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Fact Sheet #3: Rent Arrears

Social Landlords - What they should do before taking you to court

On 2nd October 2006 the Government introduced a new procedure that social landlords (councils and Housing Associations) should follow when they are considering court action against tenants who have not paid their rent.

The aim of the procedure is to encourage landlords and tenants to resolve problems before the case reaches court. The procedure only applies if you have a long-term tenancy (a secure or assured tenancy, rather than an introductory or assured shorthold tenancy).

This leaflet explains what your landlord should do if considering court proceedings against you, and what the court can do if your landlord has not followed the procedure.

What if I have rent arrears?

You are in rent arrears if you have missed, or only partly paid, any payment of your rent, even if you have missed the payment due to problems with Housing Benefit (HB). If you have rent arrears, your landlord can ask the court to evict you. The landlord must first give you a 'notice seeking possession'.

Before giving you notice, your landlord should:

- contact you as soon as possible after you get into arrears to discuss the cause of the arrears and your financial situation

- try to agree with you repayment of the arrears at a rate that is affordable for you
- give you a rent statement every three months or when you ask for one
- ensure that you understand any information given to you if you are likely to have trouble reading or understanding it
- make arrangements for someone to help you if you are vulnerable (eg, if you are under 18 or disabled)
- arrange for arrears payments directly from your benefits, where appropriate
- assist you with a claim for HB
- advise you to seek independent advice on your finances.

Your landlord should not start action to take you to court if you have claimed HB and:

- given the council all the information it needs to assess your claim
- reasonably expect that you will be awarded some HB, and
- paid any rent or charges that will not be covered by HB.

What should my landlord do after giving notice?

The notice will have a date on it; if the problem is not resolved by that date, the landlord can serve a 'claim for possession', which will give you a date of a court hearing, at which the court will decide whether to evict you. After giving you notice, but before serving a claim for possession, your landlord should:

- contact you again to discuss the cause of the arrears and your financial situation
- if you reach an agreement to pay your rent and an affordable amount towards the arrears, agree not to take you to court as long as you stick to that agreement
- if you can't reach agreement with your landlord, they should consider 'alternative dispute resolution' (eg, asking an independent mediator to help you to reach an agreement).

What should my landlord do before a court hearing?

If the actions above do not resolve the problem, and your landlord serves a claim for possession, they should:

- let you know the date of the hearing, that your home may be at risk, and advise you to go to the hearing
- give you an up-to-date rent statement, and tell you what they know about your HB situation, 10 days before the hearing
- if they can reach an agreement with you beforehand, agree to postpone the hearing as long as you stick to the agreement.

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