraine Matthews and others* [2004] the court recognised that there were three distinct bases for adjourning a ground 8 possession claim:

a. For procedural reasons:

For example a case may be adjourned because there is no judge available or because the defendant cannot attend due to ill health etc.

b. Where there is a substantive defence

The court referred to four main examples of such a defence:

- (i) where a set off would reduce the arrears below the 8 week threshold (e.g. from a damages claim for housing disrepair);
- (ii) if the landlord has agreed to accept some sort of payment plan in return for not issuing proceedings (this would not apply if the agreement to not to issue was conditional upon the tenant sticking to the plan and he then failed to do so)
- (iii) a credible defence based on abuse of power (this will be very rare); and
- (iv) where the landlord accepts a cheque for a sum sufficient to bring the arrears below the ground 8 threshold.

c. In exceptional circumstances.

It is necessary for the tenant to prove that, if the court refused an adjournment, it would be considered to be, “*outrageously unjust by any fair-minded person*”. The court suggested some extreme examples of exceptional circumstances such as the “tenant was on his way to court carrying all of the arrears in cash, only to suffer the misfortune of being robbed and having the money stolen”.

The court held that maladministration on the part of the housing benefit, which has led to arrears that were attributable to the non-payment of housing benefit **cannot** amount to an exceptional circumstance.

7.10.2 If the court adjourns a hearing to allow the tenant to reduce the arrears, at the relisted hearing would the case be dismissed on the basis that ground 8 is no longer applicable?

If an adjournment is granted on one of the three ground set out above and at the relisted hearing ground 8 no longer applies then possession cannot be granted on the basis of ground 8 (the relevant date is the date of the current hearing) but it could still be on ground 10 and 11 if that had also been included in the s8 notice and the Claim.

This is in accordance with the decision in *North British Housing Association v Lorraine Matthews and others* in which the court decided that the date of the hearing, for the purposes of ground 8, is the date when the claim is heard. So, if the initial hearing is adjourned, the material day for deciding whether the tenant has the relevant rent arrears is the day of the restored hearing. In addition the court said that previous case law stating that landlords could rely on the rent arrears due at the original hearing was incorrect.

7.10.3 Could the court award suspended possession on a discretionary ground even if there were no discretionary grounds listed in the NOSP?

The basic position is that the Court will generally just rely on those grounds set out in the NOSP and subsequently in the claim form.

It would be possible for the Court to permit additional grounds to be relied upon (notwithstanding their absence for the NOSP) and for the claim to be amended to include those further grounds.

7.10.4 Can a NOSP be served on ground 8 only or should it also include grounds 10 and 11 as a fall-back position?

It is recommended that a notice served on ground 8 should also include ground 10 and, where appropriate, ground 11 as well. The advantages of this is that if the court decides that ground 8 is not made out, instead of the claim being dismissed the court may make a suspended or postponed order of possession under discretionary ground 10 or 11.

The claim form will need to specify the ground or grounds for possession on which you are relying in the claim.

7.10.5 If grounds 8, 10 and 11 are listed on the NOSP, do we have to specify in the order that possession is sought in relation to ground 8 and not ground 10 and 11?

If possession is granted on mandatory grounds then the order needs to specify this or else on a warrant suspension application the Court will not know whether it was mandatory or not and will treat it as if it was made on discretionary grounds.

When submitting a draft order to the Court relying on ground 8, officers should include words in the proviso to say, "This order is made on mandatory grounds"

7.10.6 If grounds 8, 10 and 11 are listed on the NOSP can the court ignore ground 8 and make an order based solely on grounds 10 and 11?

The only time ground 8 ought to be disregarded is if the court believes that the ground is not made out (i.e. there is not 8 weeks rent outstanding at the date of the notice or at the hearing) OR if officers inform the Court that we are not proceeding on Ground 8 (e.g. if we decide to accept a payment plan and don't want an outright order any more).

Except in exceptional circumstances and with the agreement of the Retirement Housing Manager, officers should not accept a payment plan.

If ground 8 is established then the court cannot ignore it and as set out in s89 Housing Act 1980 must make an order for possession, normally within 14 days, unless the tenant can show this would cause exceptional hardship and execution cannot thereafter be delayed for more than 6 weeks of the date of the order.

LETTER 1 - APPENDIX A

Dear

Rent Arrears

Please quote in all correspondence

According to our records on 7 September 2021 your account was £131.99 in arrears.

If you have already made a payment to bring your account up to date, please ignore this letter. If your income has reduced or changed and you are having difficulty paying your rent, please get in touch on 01912383421.

We are here to support you and are working with everyone on an individual basis to provide support during this difficult time.

You can access your rent account at any time online at www.bernicia.com.

Yours sincerely

Enc

NOSP WARNING LETTER – APPENDIX B

Dear

Rent Account – Outstanding Balance £

We are concerned that there are significant rent arrears outstanding on your account. It is important that you arrange to clear the outstanding balance immediately. If you are unable to do this, you should contact us on 0844 800 3 800 to make a repayment agreement.

Owing rent at any level means that you are breaching your Tenancy Agreement and due to the level of your arrears, we are now considering serving a Notice of Seeking Possession. This is a legal document that allows us to apply to the County Court for a Possession Order at a later date if necessary. We do, however, hope that this will not be necessary.

If you are experiencing difficulties in making payments, it may be beneficial for you to seek independent advice on your finances. We can signpost you to independent agencies, if required, or give you advice on claiming Housing Benefit.

If you consider yourself to have a disability or any health/support needs that are affecting your ability to pay, it is essential that you contact us immediately.

We look forward to your full cooperation in this matter.

Yours sincerely

NOSP Explanatory Letter – APPENDIX C

Dear

Notice of Seeking Possession

Due to the level of arrears outstanding on your account, we are serving a Notice of Seeking Possession on you which is attached.

This is a legal document that allows us to apply to the County Court for a Possession Order. Once served, the Notice gives you 4 weeks to clear the outstanding balance otherwise we can apply to the County Court at the end of this period.

The Notice remains in effect for a period of up to 12 months or until the outstanding balance is cleared.

This is not an eviction notice and it is important to note that no further action will be taken if the balance is cleared and payments are maintained.

If you are unable to clear the account, you should contact us on 0844 800 3 800 to discuss making a repayment agreement.

If you are experiencing difficulties in making payments, it may be beneficial for you to seek independent advice on your finances. We can signpost you to independent agencies, if required, or give you advice on claiming Housing Benefit.

If you consider yourself to have a disability or any health/support needs that are affecting your ability to pay, it is essential that you contact us immediately.

We look forward to your full cooperation in this matter.

Yours sincerely

NOSP – APPENDIX C

THIS NOTICE IS THE FIRST STEP TOWARDS REQUIRING YOU TO GIVE UP POSSESSION OF YOUR DWELLING. YOU SHOULD READ IT, AND ALL THE NOTES, VERY CAREFULLY

HOUSING ACT 1988, section 8
NOTICE OF SEEKING POSSESSION

1. To [name(s) of tenant(s)]

2. Cheviot Homes / Wansbeck Homes / Berwick Borough Housing / Three Rivers Housing Association intends to apply to the Court for an order requiring you to give up possession of :-

3. Possession will be sought on Ground(s) 10 of Schedule 2 to the Housing Act 1988 which reads(s):-

 Some rent lawfully due from the tenant

 (a) is unpaid on the date on which the proceedings for possession are begun; and

 (b) except where subsection (1) (b) of section 8 of this Act applies, was in arrears at the date of the service of notice under that section relating to those proceedings

4. The reason for taking action are:-

 Non payment of rent amounting to £ as at

5. The Court proceedings will not begin until after

Signed

Louise Allen – Service Coordinator Retirement Housing

On behalf of:

Address:

Tel. No. 0844 800 3800

Date

See attached notes

NOTES

1. If you have an assured tenancy under the Housing Act 1988, which is not an assured shorthold tenancy, you can only be required to leave your home if your landlord gets an order for possession from the Court on one of the grounds which are set out in Schedule 2 to the Act.
2. If you are willing to give up possession of your home without a Court order, you should tell the person who signed this notice as soon as possible and say when you can leave.
3. Whichever grounds are set out in paragraph 3 the Court may allow any of the other grounds to be added at a later date. If this is done, you will be told about it so you can discuss the additional grounds at the Court hearing as well as the grounds set out in paragraph 3.
4. If the Court is satisfied that any of grounds 1 to 8 is established it must make an order (but see below in respect of fixed term tenancies).

Before the Court will grant an order on any of the grounds 9 to 16 it must be satisfied that it is reasonable to require you to leave. This means that, if one of these grounds is set out in paragraph 3 you will be able to suggest to the Court that it is not reasonable that you should have to leave, even if you accept that the ground applies.

The Court will not make an order under the grounds 1, 3 to 7, 9 or 16, to take effect during the fixed terms of the tenancy; and it will only make an order during the fixed term on grounds 2, 8 or 10 to 15 if the terms of the tenancy make provision for it to be brought to an end on any of these grounds.

Where the Court makes an order for possession solely on grounds 6 or 9, your landlord must pay your reasonable removal expenses.

5. Where the landlord or licensor is seeking possession under grounds 1, 2, 5 to 7, 9 or 16 in Schedule 2, Court proceedings cannot begin earlier than 2 months from the date this notice is served on you and not before the date on which the tenancy (had it not been assured) could have been brought to an end by a notice to quit served at the same time as this notice.

Where the landlord is seeking possession on grounds 3, 4, 8 or 10 to 15, Court proceeding cannot begin until 2 weeks after the date this notice is served.

After the date shown in paragraph 5, Court proceedings may be begun at once, but no later than 12 months from the date the notice is served. After this time the notice will lapse and a new notice must be served before possession can be sought.

6. If you need advice about this notice and what you should do about it, take it as quickly as possible to a Citizens' Advice Bureau, a Housing Aid Centre, or to a solicitor. You may be able to receive Legal Aid but this will depend on your personal circumstances.

NOSP FACT SHEET – APPENDIX C

NOTICE OF SEEKING POSSESSION FOR NON-PAYMENT OF RENT

WHY HAVE I BEEN SERVED WITH A NOTICE OF SEEKING POSSESSION AND WHAT DOES THIS MEAN?

- It has been served because you have breached your tenancy by not maintaining regular payments of rent.
- It is NOT an eviction Notice but does give the Association the right to commence legal proceedings to recover possession of your home if you do not make arrangements to clear the outstanding balance.
- The Notice comes into effect 4 weeks from the date it is served and if the balance has not reduced significantly by that time, an application to court is likely to be made.
- The Notice lasts for 12 months.

WHAT SHOULD I DO NOW?

- You should make arrangements to clear the outstanding balance
- If satisfactory payments are maintained then no further action will be taken.
- If you choose not to respond to the Notice the Association WILL apply to the County Court for Possession of your home.

WHAT IF I AM WAITING FOR A HOUSING BENEFIT CLAIM TO BE PROCESSED?

- As the claimant, Housing Benefit is your responsibility and is a contract between you and the local authority. You must therefore ensure that they

have all the documents that they require to process the claim.

- You should obtain a receipt from the Housing Benefit department as proof that you have a claim pending.
- If all of the relevant information has been provided, you present a receipt and we verify it is waiting to be processed then no further action will be taken.

POST NOSP LETTER – APPENDIX D

7 September 2021

«TITLE» «INITIALS» «SURNAME»
«CORR_ADD1»
«CORR_ADD2»
«CORR_ADD3»
«CORR_ADD4»
«CORR_ADD5»
«CORR_ADDPC»

Dear «TITLE» «SURNAME»

Notice of Seeking Possession

Please quote «TENCY_SEQ_NO_T» in all correspondence

According to our records on 7 September 2021 your account was «CUR_TNCY_BAL» in arrears.

A Notice of Seeking Possession was served on you but payments have not been maintained and we are now considering applying to the County Court to obtain a Possession Order.

The costs of this action are £325 which would be awarded against you by the Judge.

It is still not too late to for you to avoid court action. It is important that you contact us immediately on 0344 800 3800 to discuss clearing your arrears or to arrange a new payment plan. We can give you advice on help that may be available.

If you are waiting for Housing Benefit or Universal Credit to be processed, please call the Council or DWP for an update immediately and let us know the outcome.

You can access your rent account at any time online at www.bernicia.com.

Yours sincerely

COURT WARNING LETTER – APPENDIX E

Dear

Important - County Court Warning Letter: Outstanding Balance £

As you are aware, you have been served with a Notice of Seeking Possession for the non-payment of your rent. Due to the level of arrears and your failure to maintain the necessary payments, we intend to now apply to the County Court for a Possession Order.

Such action may result in you losing your home.

The costs of this action, which are currently £325.00, will be awarded against you.

If an application is made to the Court and an order is granted, you will have a County Court Judgement made against you. This is likely to affect any future applications to purchase property, gain tenancies with other landlords or obtain credit.

If you are experiencing difficulties in making payments, it may be beneficial for you to seek independent advice on your finances. We can signpost you to independent agencies, if required, or give you advice on claiming Housing Benefit.

If you consider yourself to have a disability or any health/support needs that are affecting your ability to pay, it is essential that you contact us immediately.

We look forward to your full cooperation in this matter.

Yours sincerely

Arrears Case Proportionality Assessment - Appendix F

Tenants full name			
D.O.B.			
Tenancy address			
SOT date			
Employment status			
Payment Reference		Current Balance	£xxxxx
Rent Payable	£xxxx	HB	£xxx
Under Occ charge	Yes/No	If yes – how many rooms	DHP in payment Yes/No
Household Members	Name		DOB
Most recent Notice of seeking	Date Served:	On arrears balance of: £xxxxx	
Vulnerabilities identified			
Other Agencies involved			

Support offered to sustain tenancy	
------------------------------------	--

Details of all contacts/actions taken in respect of rent arrears:

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Head of Housing

I can confirm that I have reviewed this case and the facts above and believe that applying for possession on mandatory grounds/a warrant for possession* *(delete as appropriate) is necessary and a proportionate means to achieve a legitimate aim.

Name:

Signed:

Date:

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APPLY TO COURT LETTER – APPENDIX G

Dear

Rent Arrears – Outstanding Balance £

Due to the persistent non-payment of rent, we are applying to the County Court for a Possession Order. This means that you risk losing your home.

In addition, the costs of this action are currently £325.00 and will be awarded against you.

It is also very important that you consider the following:

- Your subsequent payments up until the Court Hearing will determine whether we apply for an Outright Possession Order or ask for a Suspended Possession Order.
- If you commence regular payments of rent before the hearing, we may agree to apply for only a Suspended Possession Order. This means that you may not lose your home.
- If you continue to miss payments, we will apply for an Outright Possession Order and then begin eviction proceedings.
- If you manage to clear your arrears before the hearing, then we may be able to withdraw the Court Action.
- If you decide to terminate or abandon your tenancy it is likely we will still proceed to Court and seek a County Court Judgement for the arrears and costs. Your details would then be passed to a debt recovery agency to recover the debt if payments are not made or if you do not leave a forwarding address.
- If a County Court Judgement is granted, it may affect any future applications to purchase property, gain tenancies with other landlords or obtain credit.

If you are experiencing difficulties in making payments, it may be beneficial for you to seek independent advice on your finances. We can signpost you to independent agencies, if required, or give you advice on claiming Housing Benefit.

If you consider yourself to have a disability or any health/support needs that are affecting your ability to pay, it is essential that you contact us immediately.

If you have any further queries relating to anything contained in this letter, please contact us on 0844 800 3 800.

Yours sincerely

Enc

COURT NOTIFICATION LETTER – APPENDIX H

Dear

Court Hearing – Outstanding Balance £

We have received a date for your court hearing. This will take place at _____ County Court on _____ at _____

There are a number of possible outcomes at the hearing. For example, we may apply for an Outright Possession Order or if you make regular payments and reduce the arrears, we may ask for a Suspended Possession Order. This would mean that you could stay in your property providing you make the payments set out in the court order.

It is essential that you attend the hearing and that you arrive at least 45 minutes before your court hearing time as stated above. This will allow, if you wish, to seek free legal advice from the Court's Duty Solicitor. Alternatively, you can also consider accessing some independent advice on the matter from the Citizen's Advice Bureau or a Solicitor.

If you are experiencing difficulties in making payments, it may be beneficial for you to seek independent advice on your finances. We can signpost you to independent agencies, if required, or give you advice on claiming Housing Benefit.

If you consider yourself to have a disability or any health/support needs that are affecting your ability to pay, it is essential that you contact us immediately.

If you have any further queries, please contact us on 0844 800 3800.

Yours sincerely

COURT PROTOCOL LETTER – APPENDIX I

Dear

Court Hearing – Outstanding Balance £

As previously advised, the court hearing in respect of your rent arrears will take place at _____ County Court on _____ at _____

I have enclosed a current rent statement showing the level of your arrears.

We intend to request a _____ Order, which if granted, would result in you being evicted from your home.

It is essential that you attend the hearing and that you arrive at least 45 minutes before your court hearing time as stated above. This will allow, if you wish, to seek free legal advice from the Court's Duty Solicitor. Alternatively, you can also consider accessing some independent advice on the matter from the Citizen's Advice Bureau or a Solicitor.

If you are experiencing difficulties in making payments, it may be beneficial for you to seek independent advice on your finances. We can signpost you to independent agencies, if required, or give you advice on claiming Housing Benefit.

If you consider yourself to have a disability or any health/support needs that are affecting your ability to pay, it is essential that you contact us immediately.

If you have any further queries, please contact us on 0844 800 3800.

Yours sincerely

COURT OUTCOME LETTER – SUSPENDED ORDER – APPENDIX J

Dear

Court Outcome - Suspended Possession Order

I am writing to confirm the outcome of the recent Court Hearing that took place due to the non-payment of rent.

We were awarded possession of (address)

This was suspended on the basis that you make payments of current rent plus £ per week.

If you fail to make the required payments you are placing your tenancy at risk and face being evicted from your home.

However, if you make the minimum payments and reduce/clear the balance, no further action will be taken.

We were also awarded a County Court Judgement for the arrears of £ plus costs of £325.00. The court costs of £325.00 will be added to a separate account and we will not seek to recover these until your rent arrears have been cleared in full. These costs are not added directly onto your rent account.

If you experience difficulties in making payments it is essential that you contact us immediately on 0844 800 3 800 to discuss the matter in more detail.

Yours sincerely

COURT OUTCOME LETTER – OUTRIGHT POSSESSION – APPENDIX J

Dear

Court Outcome - Outright Possession Order

I am writing to confirm the outcome of the recent Court Hearing that took place due to your non-payment of rent.

We were awarded possession of (address) in _____ days.

This means that your tenancy will end on _____ and therefore you must hand in your keys.

You may wish to seek independent legal advice on the matter from the Citizen's Advice Bureau or a solicitor for example.

You should also consider seeking advice on securing alternative accommodation.

We were also awarded a County Court Judgement for the arrears of £_____ plus costs of £325.00.

If you do not vacate the property, we will request a bailiff's warrant.

If you consider yourself to have a disability or any health/support needs, it is essential that you contact us immediately.

If you have any further queries, please contact us on 0844 800 3 800.

Yours sincerely

COURT OUTCOME LETTER – ADJOURNED – APPENDIX J

Dear

Court Outcome – Case Adjourned

I write to confirm the outcome of today's Court Hearing.

The Judge has adjourned the matter which will be reviewed in due course and you will be advised of the further Court date once this has been set by the Court.

If you are experiencing difficulties in making payments, it may be beneficial for you to seek independent advice on your finances. We can signpost you to independent agencies, if required, or give you advice on claiming Housing Benefit.

If you consider yourself to have a disability or any health/support needs that are affecting your ability to pay, it is essential that you contact us immediately.

If you experience any problems, please contact us on 0844 800 3 800.

Yours sincerely

COURT OUTCOME LETTER – ADJOURNED ON TERMS – APPENDIX J

Dear

Court Outcome – Case Adjourned on Terms

I am writing to confirm the outcome of the recent Court Hearing that took place due to the non-payment of rent.

The Judge adjourned the case on terms that you pay your current weekly rent plus £ per week off your arrears. He ordered that the case can be reheard within the next 12 months should you not comply with the terms of the adjournment.

We were also awarded court costs of £325.00, these costs will be added to a separate account and we will not seek to recover these until your rent arrears have been cleared in full. These costs are not added directly onto your rent account.

If you are experiencing difficulties in making payments, it may be beneficial for you to seek independent advice on your finances. We can signpost you to independent agencies, if required, or give you advice on claiming Housing Benefit.

If you consider yourself to have a disability or any health/support needs that are affecting your ability to pay, it is essential that you contact us immediately.

If you experience any problems, please contact us on 0844 800 3800.

Yours sincerely

EVICTION WARNING LETTER – APPENDIX K

Dear

Eviction Proceedings – Outstanding Arrears Balance: £
Outstanding Court Costs: £

On (Date) (Court) granted a Possession Order on your property but ‘suspended’ it on condition you paid your rent plus £ each week. Regrettably, satisfactory payments have not been maintained to reduce your arrears in compliance with the Court Order. As a result I have no alternative but to commence eviction proceedings against you. It is therefore essential that you contact me within the next seven days.

I must warn you that failure to do so may lead to your eviction from your home and a warrant fee being recharged to you.

I would also advise you to contact the Homelessness Officer at (Local Authority) and to seek independent advice from a Solicitor or the Citizens Advice Bureau.

If you are experiencing difficulties in making payments, it may be beneficial for you to seek independent advice on your finances. We can signpost you to independent agencies, if required, or give you advice on claiming Housing Benefit.

If you consider yourself to have a disability or any health/support needs that are affecting your ability to pay, it is essential that you contact us immediately.

If you have any further queries, please contact us on 0844 800 3 800.

Yours sincerely

EVICTION APPLIED FOR LETTER – APPENDIX L

Dear

Eviction Proceedings – Outstanding Arrears Balance: £
Outstanding Court Costs: £

I refer to previous correspondence and visits regarding your rent arrears and breach of Court Order. Regrettably, satisfactory payments have not been maintained to reduce your arrears in compliance with the Court Order granted by Newcastle County Court and therefore I am writing to inform you that I have applied for your eviction.

The Court will notify you direct of the date and time of your eviction and I would advise you to contact me or the Homelessness Officer. I would also advise you to seek independent advice from a Solicitor or the Citizen's Advice Bureau.

If you are experiencing difficulties in making payments, it may be beneficial for you to seek independent advice on your finances. We can signpost you to independent agencies, if required, or give you advice on claiming Housing Benefit.

If you consider yourself to have a disability or any health/support needs that are affecting your ability to pay, it is essential that you contact us immediately.

If you have any further queries, please contact us on 0844 800 3 800.

Yours sincerely

EVICTIION NOTIFICATION – APPENDIX M

Dear

Eviction Proceedings – Outstanding Arrears Balance: £
Outstanding Court Costs: £

I am writing to inform you that you are to be evicted from (Address) on (Date & Time)

Due to your persistent failure to pay rent and service charges, which amount to £ we have no alternative but to enforce the County Court Possession Order by issue of an eviction warrant.

Failure to hand in the keys to the property in advance of the eviction date will result in the County Court Bailiff and Officers attending your home on (Date & Time)

Taking possession of the property will result in access being gained to the property by the Bailiff and Organisation's Officers and all locks to the external doors being changed.

In advance of the eviction appointment, you must remove everything from the property, particularly all personal papers and records which may be unavoidably sighted by Officers entering the property.

You will be charged for any costs for gaining entry, changing the locks and clearing the property.

If you consider yourself to have a disability or any health/support needs, it is essential that you contact us immediately.

If you have any further queries, please contact us on 0844 800 3 800.

Yours sincerely

Appendix 0

Arrears Procedure Flowchart

