



Rent Arrears Policy

(November 2019)



We speak your language

Polish

Mówimy Twoim językiem

Slovak

Rozprávame Vaším jazykom

Chinese

我们会说你的语言

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CONTROL SHEET FOR Rent Arrears Policy

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1. Introduction

Bolsover District Council owns and manages its housing stock consisting of 5061 properties as at October 2019. All tenants of Bolsover District Council have signed a tenancy agreement, which sets out the rights and responsibilities of the tenant(s) and the Council. The tenancy agreement is a legally binding contract between the Council and the tenant(s). The tenancy agreement states that tenants, should pay their rent on a weekly basis and if they fail to do so and fall into arrears the Council can apply for Possession as set out in Schedule 2 of the Housing Act 1985 (as may be amended from time to time).

This policy explains the Councils approach when tenants accrue rent arrears. In summary the Council will take a firm but fair approach, ensuring that tenants have available financial expertise to resolve any difficulties. The Council will not tolerate tenants who are unwilling to pay arrears nor receive help and legal action will be taken where necessary.

It clearly defines our commitment to equality and proportionality within the rent management processes. The Council in delivering this policy, will ensure that no individual is discriminated against on grounds of marital status, sex, disability, age, sexual orientation, racial discrimination, personal attributes, including religious beliefs or political opinions.

The policy aims to be:

- Sensitive to the needs of individuals
- Accountable
- Fair
- Efficient
- Responsive and flexible

The Councils housing management is split into 3 parts;

- **Housing Needs** - deal with updating and maintaining the housing register, allocation of properties and statutory duties regarding homelessness under the Housing Reduction Act.
- **Tenancy Management** – deal with all aspects of managing a tenancy, including, rent arrears from when it is passed from the Rents Team through to court action and finally eviction if necessary. Housing Assistants support Tenancy Management Officers who deal with breaches of tenancy and antisocial behaviour, supported by the Antisocial Behaviour Team if necessary.
- **Rent Team** - administration of the collection of rent and former rent arrears. Also the recovery of rent arrears from the initial contact to early stages of recovery.

The Tenancy Management Team and Rent Team are responsible for monitoring and taking enforcement action against tenants in arrears.

The day to day management and responsible officer for this policy and procedure is the Housing Enforcement Manager who will ensure any updates to this policy and the associated procedure are circulated to staff. The Structure is out at Appendix 1.

2. Tenants responsibilities

The term tenant includes sole and any joint tenants. All Council tenants sign a tenancy agreement and therefore have an obligation to pay their rent and on time.

Rent charges may be changed from time to time and are reviewed each year in line with Government policy. Any such change takes place from 1 April each year and the Council will give a minimum of 4 weeks notice to tenants.

The Council also offers additional services which have to be paid for as part of the rent or additional service charges. However, tenants will be consulted before new services are introduced and are given an opportunity to be consulted on the change and an opportunity to end their tenancy before the new service and charges are introduced.

Tenants will be required to actively work with the Tenancy Management team and Rent Team to resolve their arrears situation and whilst eviction will be the action of last resort, if tenants fail to take steps to deal with their rent arrears, possession proceedings will be issued as appropriate.

3. Prevention

Prevention is key to arrears control and the Council endeavour to advise tenants as soon as arrears accrue. Arrears are not only financially damaging to an individual they can be socially damaging too as they risk losing their home. The Council aims to maximise income through offering advice and support at the earliest opportunity to prevent rent arrears increasing.

In order to prevent arrears, the Council recognises that it must tackle the undying causal factors. Some of the most common reasons for rent arrears are listed below:

- Housing Benefit or Universal Credit issues
- Loss of income due to change in personal circumstances
- Low income
- Multiple debts and competing priorities
- Difficulty managing finances
- Missed rent increases
- Vulnerability

The Council aims to prevent rent arrears by promoting a culture where payment is encouraged, help is provided to maximise tenants income and to ensure tenants are aware of and use the free financial advice at all stages of their tenancy.

The Council has a Money Advice Worker who assists people who are financially excluded and could have difficulty obtaining a bank account or struggle to manage their finances. The officer will help people who are at risk of becoming financially excluded and prepare them for the future by doing the following:

- Assist tenants to claim all the benefits they are entitled to
- Help tenants to organise finances, pay the rent and understand the priority bills

- Help with budgeting and money advice
- Support with energy advice
- Help with Housing Benefit / Universal Credit claims
- Refer tenants to other agencies who may be able to help them

4. Payment Methods

The Council aims to ensure that tenants are able to pay their rent as easily as possible, in a way that suits them and their lifestyle. The Council does this by providing a range of payment options allowing more traditional ways of paying as well as embracing payments by way of new technology. These options include:

- Direct Debit
- Online
- Automated telephone line and over the telephone with a member of staff
- At a Contact Centre
- Rent Collector where applicable

5. Early intervention

Ensuring that tenants are kept informed of their rent account is important and rent statements are sent by post which show 3 months transactions. Statements will be provided more frequently if they are requested and assist tenants in making regular payments.

The Council works to ensure that claims for benefits are processed as quickly as possible. All Tenancy Management Officers have the means to photograph and scan documents required to process claims. These images can then be emailed to the appropriate benefit department who will process the claim.

In some instances it will not be possible to prevent arrears. However early intervention helps to identify problems quickly so that people can be referred to organisations that are able to help. Rent arrears will not be allowed to build up without intervention from the housing management team. They will follow a staged and escalated arrears procedure as detailed in Appendix 3 attached to this policy. This procedure can be suspended by a tenant choosing to pay rent and agreeing a repayment plan.

Accounts are monitored on a weekly basis and Rent Team will initially contact tenants to find out the reason for the arrears, provide advice and agree a plan moving forward. An arrears letter is usually sent to all those who have missed their first two weeks payment. This letter also advises of where additional help or advice can be sought.

Prior to any formal action being taken, Tenancy Management Officers will make contact with tenants by letter, telephone, text messaging and home visits. They will try to agree affordable repayment plans with tenants and offer advice throughout. Payment plans will usually be an agreement to pay the rent plus a further amount towards the arrears. This payment will be expected each and every week. However, officers may agree for the payments to be calculated so that they can be made less frequently, for example each month where this assists tenants to manage their finances more effectively.

6. Effective contact

Direct contact with tenants will help Officers to gauge what type of support or help can be provided and to ensure tenants' information and personal details are kept up to date. An assessment of the tenants needs will be undertaken at appropriate times but full engagement by the tenant is required for this to be meaningful.

Where the Council know English is not the tenant's first language, where necessary, we will provide all written information translated into the tenant's chosen language and conduct interviews through appropriate translators.

Where the Council is aware of disabilities or other vulnerabilities, appropriate measures can be put in place to enable effective communication. For example where someone is deaf someone who can sign will be provided, larger font letters can be sent and additional home visits can be arranged.

7. Clear and accurate record keeping

The tenancy management team and rent team will keep electronic records of all the contact and action they take in respect of tenants rent accounts on a computer programme, diary system. Each and every contact will be recorded on this system and tenant's details updated as appropriate. Details such as who lives at the property, the household income and expenditure, repairs, and equality act issues will be recorded as well as any details of repayment plans. Decisions which are made by an officer will also be recorded on the same system.

8. Enforcement

It is only when there has been no engagement, lack of, or no payment, will a formal notice be served. This is called a Notice of Seeking Possession. This is a statutory notice and the first step in formal action being taken. The detailed process following service of the notice is set out in Appendix 3. This process incorporates the legal duty to follow the rent arrears pre action protocol which is a specific procedure before issuing court proceedings.

The Council may decide to include in legal proceedings, other matters affecting a tenant's tenancy, for example, other breaches of tenancy agreement, the most common being anti-social behaviour. These other matters do not necessarily have to be included in the relevant notice served on the tenant, but the tenancy management team will make the tenant aware prior to any hearing taking place.

9. Confidentiality and Data Protection

All office interviews will be carried out privately. The information held by the Council about a tenants rent account will not be disclosed unless with the tenant's permission and/or in accordance with the relevant legislation. Tenant's information is used to manage their rent accounts, payments, arrears and provide relevant debt advice. It is also used to ensure tenancy conditions are complied with such as dealing with tenancy breaches, anti-social behaviour or fraud.

10. Equality Act duties

The Equality Act 2010 states that a landlord mustn't discriminate against you if they want to evict a tenant because of rent arrears. In particular, if a tenant is disabled, the Council must take steps to make sure the tenant is not disadvantaged as a result of their disability. The Council will make reasonable adjustments if a tenant has a disability or they are disadvantaged because of something connected to the disability. In order to establish if a tenant requires additional support or help, Officers will undertake regular assessments of the tenant's personal circumstances, known as an Equality Act assessment, a copy of the form used can be found at Appendix 4.

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Appendix 1 – Tenancy Management Structure Chart

TO BE ADDED

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Appendix 2 – Rent Arrears Recovery Procedure

Rents Team

The aim of the Rents Team is to prevent a Notice of Seeking Possession being served. By having early engagement with tenants assistance can be given to maximising benefit entitlement and supporting those who may be vulnerable.

For each case, the computer system will suggest the next stage where appropriate unless an agreement is in place and this has not been broken. At each contact with the tenant we will strive to make an arrangement with the tenant to pay the rent and arrears, and if appropriate make referrals to money advice worker, other agencies that can assist with money management and debts

- The Arrears Progress is run to obtain all accounts that are in rent arrears. Accounts are checked to make sure the tenant(s) is not a monthly payer. If payments are not being made or the incorrect amount is being paid then an Arrears Reminder 1 (ARR1) letter will be sent. This is sent to anyone who hasn't made a prior arrangement. This case will be moved to the ARR1 stage and will be recorded automatically on the computer system.
- In the next extract, if no payment has been made or any contact from the tenant(s) has been received then telephone contact will be attempted, this may take the form of a text message. An email may be sent if address known. The tenant(s) will be advised and encouraged to set up an arrangement to pay.

If the tenant(s) made an incorrect payment they will be encouraged to make the correct payment. The case will be moved to the TEL1 stage and will be recorded automatically on the computer system

- In the next extract, the account is monitored for payments. The account will be checked if this is a regular monthly payer. If this is the case this will be recorded as such on the computer system.

If no payment has been made or any contact from the tenant(s) has been received then an Arrears Reminder 2 (ARR2) letter will be sent. This case will be moved to the ARR2 stage and will be recorded automatically on the computer system.

- In the next extract, the account is monitored for payments. A visit will be carried out to those still in arrears unless they are keeping to an agreed arrangement. A record of this visit will be kept on the computer system.

At the visit the Tenancy Checklist will be completed. The aim of this will be to check the details of the tenant(s) and other occupants of the household and if there are any vulnerabilities / disabilities or experiencing any other issues we are not aware of. An action plan will be agreed if any issues are reported.

On return to the office any vulnerabilities or disabilities will be logged onto the computer system. Referrals will be made to Money Advice Worker or Social Care as agreed or as required. Referrals and signposting can also be made

to the Citizens Advice Bureau and Derbyshire Law Centre. This case will be moved to the VIS1 stage and will be recorded automatically on the computer system.

Housing Assistant (Tenancy)

The aim of the Housing Assistant (Tenancy) is to prevent the tenant(s) being entered into court. By having engagement with tenant's assistance can be given to maximising benefit entitlement and supporting those who may be vulnerable.

For each case, the computer system will suggest the next stage where appropriate unless an agreement is in place and this has not been broken. At each contact with the tenant we will strive to make an arrangement with the tenant to pay the rent and arrears.

- In the next extract, the account is monitored for payments. The Pre Notice Warning (PNSP) letter will be produced and hand delivered to those still in arrears unless they are keeping to an agreed arrangement. This case will be moved to the PNSP stage and will be recorded automatically on the computer system.
- The Housing Assistant (Tenancy) will look at all cases at the PNSP stage and complete the Equality Act Assessment using information stored on the computer system and paper records that have been downloaded onto the Housefile, and their direct knowledge of the tenants
- The Housing Assistant (Tenancy) will decide if it is appropriate for the Notice of Seeking Possession (NSP) to be prepared. This will be handed to the Tenancy Management Officer along with the Equality Act Assessment for their authorisation and signature.
- The NSP is hand delivered by the Housing Assistant (Tenancy) or another officer if appropriate. A certificate of service is completed and kept on the housefile. This case will be moved to the NSP stage and will be automatically recorded on the computer system. Where there are joint tenants, a NSP must be served on each.
- In the next extract, contact is attempted via telephone with the tenant(s). This may take the form of a text message. An email may be sent if address known. The tenant(s) will be advised and encouraged to set up a payment plan or they would run the risk of being entered into court for the Council to seek possession of their home. The tenant will also be reminded that a Notice of Seeking Possession has already been served, the matter is serious and is the first step towards potential court action. The case will be moved to the Pre Court Telephone Contact PCTEL stage.

Tenancy Management Officer

The aim of the Tenancy Management Officer (TMO) is to prevent the tenant(s) being evicted. By continuing to engage with tenants to address rent arrears we hope to prevent the need for court action.

For each case, the computer system will suggest the next stage where appropriate unless an agreement is in place and this has not been broken. At each contact with the tenant we will strive to make an arrangement with the tenant to pay the rent and arrears.

- Once the Notice of Seeking Possession is served the case will be monitored by the TMO.
- If the tenant(s) is still not paying then a Court Warning letter will be sent. Included in this will be a copy of the Pre-Action Protocol for Possession Claims by Social Landlords which is produced by the Ministry of Justice.

A referral will be made to Housing Needs Officers (HNO) to indicate that the tenant(s) is in threat of losing their home. This will be done via email to the relevant HNO. This case will be moved to the COURW stage and will be automatically recorded on the computer system.

- The court application stage (COURA) will be the next suggested stage 2 cycles after the COURW stage was committed.
- The Equalities Act Assessment will be updated and a decision made as to whether the tenant(s) will be entered into court and the details input onto the Possession Claim Online system (PCOL). The case will be moved to the Court Application (COURT) stage when the PCOL information is completed. This will be automatically recorded on the computer system.
- Once input on PCOL the following documents will be produced
 - Letter for tenant(s) to confirm date of hearing
 - Witness Statement
 - Rent Statement for both court and the tenant(s)

The following documents will be provided to court

- Witness Statement
- Rent Statement
- Copy of the letter sent to the tenant(s) to confirm the date of the hearing
- Copy of the Notice of Seeking Possession
- Copy of the Tenancy Agreement

The following documents will be provided to the tenant(s)

- Letter for tenant(s) to confirm date of hearing
- Information leaflet explaining court process and possible outcomes
- Rent Statement
- Copy of the Notice of Seeking Possession
- Copy of the Tenancy Agreement

- Prior to the court date it will be decided what order will be requested at the hearing. This decision can be made by the TMO or in consultation with the Housing Enforcement Manager (HEM).
- Following the court hearing the case will be moved to the relevant stage depending on the outcome, this will be automatically recorded on the computer system.

Possible Court Outcomes

The possible court outcomes are as follows:

- OPOS Outright Possession
- SPO Suspended Possession Order
- ADJDS Adjourned for a specified amount of days
- ADJTS Adjourned on Terms
- ADJLIB Adjourned with Liberty to Restore
- COSTS Costs Only Order
- WTHDS Withdrawn

Outright Possession Order (OPOS)

An outright possession order specifies the date by which a tenant is required to leave the Property. The date is usually 14 days after the order is made. A tenant can ask for the date for possession to be delayed for a maximum of 6 weeks if it would cause them hardship to leave earlier.

Once the time period of the Outright Order has expired an application for a warrant of Possession of Land can be made.

A letter will be sent to the tenant(s) confirming the order obtained, and advising where they can seek assistance for rehousing. The details of the court order will be input into the computer system. Any court costs will be added to the rent account.

The Equalities Act Assessment (EAA) will be updated and a decision made as to whether the warrant will be applied for. This decision can be made by the TMO or in consultation with the HEM.

The HEM must sign the EAA prior to the application of the warrant. If the warrant is to be applied for the case will be moved to the Apply for Warrant (AWAR) stage.

Suspended Possession Order (SPO)

A possession order will be granted but suspended on terms. The tenant(s) is allowed to remain so long as they adhere to the terms.

A letter will be sent to the tenant(s) confirming the order obtained and setting out the terms for compliance and consequence of breach

The details of the court order will be input into the computer system which will create a court arrangement and the case will be moved to the Court Arrangement Made (CAMS) stage. Any court costs will be added to the rent account.

The system will monitor this arrangement. If the tenant is making the correct payments no action will be suggested. If the tenant is not making the correct payments it will suggest the Court Arrangement Broken (CAMF) stage.

Adjourned for a specified amount of days (ADJDS)

The Court may adjourn the determination of a case for a specified amount of days e.g. when a Housing benefit or Universal Credit claim is being processed.

A letter will be sent to the tenant(s) confirming the order obtained, and if appropriate tell the tenant(s) what they need to do before the next hearing. This case will stay at the ADJDS stage until the amount of days given in the court order has expired when there will be a new hearing.

If the date has not been set by the court this will have to be followed up with the court. If the hearing has been set the case will be moved to the Adjourned Hearing (ADJHE) stage and the details input.

Once the Adjourned hearing has been conducted the court outcome will be recorded and the relevant stage selected.

Adjourned on Terms (ADJTS)

On occasion the court may adjourn for a specified amount of time, as set out above, but also require that the tenant(s) adhere to specific terms e.g. payment of rent or contributions to rent.

A letter will be sent to the tenant(s) confirming the order obtained and explain what terms they are required to adhere to. The details of the court order will be input into the computer system which will create an adjournment arrangement and the case will be moved to the Adjourned on Terms Arrangement Made (ADJAR) stage.

The system will monitor this arrangement and suggest the Re-list (RLISTS) stage if the payments are not made correctly.

Adjourned with Liberty To Restore (ADJLIB)

A possession claim can be adjourned generally with liberty to restore the claim at a later date. This is often on terms. A letter will be sent to the tenant(s) confirming the order obtained and if required any terms. This case will stay at the ADJLIB stage whilst the payments are being monitored.

Whilst the payments are being made correctly there is no further need for action and the case will remain at this stage.

If the payments are not being made correctly and it has not gone past the date when this can be applied for, a decision will be made as to whether an application to restore the possession claim is needed. This decision can be made by the TMO or in consultation with the HEM. This application will be made via the PCOL system.

If the hearing is applied for, once the date is received this case will be moved to the ADJHE stage.

Once the Adjourned hearing has been conducted the court outcome will be recorded and the relevant stage selected.

Costs Only Order (COSTS)

A letter will be sent to the tenant(s) confirming the order obtained and costs will be added to the ret account.

The payments for the rent account will have to be monitored and any credit balances transferred to the court costs account. An email will be sent to the rent team to transfer the credit.

Withdrawn (WTHDS)

A letter will be sent to the tenant(s) confirming the order obtained. The letter must include the reasons for the withdrawal from court and the terms of the agreement if one has been made.

Court Arrangement Broken (CAMF)

The CAMF stage will be suggested if the Suspended Possession Order is not being kept to.

The Behind on Court Order (BCAM) stage can be used to remind tenant(s) of their court order obligations once they have breached them and give them the opportunity to catch up with them. The moving to this stage will be completed manually. The letter will include details of the court order, the amount of rent and how far behind the tenant is with the court order.

The Last Chance Appointment (LCAP) stage can be used to remind tenants of their court order obligations by discussing the situation with the TMO and to give them the chance to catch up with their obligations. The moving to this stage will be completed manually. The letter will include details of the appointment made. If the tenant(s) does not comply with the terms of the court order once the reminder has been given then the EAA will be updated and a decision made as to whether the warrant will be applied for. This decision can be made by the TMO or in consultation with the HEM.

The HEM must sign the EAA prior to the application of the warrant. If the warrant is to be applied for the case will be moved to the Apply for Warrant (AWAR) stage.

Warrant Application (AWAR)

If there is not a suspended warrant already in place an application for a warrant will be completed via PCOL. The details of the warrant application will be input onto the system. The case will remain at this stage until the date is confirmed by the bailiff.

If the warrant is already suspended and it has been no longer than one year since it was suspended, there will be an application to re-issue the warrant. The details of the warrant application will be input onto the system. The case will remain at this stage until the date is confirmed by the bailiff.

If the warrant is already suspended and it has been longer than one year since the warrant was suspended then a new application will have to be made. The details of the warrant application will be input onto the system. The case will remain at this stage until the date is confirmed by the bailiff.

The TMO must complete a Bailiffs confirmation of date court form and a risk assessment, which must be filed at court.

Once the date is confirmed this will be moved to the Bailiff Date Confirmed (BALC) Stage.

This date also needs to be confirmed with the tenant(s). The case will be moved to the Confirm Bailiff Date with Tenant (CBAL), this will generate a letter.

The TMO must make arrangements for any support required at the eviction (e.g. Police, CAN Rangers) and the lock change to be completed.

Tenant Application 1

At any time after the tenant(s) is informed of the eviction date up to the actual eviction, the tenant(s) can apply to the court for an application to suspend the warrant. The court will deal with this matter at a hearing. When the court contacts the council to inform us of this hearing the case will be moved to the TAPP stage.

There are 3 potential outcomes to this hearing

- Tenant(s) application is dismissed
- The warrant is suspended on terms, indefinitely
- The Warrant is suspended on terms with a review date in the future. This is often when the tenant(s) is required to make payment or submit additional information to assist with a benefit claim.

If the application is dismissed the eviction will be executed as arranged. If the warrant is suspended then the case will move to the Warrant Suspended on Terms (WSUS) stage.

Warrant Suspended on Terms (WSUS)

A letter will be sent to the tenant(s) confirming the order obtained and any terms they need to adhere to.

The details of the court order will be input into the computer system which will create a court arrangement and the case will be moved to the Warrant Arrangement (WARM) stage.

The system will monitor this arrangement. If the tenant is making the correct payments no action will be suggested. If the tenant is not making the correct payments it will suggest the Warrant Arrangement Failed (WARF) stage.

Warrant Arrangement Failed (WARF)

If the warrant is to be applied for, the case will be moved to the Apply for Warrant (AWAR) stage.

Arrangements

Once an arrangement is made with the tenant(s) the details will be input into the computer system. The system will monitor the payments. If the payments are made correctly then the system will not prompt any further action or change of stage.

If the arrangement is broken because the payments have not been made correctly the system will return the case back into the rent arrears procedure and prompt the relevant stage.

Appendix 3 – Rent Arrears Recovery Procedure - Flowchart



