

Arrears Prevention and Recovery Policy



Policy Reference:

Policy/HM011 Issue 5.0

Approved by:

Senior Management Team

Date approved:

September 2017

A Scope and Objectives

1. The objective of this policy is to maximise income through the prevention and recovery of current tenant rent arrears and charges to home owners. The reference to rent throughout the policy is inclusive of service charges and interest where these are payable.
2. The recovery of former tenant arrears and other sundry debt sits outside of the scope of this policy.

B Policy Statement

1. Rental income accounts for a significant proportion of bpha's total income and as such maximising the organisation's income through the prevention and recovery of rent arrears are essential to ensure that we can continue to provide good quality services for our customers.
2. bpha understands the high cost to both the customer and the organisation of evictions and as such will try to minimise the number of tenancies that end due to non-payment of rent.
3. bpha's overall approach to maximising income through the rental stream is:
 - To prevent tenants from falling into arrears with their rent by allocating properties appropriately and providing reasonable support and assistance to those customers at risk of not paying their rent.

Where this preventative approach fails, bpha will:

- Take action quickly and decisively to enforce the payment of rent in accordance with the tenancy agreement, including the use of court action and will ultimately seek to end a tenancy.
4. bpha's approach to the recovery of debt owed by home owners either in rent, service charges or interest charges is detailed later in this policy document.

5. Tenant Arrears

5.1. Preventative approach

- 5.1.1. To try to prevent tenants falling into arrears with their rent we will allocate properties appropriately in accordance with bpha's Allocations policy with a focus on the long-term sustainability of the tenancy.
- 5.1.2. Prior to the allocation of a tenancy a financial assessment of the applicant will be made in order to assess whether the property rent is affordable and, where it is, to assess what risk the applicant poses to the organisation in terms of their financial circumstances. Applicants may be refused a tenancy at this point or compelled to accept support as a condition of the allocation in accordance with our pre-allocation procedures.
- 5.1.3. Since 2016 rent has been payable in advance, to assist both the organisation and tenants in managing the transition to Universal Credit.
- 5.1.4. Where tenants do fall into arrears with their rent we will look to prevent formal action being taken against their tenancy by intervening at an early stage. Our Financial Inclusion Team will offer money advice as appropriate.
- 5.1.5. Where we are unable to assist tenants, we will signpost to appropriate external agencies.

5.2. Tenants - Rent Arrears Recovery

- 5.2.1. Where preventative measures have failed, bpha will take timely, decisive action in the recovery of the debt.
- 5.2.2. bpha will expect low level debts to be cleared in a single payment and will only agree to instalments where the tenant can demonstrate their inability to pay in a single payment.
- 5.2.3. For higher level debts bpha will accept repayment by instalment and will make agreements taking into account the tenant's personal circumstances and the time in which the debt will be paid in full. Repayment periods will not exceed 4 years, and this length of time will only be agreed in exceptional circumstances.

5.3. Tenants - Court Action

- 5.3.1. Where agreements to repay a debt are not maintained bpha will take court action in order to recover the debt. In most circumstances, this will be possession action. The decision will be made by the Home Manager.
- 5.3.2. bpha will seek possession on mandatory grounds for Assured Shorthold tenancies and Starter tenancies.
- 5.3.3. bpha will seek possession on discretionary or mandatory grounds for Assured tenancies or fixed term tenancies dependent on the circumstances of the case. In cases where the tenant has failed to engage and has paid very little towards the debt, or where there has been previous court action to enforce payment of the debt, it is likely that mandatory possession under Ground 8 of the 1988 Housing Act will be relied upon in possession hearings.
- 5.3.4. Where an undertaking exists between bpha and the mortgage lender, bpha agree not to commence any proceedings for obtaining possession without giving the lender at least 28 days' notice in writing and reasonable time to remedy the breach, if requested.
- 5.3.5. bpha will always request that the court costs are awarded against the tenant and that a Money Judgement is included in the order.
- 5.3.6. For static debts bpha will consider applying to the County Court for a Money Judgement where the level of debt is not high enough to warrant possession action. Front line employees including Financial Inclusion and Home staff can decide whether to apply for a Money Judgement.
- 5.3.7. If a Suspended Possession Order is granted and subsequently breached by the tenant, no more than one opportunity will be given for the tenant to remedy the breach. Should the breach not be rectified quickly or if the order is breached on more than one occasion an application will be made to the County Court for a warrant for eviction.
- 5.3.8. bpha will oppose any application to stay the execution of the warrant unless payment is made to clear the debt in full, inclusive of court costs. Where the eviction has been carried out and the tenant agrees to repay the full debt within 24 hours, bpha may consider granting a new tenancy. The Regional Manager, Retirement Living Manager, Head of Housing Operations or the Commercial Head of Retirement Living are responsible for this decision. This decision will be entirely at the discretion of bpha and will not be considered

where there have been any other breaches of tenancy, or the tenant holds a Starter tenancy.

5.4. Tenants -Debt Relief Orders (DROs) and Bankruptcy

5.4.1. Where a tenant has secured a DRO or a Bankruptcy Order and includes the debt owed to bpha in the order, we will always seek possession of the property based on the tenants' inability to afford the rent payments.

6. Home Owners

6.1. Home ownership customers will be offered support and advice where appropriate. However, bpha recognise that home owners are generally less financially vulnerable than our tenants, and as such the support offered will not normally be as extensive as that offered to tenants.

6.2. bpha will seek to recover the debt from home owners in accordance with their individual lease or loan agreements.

6.3. bpha will look to make agreements to clear any debt in a single payment and only make agreements to repay in instalments where the debt is particularly high or where the home owner is able to demonstrate their inability to pay in a single instalment.

6.4. Where instalments are agreed, these will not normally exceed a period of 6 months. For very high levels of debt and in exceptional circumstances bpha may agree to instalments over a longer period, but this period will be entirely at the discretion of bpha.

6.5. If the home owner fails to reach an acceptable agreement or agreements to repay the debt are breached, bpha will seek to recover the debt more formally under the terms of the lease or loan agreement. This may include; writing to a mortgage provider to repay the debt, application to the court for a Money Judgement or, when all other measures to recover the debt have failed; application to the Court for forfeiture of the lease or repossession of the home. Any applications to the Court for forfeiture of the lease must be approved by the Head of Housing Operations or the Commercial Head of Retirement Living. Once a Court Order is granted, bpha will be led by the court order and will monitor compliance until the arrears are clear.

7. Complying with the Money Laundering Regulation 2017

- 7.1. Any concerns about suspicious activity must be raised with the Company Secretary; bpha's nominated Money Laundering Reporting Officer (MLRO). bpha has a duty to check the provenance of any large payments that are received or offered in relation to bpha financial transactions, especially where customers or third parties have difficulties in explaining the origins of the finances. For full details see the Anti Money Laundering Policy.

C Regulatory and Legal Considerations

1. This policy and the corresponding Rent Collection procedure comply with the Possession claims based upon rent arrears', part 2 of 'Pre-Action Protocol for Possession Claims by Social Landlords' Civil Procedure Rules.
2. The recovery of debt from leaseholders and shared owners is undertaken in accordance with relevant legislation including the Landlord and Tenant Act 1985 and the Commonhold and Leasehold Reform Act 2002.
3. The recovery of debt from equity loan customers is undertaken in accordance with Financial Conduct Authority (FCA) rules and relevant legislation.

D Monitoring, Reviews and Evaluation

1. Compliance with this policy and associated procedures is assisted by using a set recovery process within the Housing Management system for rental customers and shared owners.
2. The success of this policy and associated procedures is measured by:
 - Measuring the level of current rent arrears owed to bpha on a monthly basis against annually set KPIs.
 - Monitoring the number of evictions for non-payment of rent on an annual basis.

E Associated documents and procedures

- Former Customer Debt Write Off Policy
- Allocations policy
- Tenancy policy
- HM004 – Arrears Recovery and Prevention Procedure
- HM013 – Current Rent and Arrears Control (Shared Ownership) Procedure

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