



Evictions Policy (Ref: HM/13)

Purpose of Policy: The purpose of this Policy is to outline circumstances in which the Association will consider eviction action.

Policy Monitoring Details	
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Tenant Consultation Required:	No
Equalities Impact Assessment	Initial

Content List:

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1. Introduction

1.1.1 The purpose of this Policy is:

- To make clear the circumstances in which the Association considers it appropriate to evict a tenant from their home; and
- To identify alternative course of action than may be considered in order to prevent an eviction taking place.

1.1.2 The Association aims to use eviction as an action of 'last resort', pursued only where all other attempts to resolve a situation have been unsuccessful. Only in very limited circumstances will the Association seek an eviction at an early stage in dealing with a case, these are detailed in this Policy.

1.1.3 The Association is committed to assisting the local authority to prevent homelessness and fully appreciates the costs involved in dealing with individuals and families who are made homeless as a result of eviction. However, the Association's only source of income is rental income and it is crucial, therefore, that this is maximised. With regard to anti-social behaviour, the Association also has a responsibility to those whose lives are being affected and perpetrators of serious anti-social behaviour have to accept the consequences of their actions.

2. Policy

2.1 Eviction on the Ground of Rent Arrears

2.1.1 In some respects, seeking decree for eviction on the ground of rent arrears can be relatively straightforward as it is easy to establish that rent has not been paid and the terms of the tenancy agreement have therefore been breached. It is important, however, that we also establish that evictions is a reasonable course of action, taking account of individual circumstances on a case-by-case basis.

2.1.2 The Association has a Rent Collection and Arrears Policy in place that aims to address cases of non-payment of rent through preventative measures and early intervention strategies. This is supported by detailed procedures that offer guidance to staff dealing with rent arrears cases. These detail the importance of:

- Preventative action through the pre-allocation interview and post-allocation visit processes; and
- Early intervention, both for new tenants and existing tenants falling into arrears for the first time.

2.1.3 Prior to initiation of legal action (though service of a Notice of Proceedings), the case must comply with pre-action requirements. Subsequent referral to court will only be considered where a tenant fails to engage or fails to maintain an agreement reached for repayment of the outstanding debt.

2.1.4 The procedures outline how cases should be dealt with once they have been referred to court, however it is recognised that not all cases will fit neatly into this framework and it will be necessary to consider the most appropriate action on a case-by-case basis.

2.2 Eviction on the Ground of Anti-social Behaviour (ASB)

2.2.1 Eviction on the ground of ASB is generally more complicated to deal with than rent arrears and this can be for a number of reasons, including:

- The availability of evidence that ASB has occurred;
- The willingness of tenants or others to report ASB;
- The willingness of tenants or others to appear as witnesses in court;
- Differing perceptions about what constitutes ASB.

2.2.2 Depending on the circumstances of the case, however, it is often possible to consider alternatives to eviction as a means of resolving a situation, including alternative legal remedies.

2.2.3 The Association has an Anti-Social Behaviour and Neighbour Disputes Policy that outlines the approach taken to dealing with reports of ASB. This is supported by detailed procedures that offer guidance to staff. In addition, all staff have access to an ASB Directory that details a range of services and contacts who may be able to offer assistance in dealing with particular cases.

2.2.4 The Policy outlines preventative measures that the Association can consider, and the Allocation Policy also allows for sensitive lets to be considered in particular areas, subject to authorisation by a senior member of staff.

2.2.5 In most cases, any type of legal action will only be considered if other attempts to resolve the situation have failed. The Association is clear, however, that where there is evidence to support complaints of extremely serious ASB, immediate legal action may be taken.

2.3 Eviction on Other Grounds

2.3.1 Eviction on grounds other than rent arrears or ASB is relatively rare. In many cases, even where other grounds are being considered, the tenant may also have rent arrears or be involved in ASB and all relevant grounds should be included in the NOP.

2.3.2 The most likely other grounds that could be used are:

- Conviction for using the property for illegal or immoral purposes or
- Condition of the property, including hoarding

2.3.3 The Association will not develop a blanket policy in respect of these areas but will consider each case individually before deciding on the appropriate course of action. Issues to be taken into account in terms of assessing the reasonableness of eviction action (see Section 6 below) will be key to determining how the case will be progressed.

2.4 Early Eviction Action

2.4.1 Immediate or early legal action seeking recovery of possession will be taken in cases where there is clear evidence of serious antisocial behaviour or other behaviour that is having a significant detrimental impact on others.

2.5 Reasonableness

- 2.5.1 As well as expecting landlords to demonstrate that a tenant has breached the terms of their tenancy agreement, the Sheriff will also consider whether eviction is a 'reasonable' way to deal with the issue.
- 2.5.2 Requests for authorisation to proceed with a court referral require the Housing Officer to outline briefly what alternative action has already been attempted or could have been considered together with a statement explaining why eviction action is being proposed.

Rent Arrears

- 2.5.3 A report by Shelter published in 2009 suggests factors that may be relevant to the 'reasonableness' argument in respect of cases involving rent arrears as follows:-
- The amount of the arrears;
 - The likelihood of the tenant being able to repay arrears and meet future rent payments;
 - The length of time the person has been a tenant and their record as a tenant before the arrears arose;
 - The reason for the arrears arising;
 - Duties of the local authority that may arise following an eviction, particularly homelessness;
 - The implications of eviction for any 'innocent' joint tenant;
 - Any action taken by the landlord to assist the tenant to address the cause of the arrears.

Anti-social Behaviour

- 2.5.4 We could find no literature regarding what might be considered in determining the reasonableness of eviction action in ASB cases, however we consider the following factors should be taken into account:
- The evidence that we have to support the proposed action;
 - The nature of the ASB and the impact that this is having on others;
 - The action that has already been taken to try to resolve the situation;
 - Information regarding potential action that could have been considered and the reasons it has been rejected;
 - Information regarding referrals to support or other agencies and the outcomes, particularly where the perpetrator has failed to engage.

Conviction for Using the Property for Illegal or Immoral Purposes

2.5.5 The factors that we will take into account will include:

- The evidence that we have to support the proposed action;
- The nature of the offence, whether it has resulted in ASB and whether it has had any detrimental impact on others;
- The action that has already been taken to try to resolve the situation;
- Information regarding potential action that could have been considered and the reasons it has been rejected;
- Information regarding referrals to support or other agencies and the outcomes, particularly where the perpetrator has failed to engage.

Condition of Property

2.5.6 The reasonableness test here is likely to focus on:

- Evidence that the physical condition of the property has deteriorated as a result of the tenant's failure to clean it, or otherwise look after it;
- Evidence that the condition of the property is having an impact on neighbouring residents;
- The action that has already been taken to try to resolve the situation

3.0 Publicising this Policy:

3.1 The policy will be available on the Association's website and hard copies will be provided on request.

3.2 On request, the policy can be made available in alternative formats or languages.

3.3 The policy will be promoted through the Association's newsletter and other publications.