

Income Management including Debt Collection Policy

Issue details	
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1. Purpose of policy

This document outlines East Devon District Council's (EDDC), Rental section's approach to the management of rent collection for Council dwellings, garages, and other related service charges. The aim of this Policy is to create a rent payment culture, thereby ensuring that rent and charges are collected quickly and effectively, whilst also offering help and support to our tenants/licensees if needed or requested in matters relating to financial inclusion and the ability to manage their money.

2. Scope

This policy applies to how the Rental section will oversee the management and recovery of arrears and other unpaid sums. A firm but fair approach to recovery of rent arrears will be adopted, which is sensitive to an individual's circumstances.

- 2.1 The Council's primary concern is to recover outstanding rent and not to gain possession. We will consider eviction only as a last resort if all other actions have failed.
- 2.2 Proactive steps are to be taken to prevent and minimise the build-up of unpaid sums on rent and sub accounts where possible, recognising that from time-to-time tenants/licensees may experience financial difficulties. In these circumstances, Officers aim to support and work with tenants/licensees at the earliest opportunity to help tackle financial exclusion and to provide assistance to individuals experiencing financial difficulty.
- 2.3 This policy also covers the following points and should be read in conjunction with the related documents as stated below:
 - Possession of Council Homes and Garages Policy
 - Devon Home Choice Policy
 - Garage Management Policy

3. Definitions

- 3.1 for the purposes of this policy:
- **Rent** is defined as “a payment amount, fixed by a tenancy/licence agreement, by which a tenant/licensee is liable to pay at specified intervals in return for the right to occupy or use a dwelling, garage or support service”.
 - **A current tenant arrear** is when a tenant(s)/licensee owes the Council outstanding rent or charges for a dwelling or a garage on a tenancy/licence which is still in place.
 - **A former tenant arrear** is when a former tenant(s)/licensee owes the Council any outstanding rent or charges from a terminated tenancy/licence.
 - **Unpaid sums** are any monies outstanding for rent or a service received, for example alarm charge, court costs.
 - **Charges** include court costs, sewage, gas, electricity, water, alarm or support charges.

4. Payment arrangements

- 4.1 It is the responsibility of the tenant/licensee to pay their rent or charges on time even if they are in receipt of benefits.
- 4.2 Rent and charges are payable by tenants/licensees over 52 weeks of the year, unless the year has been extended to 53 weeks to keep in line with the current tax year. Rent weeks begin on a Monday and this means that every seven years there will be an extra week in the year. Tenants/licensees who pay their rent weekly, need to pay on the Monday each week and tenants/licensees who pay it on a fortnightly or monthly basis need to pay in advance.
- 4.3 There are a number of methods by which tenants/licensees can make payments, for example, direct debit, online payments, automated telephone service, telephone calls to the office, standing order, Post Office or Payzone outlets. Deduction direct from salary is also an option for employees of EDDC.
- 4.4 Officers will promote all payment methods that are available to tenants/licensees.

5. Prevention of arrears.

- 5.1 The Rental section will take preventive measures to reduce arrears and prevent them from escalating.

6. Early contact.

- 6.1 Tenants/licensees will be contacted as soon as their rent account falls into arrears. They are expected to work with us as soon as there is a missed payment.

7. New tenants/licensees.

- 7.1 When an offer of accommodation is accepted, the prospective tenant/licensee will be provided with clear information on their responsibility to pay all their rent & charges on time, payment methods available to them, how to claim benefits for housing costs and the amount of rent and other charges payable. They will also be offered budgeting advice and help to make an application for Housing Benefit or Universal Credit if they are unsure of how to do this.
- 7.2 In order to build a payment culture, the Council will ask new tenants/licensees to pay a minimum of two weeks rent and/or charges in advance, on the day they sign-up for their tenancy/licence. If the new tenant/licensee is in receipt of benefits for housing costs, then the Council will ask for a small contribution towards the rent for the first week of the tenancy/licence.
- 7.3 We will invite new tenants/licensees to accept a home appointment approximately six weeks after they signed for their new home to see how they are settling into their new home including discussing rent payments and benefit claims. These appointments are carried out by Estate Management Officers.
- 7.4 If it is not possible to meet with the tenant/licensee at that time, they will carry on trying to make contact. Tenants/licensees will be given the opportunity to be signposted to agencies that provide financial and debt advice where it has been identified that they may need assistance.

8. Applicants on Devon Home Choice with Rent Arrears.

- 8.1 Where an applicant, or a member of their household, has rent arrears to any social landlord above £500 it may affect their ability to obtain future social housing. Please see the Devon Home Choice Policy for a full break down of individual circumstances.

9. Information and advice.

- 9.1 Information will be provided about rent accounts through the issue of quarterly rent statements. Up-to-date statements can also be requested at any time.

- 9.2 All tenants/licensees will be advised of any changes to the rent or charges payable and reason for the changes; for example, we have a statutory duty to inform 4 weeks in advance if we plan to increase their rent at the start of the new financial year.
- 9.3 Officers aim to reach an agreement (repayment plan) with the tenant/licensee to pay off any unpaid sums over a reasonable period of time. This must be both achievable for the tenant/licensee and acceptable to the Rental section.
- 9.4 The Rental section will work in partnership with agencies to facilitate the provision of independent advice to tenants/licensees about money management, debt and housing and welfare benefits.

10. Recovery of current rent arrears.

- 10.1 The recovery of arrears will be dealt with in accordance with the Rental section's Rent Arrears Management Procedures, with an emphasis on maintaining regular personal contact via telephone, email, letters and home visits throughout the recovery process. All contact made with a tenant/licensee will be recorded on our housing management system.
- 10.2 Personal contact allows Officers to gain a greater understanding of the circumstances of tenants/licensees who may be finding it hard to pay their rent or charges. Where necessary, text and email may be used as methods of contacting tenants/licensees.
- 10.3 Where a tenant/licensee is claiming the housing cost element of Universal Credit and falls into rent arrears, contact will be made with the tenant/licensee. They will be advised that if they continue to remain in arrears then an application will be made to the Department of Works and Pensions (DWP) to claim direct payments by way of alternative payment arrangements (APAs).
- 10.4 If a tenant/licensee is in receipt of Housing Benefit and falls into rent arrears, a repayment plan will be sought with the tenant/licensee. If the repayments aren't kept up with or we cannot contact the tenant/licensee, then the Council will ask for deductions to be made from any other ongoing benefits in respect of the debt at the applicable rate.
- 10.5 Legal proceedings will commence where there is a record of persistent arrears, and the tenant/licensee does not make or adhere to an agreement to reduce the arrears. This action will be used as a last resort.
- 10.6 Rent arrear cases are referred to the Rental Manager prior to applying to Court for possession or eviction to ensure that the Officer managing them has followed the correct procedure and done everything possible

to recover the debt. Cases are discussed in detail, and a decision is made as to whether or not they should be referred to court. The Rental section will ensure that all cases progressed to court comply with the Pre-action protocol for possession claims based on rent arrears and relevant statutory requirements.

- 10.7 If a support agency is involved with a tenant/licensee, no progression to Court will be made until the support agency provides an update on their financial and other circumstances, as appropriate. Where it is known, or we have any suspicion, that a tenant/licensee is vulnerable the Homelessness Team are advised of our action at the earliest possible stage.
- 10.8 At all stages of the legal process the tenant/licensee will be informed of the reasons for the action and where they can seek support and advice.
- 10.9 During legal proceedings, Officers will request a Possession Order and Court costs will be recharged to the tenant/licensee. Where the court grants an Order for Possession, Officers will also seek to obtain a money judgement order, allowing further recovery of the debt after eviction.
- 10.10 It is the tenant's/licensee's responsibility to notify us of any changes in their circumstances which may affect their ability to pay their rent for example due to job loss or illness.
- 10.11 Where a tenant/licensee holds an introductory tenancy and a Notice of Possession Proceedings has been served, they will have the right to appeal and have their case heard by the Director – Housing and Health, or his/her appointed officer, neither of whom will have had any previous involvement in the decision to serve the notice.
- 10.12 The appeal will be dealt with by written representation unless the tenant/licensee requests an oral hearing. If the tenant/licensee requests an oral hearing, she/he has the right:
 - to be heard and to be accompanied or to be represented by another person.
 - to call any person to give evidence and ask her/him any questions.
- 10.13 Garage licences are non-essential expenditure, therefore, failure to pay will result in proceedings to terminate the licence.
- 10.14 Once garage rent of one week is owed, we will serve a Notice to Quit and at the end of that notice period (minimum of 7 days), we will change the locks and repossess the garage.
- 10.15 Rent arrears will be put on hold if a Breathing Space application has been sent to us via the internal memo system. (Please see section

15.5 for further details regarding Breathing Space) Any chasing of the arrears will be held until the Breathing Space officially ends.

11. Recovery of former tenant rent arrears.

- 11.1 All former tenant arrears will be pursued. Every effort will be made to trace and contact debtors and make an arrangement to recover the debt. Where the debt remains unpaid the Rental Section may use debt recovery agencies or initiate proceedings through the County Court to recover any unpaid sums. This may affect a tenant's/licensee's credit rating.
- 11.2 When a tenant/licensee terminates their tenancy/license, Officers will make contact with the tenant/licensee prior to the tenancy/license ending to advise of any amounts that need clearing prior to termination. If it is not possible for the tenant/licensee to pay the balance in full, a repayment plan that is affordable and sustainable will be agreed.
- 11.3 Former tenants/licensees will be signposted to where they can seek independent advice and support at their request.
- 11.4 If there is an outstanding debt relating to a deceased tenant/license, the next of kin, administrator or executor will be notified that there will be a claim against the estate. If the Rental Section receive written confirmation that there are no funds in the deceased estate, the debt will be written off.

12. Recovery of other charges.

- 12.1 The Rental section are responsible for recovering other charges, for example Court costs, sewage or alarm charges.
- 12.2 If there is a sub account, for instance if a tenant/licensee has a debt relating to an outstanding Court fee, they will be expected to clear any outstanding arrears on their main rent account first. Once arrears from the main account have been settled, the tenant/licensee must make arrangements to clear their sub account/s; failure to do so may result in the Council re-applying to Court to recover the outstanding balance.
- 12.3 If there are no outstanding arrears on the main rent account but there is an unpaid sum on a sub account then the tenant/licensee is expected to pay or make an arrangement to clear any amounts outstanding.
- 12.4 Payment of sheltered service charges are due weekly in advance. When a tenant/licensee falls into arrears with their service charge and they have failed to engage with us or make an arrangement to clear any unpaid sums, this will be treated as a breach of the tenancy/license conditions and dealt with in the same way as rent arrear cases.

13. Arrangements

- 13.1 When arrears are present, Officers will consider the circumstances of the tenant/licensee, their payment history, current financial situation and their ability to pay when agreeing a repayment plan. A tenant/licensee may work with a partner agency who will complete a common financial statement, and this will be taken into account if passed to our Officers. This is to ensure that the arrangement is affordable and manageable.
- 13.2 Tenants/licensees will be advised that Court action may be taken to recover unpaid sums if payments are not made on a regular basis, or an agreed arrangement is broken.

14. Claiming benefits and overpayments.

- 14.1 It is the responsibility of the tenant/licensee to make a claim for benefit to cover their housing costs. It is important that tenants/licensees talk to Officers straight away if they experience benefit delays or if they require any help with making a claim.
- 14.2 Where a tenant/licensee is claiming the housing cost element of Universal Credit, the Rental Section will provide the relevant paperwork to the tenant/licensee to support any claims they make. The tenant/licensee must give express consent to the DWP if they wish any Council Officer to be able to speak directly to the DWP regarding their Universal Credit claim. If a tenant/licensee is claiming Housing Benefit, the Rental Section can only liaise with Officers in the Benefits team about the case if the tenant/licensee has authorised this. Therefore, tenants/licensees must not assume that any issues relating to their Housing Benefit or Universal Credit will be resolved without any input from them.
- 14.3 Joint tenants/licensees are 'jointly and severally' responsible for paying rent and any charges on time as well as any unpaid sums. This means that if one does not pay, the other is fully liable. This will still be the case where Universal Credit is only paid to one member of the household, or where one joint tenant/licensee has left the property. Where there are any changes within a household, either financial or physical it is the tenant's/licensee's responsibility to inform the relevant Benefit Agency so that any overpayments to any benefits can be minimised.
- 14.4 The rent arrears process will still be followed where there is a debt due to an outstanding benefit claim or delay. However, cases will be referred to the Rental Manager where a decision will be made whether or not Court proceedings will commence. Where a tenant/licensee is entitled to benefit to cover their full rent and they have not been

responsible for the delay and can satisfy us that they have provided all supporting evidence to support their claim, Court proceedings will not commence.

- 14.5 Tenants/licensees are expected to pay any rent and charges due, which are not covered by benefits, on time.
- 14.6 Tenants/licensees are responsible for paying back any overpayment of benefit that covered their housing costs.

15. Insolvency Arrangements

- 15.1 Insolvency arrangements include Bankruptcy, Individual Voluntary Arrangements (IVA) and Debt Relief Orders (DRO)
- 15.2 Where a tenant/licensee has an insolvency arrangement, they remain liable to pay current rent as usual. Written confirmation of any arrangements will be required and once received, Officers will update the rent account with details. This is because people subject to such arrangements are advised not to contact their creditors, instead, EDDC should be working with the Receiver who can provide all relevant information.
- 15.3 Where a tenant/licensee is bankrupt, rent arrears are not written off automatically. Any repayment of rent arrears will be dealt with direct with the Official Receiver and may then be discharged after a year. Ongoing rent charges remain the responsibility of the tenant/licensee and must be paid in accordance with their tenancy/license agreement.
- 15.4 Rent arrears accrued prior to a DRO being granted will be dealt with differently. If there is a DRO, creditors are prevented from pursuing debts for a period of 12 months. Tenants/licensees with a DRO are still liable to pay rent, and rent arrears incurred after the DRO has been made are not covered by the suspension. Repayment of these arrears will be dealt with in accordance with the Rent Arrears Management Procedures.
- 15.5 The Government introduced a new statutory breathing space scheme on 4th May 2021. The scheme provides a legally authorised period of delay in the payment of a debt, it is a waiting period set by the Government, with a suspension of recovery of the debt, for that fixed period. The scheme aims to help people in problem debt to better manage their finances, to seek professional debt advice and reach sustainable solutions to take control of their finances. If a tenant wishes to take up the breathing space scheme, they must go through a registered professional such as CAB or Stepchange. The Rental Team will not chase any debts placed under the scheme until the period of delay has been reached.

16. Write offs.

- 16.1 In some circumstances, we will write off irrecoverable debts where they are uneconomic to pursue, for example where there are arrears outstanding after the death of a tenant/licensee and there is no estate to recover the debt.
- 16.2 Prior to any unpaid sums being written off, Officers will carry out the relevant recovery actions before seeking approval to write off the debt. The Head of Finance will be responsible for signing off any amounts to be written off.

17. Legal action

- 17.1 Tenants/licensees will be referred to court to secure formally any amounts owing where they have failed to engage with us or keep to an arrangement. This is a serious step which puts their tenancy/license at risk and will result in the tenant having to pay for Court costs.
- 17.2 Procedures laid out by the Pre-Action Protocol for possession claims (see Appendix 1) based on rent arrears will be followed by Officers when Court action is being considered.
- 17.3 In cases where the tenant/licensee has failed to keep to a Court Order and where it is deemed appropriate, possession proceedings will be undertaken. Tenants/licensees will be encouraged to attend Court and will be signposted to where they can seek independent advice and support.
- 17.4 Legal action is only used when all other attempts to engage and support the tenant/licensee with their debt has failed.

18. Changing possession orders.

- 18.1 A tenant/licensee may be able to request a Possession Order be varied. This will depend on whether or not the judge had a choice when making the Possession Order in the first instance, for example in some situations the Judge has no choice about making an order and cannot change it once made, as long as the landlord followed the correct legal procedure to obtain the order (This applies to introductory or demoted tenancies).
- 18.2 Where a tenant/licensee requests to make a change to a Possession Order, they will be advised to seek independent advice about applying to the Court to either have the possession order set aside, suspend or postpone the date for possession or vary the terms of the order. It will be the responsibility of the tenant/licensee to supply the relevant evidence (for example the reason they missed a rent payment, details about change in income, details of an outstanding housing cost claim)

in their application to have a case re-heard or the Possession Order to be varied, set aside or delayed.

- 18.3 Any application to the Court to set aside a Possession Order, does not automatically stop the Court Bailiff carrying out an eviction. It is the responsibility of the tenant/licensee to request the Court to stay or suspend any warrants at the same time they apply for an order to be set aside or varied.

19. Policy administration

19.1 Equality impact considerations

Equality relevance ranking based on the Equality Relevance Assessment:

Equality impact ranking based on the Equality Impact Assessment: **Medium**

19.2 Data protection

The [EDDC Data Protection Policy](#) outlines how we store and use personal information.

The following privacy notice(s) provide further information on how we will use personal data, how it is gathered, how long we will retain this information, and what rights individuals have in relation to this.

b) The collection and use of tenant's/licensee's personal data will not exceed that agreed to in their tenancy agreement

Rental - Collection of housing rent
Housing Allocations - Processing Devon Home Choice applications
Housing Services - Enforcing conditions of tenancy agreement

All our privacy notices can be found on the EDDC website –
<https://eastdevon.gov.uk/access-to-information/data-protection/privacy-notices/>.

19.3 Policy review

Rental Manager.
Next review date: 1st December 2029

History of most recent policy changes – Must be completed			
Date	Section	Change	Origin of change (e.g. change in legislation)
24/11/25	Whole document	Grammatical changes	Tenant consultation

19.4 Policy authorisation

Housing Review Board. Date:

19.5 Policy dissemination

Update staff using team meetings and email. Housing Review Board to sign off. Policy should be shared on the Internet website.

20 Related policies, strategies, procedures, and legislation

- Corporate Debt Collection Policy
- Tenancy Agreement
- Data Protection Act 2018
- Pre-action Protocol for Possession claims by Social Landlords
- Rent Arrear Management Procedures
- Housing Service Plan
- Equality Act 2010
- Care Act 2014
- Housing Act 1985
- Devon Home Choice Policy

21 Appendices and other relevant information

Appendix A: Pre-Action Protocol for Possession Claims by Social Landlords

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Appendix A

Pre-Action Protocol for Possession Claims by Social Landlords

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PART I AIMS AND SCOPE OF THE PROTOCOL

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

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

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

1.4 The aims of the protocol are:

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

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

(a) If the landlord is aware that the tenant has difficulty in reading or understanding information given, the landlord should take reasonable steps to ensure that the tenant understands any information given. The landlord should be able to demonstrate that reasonable steps have been taken to ensure that the information has been appropriately communicated in ways that the tenant can understand.

(b) If the landlord is aware that the tenant is particularly vulnerable, the landlord should consider at an early stage—

- i. whether or not the tenant has the mental capacity to defend possession proceedings and the extent to which CPR 21 applies;
- ii. whether or not any issues arise under the Equality Act 2010; and
- iii. in the case of a local authority landlord, whether or not there is a need for a community care assessment in accordance with the Care Act 2014.

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PART 2 POSSESSION CLAIMS BASED UPON RENT ARREARS

Initial contact

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

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

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

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

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

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

(a) the local authority or DWP have been provided with all the evidence required to process a housing benefit or universal credit (housing element) claim;

(b) there is a reasonable expectation of eligibility for housing benefit or universal credit (housing element); and

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

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

The landlord and tenant should work together to resolve any housing benefit or universal credit (housing element) problems.

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

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After service of statutory notices

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

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

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Alternative dispute resolution

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

2.11 The Civil Justice Council and the Judicial College have endorsed The Jackson ADR Handbook by Susan Blake, Julie Browne and Stuart Sime (2013, Oxford University Press). The Citizens Advice Bureaux website also provides information about ADR

Information is also available at: <https://www.gov.uk/guidance/a-guide-to-civil-mediation>

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Court proceedings

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

(a) provide the tenant with up-to-date rent statements; and

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

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

(b) If the tenant complies with an agreement made, after the issue of proceedings, to pay the current rent and a reasonable amount towards arrears, the landlord should agree to adjourn the court proceedings for so long as the tenant keeps to such agreement.

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

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

(a) an order for costs;

(b) an order adjourning the claim; or

(c) an order striking out or dismissing the claim (other than a claim based on a mandatory ground).

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

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PART 3 MANDATORY GROUNDS FOR POSSESSION

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

3.2 Before issuing any such possession claim a social landlord—

(a) should write to the occupants explaining why it currently intends to seek possession and requiring the occupants, within a specified time, to notify the landlord in writing of any personal circumstances or other matters which they wish to have taken into account. In appropriate cases, such a letter could accompany any notice to quit or notice seeking possession and so would not necessarily delay the issue of proceedings; and

(b) should consider any representations received and, if they decide to proceed with a claim for possession, give brief written reasons for doing so.

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

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

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

(c) brief reasons for bringing proceedings.

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

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Updated: Thursday, 19 August 2021