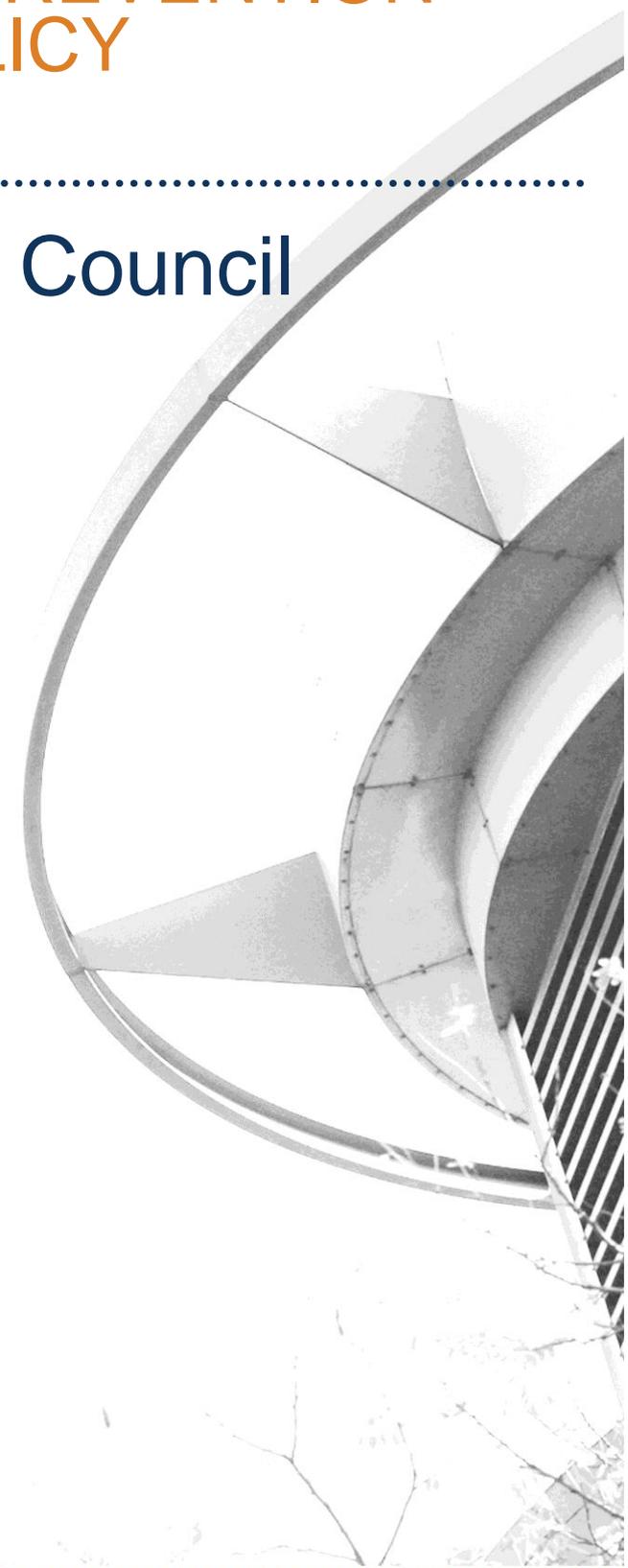
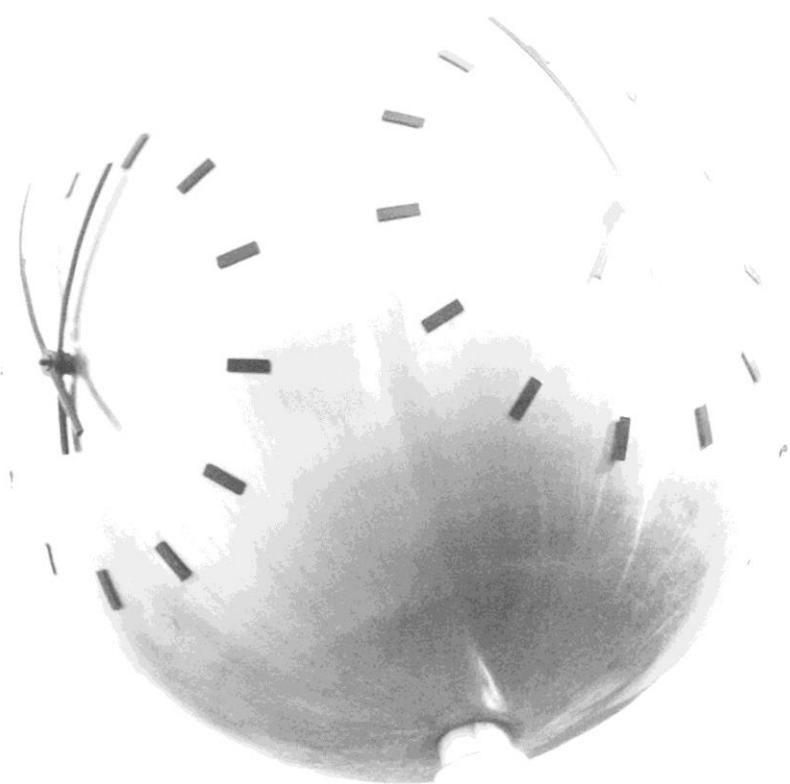


# RENT ARREARS PREVENTION & RECOVERY POLICY

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## Basildon Borough Council 2017 -2020



Author:	Lesley O'Shea
Section/Directorate:	Housing and Community Services
Service Impact Assessment:	22 September 2017
External Consultation:	Tenant and Leaseholder Panel 20 June 2017, 19 July 2017, Website Sept/Oct 2017)
Internal Consultation:	Key officers involved in the development of the policy throughout the process
Background Information:	Housing Act 1985, BBC Tenancy Agreement and service review
Policy Approval – Officer Level	Head of Housing and Community 23 October 2017
Policy Approval – Member Level	Housing and Community Committee 14 November 2017
Policy Review Date:	November 2020
Service Impact Assessment Review Date:	November 2020

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## 1.0 INTRODUCTION

This document outlines Basildon Borough Council's policy for managing current and former tenant rent arrears and replaces all previous policies relating to rent collection and arrears. The updated policy takes into account changes to legislation affecting social housing tenants, current best practice and other changes in the external environment such as Welfare Reform. The reference to rent throughout this Policy is inclusive of service charges where applicable.

This policy covers:

- Rent arrears for secure and non-secure tenants
- Former Tenants
- Garage rent arrears
- Accounts in credit

There has been a sustained increase in rent arrears owed by Council tenants over the past 5 years and a comprehensive review of the service has been undertaken. The findings and recommendations of the review have been instrumental in the development of this Policy and have provided a strong evidence base with an emphasis on prevention and early intervention with the aim of achieving a significant and sustainable reduction in rent arrears.

All tenants of Basildon Council properties (including garages) have an obligation under their Tenancy Agreement to pay their rent and maintain an account free of arrears. The purpose of this policy is to ensure that wherever possible, rent arrears are prevented from occurring in the first place and where they do occur, effective recovery action is taken. This protects the Council's financial viability whilst also ensuring that tenants find a solution that enables them to clear their arrears over a reasonable period of time and sustain their tenancy in the longer term and prevent homelessness.

Rental income is the main source of income to the Housing Revenue Account (HRA) and it is therefore essential that tenants pay their rent in full and on time to ensure a sustainable HRA. The Council own and manage 10,800 homes and 5600 garages in the Borough and the income from these assets is used to manage, repair and maintain the Council's housing and garage stock and therefore a poor collection rate has a direct impact on service delivery.

Universal Credit was introduced in 2013 and full service is due to be implemented in the Basildon Borough in November 2017. This is likely to have a significant impact on collection rates and the Council will work closely with the Department of Works and Pensions (DWP) to mitigate any negative impact and support tenants through the transition period.

Dedicated teams deal with rent arrears for secure tenants, temporary tenant, garage arrears, former tenants and the rent accounting function. The opening of the Partnership Hub in April 2017, means tenants can access a range of services in one location including Department of Works and Pensions, Housing Benefits, Tenancy Services and Citizens Advice.

Additional resources have been deployed to address the increase in rent arrears and structures, systems and processes will be kept under regular review to ensure the desired outcomes of this Policy are achieved.

The collection of rent and recovery of arrears are indicators as to the effectiveness of this Policy and information on cash collected and levels of rent arrears will be regularly monitored.

## **2.0 EXECUTIVE SUMMARY**

Rental income is the main source of income to the HRA income and as such, maximising the Council's income through the prevention and recovery of rent arrears is critical to ensure the Council can continue to provide good services to our tenants.

The aim of this policy is to ensure that income collection to the Housing Revenue Account is effectively managed and continuously improved during a time of changing demands on tenant's financial capacities as new and ongoing benefit reforms continue to be implemented.

The policy aims to support and maximise solutions for tenants, prevent rent arrears and sustain tenancies, whilst maximising income to the Housing Revenue Account to enable the delivery of housing services and the achievement of the 30 year Housing Revenue Account Business Plan.

## **3.0 POLICY STATEMENT**

Rent is a priority debt and Basildon Council treats rent arrears very seriously and expects all tenants to pay the rent that is due under the Tenancy Agreement weekly in advance (or monthly in advance). The Council aims to create a culture where tenants attach a very high level of importance to paying their rent. Council staff will support this payment culture ensuring tenants understand their rights and responsibilities. Support will be offered at every stage of the recovery process and evicting a tenant will always be a last resort. The Council's overall approach to maximising income through the rental stream is:

- To allocate properties appropriately and provide appropriate support and assistance to those tenants at risk of not paying their rent to prevent tenants from falling into arrears.
- Where rent arrears do occur, to take action quickly and decisively to enforce the payment of rent in accordance with the tenancy agreement.

## **4.0 POLICY**

- (i) Measures to prevent arrears are the core of the policy and will be taken at the earliest opportunity. Applicants with a previous or current history of debt, or who

may be vulnerable for other reasons will be identified and offered professional advice and assistance.

- (ii) At the tenancy offer and sign up stage, all new tenants will be clearly made aware of their obligations to pay rent and the importance of making regular payments. Methods of payment available will be discussed and for those tenants eligible for housing benefit, support will be given to complete and submit the claim form as a matter of priority. In order to efficiently process claims and prevent fraud, tenants are required to sign an information sharing document and this facilitates the legal exchange of information between a number of agencies including Housing Benefit, Council Tax, Housing Services and Department of Works and Pensions (DWP).
- (iii) Follow-up contact will be made with all new tenants four to six weeks after the start of the new tenancy at which point, early problems with rent and Housing Benefit/Universal Credit, can be addressed to prevent arrears accruing.
- (iv) A wide range of payment methods will be available and the Council will actively promote direct debit (the most cost effective and efficient) as the preferred method of payment.
- (v) The Council will run regular publicity and communication campaigns with the purpose of informing tenants of the support and assistance available to minimise arrears. This will include advising tenants of the impact non-payment of rent can have on their circumstances and family/household situation. Proactive publicity campaigns will be used to support tenants adversely affected by legislative changes to welfare benefits to ensure tenants are aware of any such changes in advance of implementation.
- (vi) Maintaining contact with tenants will be a priority. Arrears recovery will focus on personal contact at the earliest opportunity, ensuring high quality support and advice is readily available as well as informing tenants of the debt and consequences of non-payment in writing. All communication with tenants will make it clear that rent is a priority debt and letters will highlight the seriousness of particular arrears situations. The following forms of communication shall be used, as appropriate:
  - Telephone contact by landline or mobile including text will be used throughout the rent arrears process.
  - Arrears letters, appropriate to the arrears escalation stages, together with personalised ad-hoc letters in appropriate circumstances will be sent in accordance with Rent Arrears Procedures. Such letters will be sent by post or hand delivered as necessary.
  - Email may be used as appropriate where the tenant has provided an email address.
  - Face to face - Office interviews offer the opportunity to provide the tenant with comprehensive financial & budgeting advice and guidance on all

aspects of rent payment and welfare benefit/universal credit applications.

- Face to face - Home visits are carried out as an alternative and/or in addition to the methods above. These visits are key to establishing a relationship with those customers who do not respond to correspondence and are deemed not to be engaged in the process. In addition home visits will be offered to those customers who are not able to attend interviews at BBC offices for a number of reasons including illness, disability and vulnerability.
- (vii) At all stages of the recovery process, the Council will make available as appropriate:
- Confidential face to face interviews with professional, knowledgeable, customer focussed staff.
  - Assistance with making a housing benefit claim
  - Access to Housing Advice and CAB who can help tenants to maximise benefits, reduce utility bills and assist with budgeting skills.
  - Access to Housing Support Teams for vulnerable tenants
  - Advice and assistance to submit applications for funds such as Discretionary Housing Payments or any other available hardship funds
- (viii) All members of staff responsible for the collection of rent and arrears recovery will be fully trained to provide a professional, customer focused service and will carry identity cards at all times. Officers will be trained to identify vulnerable tenants and offer the appropriate support to sustain the tenancy. This may include liaising with/making referrals to other agencies including the Safeguarding Team and Social Services.
- (ix) The Council will balance resources in order that there is both a pro-active and a reactive approach to rent recovery. The former will use data analysis to plan proactive action with the aim of reducing and preventing arrears e.g. contact with tenants paying by credit card; encouraging direct debit sign up, targeted take up campaigns whilst the latter will involve following the agreed recovery procedures.
- (x) The Council will use the most cost effective method to recover the debt depending on the amount owed. Initial stages of the recovery process will be automated in order to dedicate resources to more complex cases. Tenants will be informed of the debt and consequences of non-payment in writing.
- (xi) Occasionally tenants have financial difficulties and are unable to pay the rent due and in these cases, the Council will ensure that the tenant has access to appropriate financial/debt advice and will offer an affordable repayment plan where tenants can demonstrate their inability to pay the debt in a single payment. A repayment plan will be offered based upon income and reasonable expenditure and the time in which the debt will be paid in full. If a tenant breaches an agreement on more than two occasions in a 12 month period, no

further agreements will be made (unless there are exceptional circumstances agreed by the Tenancy Services Manager) and the case will proceed to the next stage of recovery action. All agreements will be confirmed in writing.

- (xii) In cases, where arrears continue to increase and despite every effort being made by the Council, tenants do not engage with officers to resolve the situation, the Council will commence legal action to re-possess the property. At all stages of the legal process, tenants will be informed of the action being taken, the implications of the action and offered continued help and advice from Council Officers and external partners. Referrals will continue to be offered at all stages of the recovery process in order to try and prevent the tenant from losing their home.
- (xiii) The Council will comply with the requirements of the Housing Act 1985 and the Ministry of Justice Pre-Action Protocol for Possession Claims relating to rent arrears in social housing. This protocol aims to encourage more pre-action contact and exchange of information with the intention that litigation is avoided where possible. Repossession of a property as a result of rent arrears will always be a last resort.
- (xiv) The Council will always request that court costs are awarded against the tenant and that a money judgement is included in the Order for Possession. For static debts, the Council will consider applying to the County Court for a money judgement where the level of debt is not high enough to warrant possession action.
- (xv) 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 of Eviction.
- (xvi) Where an eviction has been carried out and the tenant agrees to repay the full debt within 24 hours, the Council may consider granting a new tenancy. The decision will be entirely at the discretion of the Council and will not be considered where there have been any other breaches of tenancy.
- (xvii) In cases where the arrears are a direct result of unpaid under-occupancy charges, the Council will adopt a non-eviction policy providing tenants have:
  - a) Registered to downsize to a smaller property
  - b) Not refused two suitable offers of alternative accommodation
  - c) Applied for a Discretionary Housing Payment
  - d) Managed their tenancy to a satisfactory standard
- (xviii) The stages of action in the Council's rent arrears recovery process are set out in Appendix i.

- (xix) In order to monitor and measure the effectiveness of this policy an action plan will be developed and regularly monitored by Senior Officers via weekly, monthly and quarterly performance management meetings as part of the Council's Performance Management Framework. These meetings will include the analysis of data to support effective focusing of resources to have maximum impact on arrears recovery.

## **5.0 DISCRETIONARY HOUSING PAYMENTS (DHP)**

A DHP may be awarded when a local authority considers that a claimant requires further financial assistance towards housing costs and is in receipt of either Housing Benefit or Universal Credit. This may include tenants affected by the spare room subsidy or benefit cap.

Officers will provide support and advice to tenants in making applications for this funding where appropriate. Any applications will be considered by the Revenues and Benefits department in accordance with the Council's Discretionary Housing Payment Policy.

## **6.0 FORMER TENANTS ARREARS POLICY**

The Former Tenant debt recovery process starts when a tenant's period of occupation has ended. The Council do not view former tenant arrears as uncollectable rent debts, as often with quick intervention following the termination of a tenancy, revenue can be collected.

In all cases, when the whereabouts of the former tenant are known, the Council will send a Statement of Account advising of the level of arrears and payments methods.

If the debt remains unpaid after the Former Tenancy Arrears Recovery process has been exhausted, where the debt is in excess of £200.00, cases will be referred to a Debt Collection Agency.

Where a tenant has failed to comply with the terms and conditions of a County Court Money Judgement, consideration will be given to referring cases to Legal Services to issue proceedings in respect of:

- i) Attachment of Earnings Orders (whereby an employer is ordered by the County Court to make wage deductions from a defendant's earnings);
- ii) Debt Recovery Orders
- iii) Bankruptcy Orders
- iv) Insolvency Orders
- v) Any other recovery action

There are five main reasons for former tenant rent arrears:

**i) Death of tenant**

Housing benefit is not paid after date of death and rent will continue to accrue until the personal representative returns the keys to the property. Outstanding arrears can be recovered from the Estate (where possible) following the death of a tenant and the Council will endeavour to liaise with relatives/legal representatives of the deceased to enquire if an estate is available to cover any outstanding balance. If the next of kin provides evidence showing there are no funds in the Estate, the debt will be written off.

**ii) Termination of tenancy**

When notice of "termination of tenancy" is received, the tenant is advised of the rent arrears balance as at the date of termination. If any outstanding arrears are not cleared by the end of the tenancy, the Council will pursue the debt in accordance with this Policy and the Former Tenancy Arrears Recovery Procedures.

**iii) Abandoned properties**

In these cases a forwarding address is generally not known. However, in the first instance a search of the Experian database will be undertaken and where this search produces no results and the debt exceeds £250.00, the services of a tracing company will be employed to obtain the latest known address for the former tenant. On receipt of an alternative correspondence address every effort will be made to secure repayment.

**iv) Eviction**

The policy is as for abandoned properties.

**v) Cancellation of Housing Benefit prior to void**

In cases where the forwarding address is unknown, information may be gained from other agencies, Council Tax/Housing Benefit records/Experian etc.

## **6.1 IRRECOVERABLE FORMER TENANT DEBTS**

Prompt and appropriate action will be taken in all cases to recover all sums overdue to the Council. However, in cases where payments are not forthcoming and Officers are unable to trace the whereabouts of a former tenant, consideration shall be given to writing off the debt in accordance with financial regulations. When a debt has been written off, it will no longer be shown as outstanding in the Council's accounts, however, the debt remains due to the Council in law and if the tenant is subsequently traced, the debt will be re-instated.

## 7.0 GARAGE RENT ARREARS POLICY

The Council have a number of garages and parking spaces across the Borough which are available to rent. Garage rent accounts must be kept clear or in credit at all times and payment must be made 4 weeks in advance by direct debit. The initial advance payment must be made at the time of signing the garage tenancy.

Council tenants on the garage waiting list who have rent arrears will not be offered a garage until all rent arrears are cleared. The Council will seek to repossess garages where the tenant falls into arrears on their garage account and/or their property. The stages of action for garage rent arrears is set out in Appendix ii.

## 8.0 ACCOUNTS IN CREDIT

All rent accounts over £500.00 in credit will be checked on a monthly basis and following internal checks to ascertain whether other debts are owed to the Council, a refund form will be issued to tenant to enable the Council to reimburse the credit directly to the tenant's bank account. Refunds will be actioned promptly on receipt of the completed refund form in line with agreed procedures. In the event of any outstanding debts owed to the Council, the credit on the account will be used to offset these debts before any refund can be considered.

## 9.0 CORPORATE PROMISES

Corporate Promises	Levels of Impact			
	High	Medium	Low	None
Strong, safe healthy communities with access to quality homes	X			
Vibrant town centres and a thriving economy for everyone		X		
Enhanced local environment and pride in our Borough		X		

## 10.0 OUTCOMES AND PRIORITIES

### Outcomes

- Tenants are prevented from getting into arrears (increased early intervention)
- Sustained reduction in rent arrears owed by tenants
- Tenants have the information, support and advice they need to maximise their income and prevent or minimise debt
- Services are accessible transparent and accountable
- Tenants are treated fairly and equally
- High quality, value for money service
- Sustainable Housing Revenue Account

## Priorities

- Early intervention to prevent arrears arising.
- Helping tenants sustain their tenancies and prevent homelessness.
- Effective management and control of rent arrears
- Treatment of all tenants is accountable, fair, efficient, effective; and consistent throughout the process.
- Professional, fully trained staff in place to deliver the desired outcomes
- Contact maintained with tenants at all stages of the recovery process, particularly vulnerable tenants
- Availability of high quality, accessible advice and support for all tenants that require it

### **11.0 LINKS TO OTHER CORPORATE POLICES OR PARTNER DOCUMENTS**

- BBC Allocations Policy
- BBC Tenancy Policy
- BBC Financial Regulations
- BBC Corporate Debt Policy (in development)
- BBC Local Council Tax Scheme
- BBC Information Management Policy
- BBC Safeguarding Policy
- Homelessness Prevention Strategy
- Housing Strategy
- ASB Policy

### **12.0 LEGAL REQUIREMENTS**

- Housing Act 1985
- Housing Act 1996
- Data Protection Act 1998
- Protection from Eviction Act 1977
- Local Government Act 2000
- Equality Act 2010
- Human Rights Act 1998
- Mental Capacity Act 2005
- Localism Act 2011
- Welfare Reform Act 2012
- General Data Protection Regulations
- Ministry of Justice Pre-action Protocol for Possession Claims by Social Landlords (2015)

## Appendix i – Overview of Rent Arrears Recovery Process

	<b>ACTION</b>	<b>TRIGGER</b>	<b>POSSIBLE OUTCOMES</b>
<b>2 WEEKS ARREARS</b>	1 <sup>st</sup> reminder letter	2wks arrears + current rent	Balance cleared
<b>3 WEEKS ARREARS</b>	2 <sup>nd</sup> letter and 1 <sup>st</sup> contact call	2wks arrears + current rent 1 <sup>st</sup> reminder completed over £50 debt	Balance cleared Vulnerabilities identified Arrears repayment plan agreed Cancel Insurance
<b>5 WEEKS ARREARS</b>	Serve NOSP	5wks arrears + current rent 2nd contact complete excludes 100% non-rent debt over £50 debt	Balance cleared Cancel insurance Refer to CAB, Family Mosaic Liaise with other departments for action Serve NOSP
<b>6 WEEKS ARREARS</b>	NOSP waiting period 1 <sup>st</sup> warning letter	6wks arrears + current rent 1 week after NOSP served over £50 debt	Balance cleared Send warning letter
<b>7 WEEKS ARREARS</b>	NOSP waiting period Contact stage	7wk arrears + current rent over £500 debt	Balance cleared Arrears repayment plan agreed Assess vulnerabilities Review HB/UC & pend as appropriate Review agency referrals Home visit/interview 7 day letter – notice of legal action Send pre-court protocol
<b>10 WEEKS ARREARS</b>	Make court application	10wks arrears + current rent Over £500 debt	Balance cleared Review HB & agency referrals Senior Rent Officer review Instruct legal to obtain court date Issue letter to tenant advising of action taken

<b>PROCESS</b>	<b>POSSIBLE OUTCOME</b>
<b>COURT HEARING</b>	Withdrawn
	Adjourned with terms
	Suspended Possession Order
	Absolute Possession Order
<b>ABSOLUTE POSSESSION ORDER DATE OR BREACH OF SUSPENDED POSSESSION ORDER</b>	Balance cleared Interview with Senior Officer Release of Warrant requested
<b>RELEASE OF WARRANT</b>	Balance cleared Warrant obtained Eviction date notified
<b>EVICITION PROCESS</b>	Balance cleared Stay of execution granted

	Eviction takes place
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## Appendix ii – Garage Rent Arrears Recovery Process

	<b>ACTION</b>	<b>TRIGGER</b>	<b>POSSIBLE OUTCOMES</b>
<b>2 WEEKS ARREARS</b>	1 <sup>st</sup> reminder letter	2wks arrears + current rent	Balance cleared
<b>4 WEEKS ARREARS</b>	2 <sup>nd</sup> reminder letter	2wks arrears + current rent 1 <sup>st</sup> reminder completed	Balance cleared
<b>6 WEEKS ARREARS</b>	Serve Notice to Quit (NTQ)	5wks arrears + current rent 2nd reminder complete	Balance cleared Agreement to clear in 7 working days
<b>7 WEEKS ARREARS</b>	NTQ waiting period	6wks arrears + current rent 1 week after NTQ served	Balance cleared Garage re-possessed and locks changed
	Garage cleared of any remaining possessions	Garage re-possession	Owner collects item within 7 days Items disposed of or sold to repay debt

Monday to Friday  
10am to 5pm



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