

Policy: Eviction

Approved by: Leadership
Date Approved: March 2023

Frequency of review Every 3 years.

POLICY STATEMENT:

Broadland Housing Association (BHA) exists to provide homes and support. As a member of Homes for Cathy, we have committed not to make any tenant homeless who is seeking to prevent this.

We use a range of support, mediation and enforcement tools so that eviction is only used as a last resort.

BHA will balance our responsibilities to support tenants who are in breach of their tenancy agreement with our responsibilities to the communities in which we work.

Tenants who are at risk of eviction will be provided with a full explanation of the reasons why we are seeking possession of their home. BHA has signed up to the Commitment to Refer and will refer any tenant at risk of losing their home to the relevant local authority.

This policy has been developed to ensure BHA complies with current legislation, regulatory expectations and good practice, and will be subject to ongoing review.

This policy applies to BHA only.

SCOPE:

General

We will comply with relevant legislation and good practice, only seeking to evict a tenant or licence holder for breach of tenancy and or where authority to evict is provided by the tenancy agreement, statute or the Courts.

Eviction Approval

When applying for a Bailiff Warrant, authorisation must be granted by the Assistant Housing Director subject to ratification by the Executive Operations Director or a member of the Executive team' within the eviction approval section prior to making the application to the courts.

When a Bailiff Warrant has been suspended by the courts and a new warrant to evict is being sought, authorisation must be granted by the Assistant Housing Director, subject to ratification by the Executive Operations Director or a member of the Executive team' within the eviction approval section prior to making the new application.

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| EVICTIION POLICY Latest Revision: | Policy No. FRO-22 | Revised by: Stephani Davis Verified by: |
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When applying to serve a NTQ for a tenancy or licence holder not in temporary accommodation, authorisation must be granted by the Assistant Housing Director prior to issue of the Notice.

When applying to serve a NTQ for a licence holder in temporary accommodation, authorisation must be granted by a Local Delivery Manager prior to issue of the Notice.

Main reasons of eviction

The following list, although not exhaustive, are the main reasons when we evict a tenant:

- Antisocial Behaviour (ASB)
- Rent Arrears
- Section 21. for failure to comply with support provision
- Abandonment
- NTQ for licence holders.

EQUALITY IMPACT ASSESSMENT (EIA)

As part of the eviction request the staff member making the request needs to complete an Equality Impact Statement. This ensures that all disabilities/support needs are taken into consideration that eviction is a reasonable, legitimate and proportionate course of action.

This will also give consideration to any reasonable adjustments that should be made, for example in communicating with tenants where their home is at risk.

Arrears

We will only apply to evict a tenant where we have exhausted all options to pursue the balance and the tenant is not seeking to prevent their homelessness.

We will follow our Income Policy and process maps before consideration is given to evict a tenant and approval is sought.

Where enforcement action is deemed appropriate, in almost all circumstances, we would use discretionary grounds for possession.

We will not actively use mandatory grounds for arrears, but will consider Ground 8 in extreme circumstances, such as tenants who have repeatedly gone through possession proceedings on more than one occasion.

Antisocial behaviour (ASB)

We will apply to evict a tenant if we feel it is reasonable and proportionate to do so.

We will follow our Anti-Social Behaviour Policy and Procedure before consideration is given to evict a tenant and approval is sought.

We will only consider mandatory grounds for eviction where it is deemed appropriate to improve the lives of the community following long standing complaints, in extreme cases of ASB, or the perpetrators tenancy type determines so.

Right to appeal

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In the following situations the tenant will be advised they have the right to appeal and these will be dealt with using the stage 2 process of our formal complaints Procedure, with appropriate reasonable adjustments for attendance or representation of the tenant:

- Starter tenants.
- Assured shorthold tenants,
- Assured tenants being evicted using mandatory grounds.

Customers who are on a licence and wish to appeal the decision to issue a NTQ, should contact the relevant Local Authority who has placed them in the temporary accommodation as its linked to their homelessness decision or alternatively seek independent advice from an organisation such as Shelter.

Where an application has been made for a Bailiff Warrant to be executed, we will inform customers to seek independent advice.

Abandoned Property

We will work with tenants to support them to sustain their tenancies and prevent abandonments. However, there are occasions where customers leave their properties without giving notice to terminate their tenancy. When this happens staff will follow the Abandoned property procedure. This is aimed at bringing properties back into use as quickly as possible whilst minimising the risk of Broadland Housing being sued for unlawful eviction under the Protection from Eviction Act 1977.

Where evidence shows the tenant has vacated the property without giving notice, we may consider this a surrender by operation of law.

KEY STAFF RESPONSIBILITIES:

Board

Performance information on evictions is provided to the board on a regular basis. Board members are involved in the stage 2 appeals process.

Leadership Team

Performance information relating to evictions is shared and discussed on a monthly basis.

Senior management

The implementation of the Evictions Policy will be overseen by Senior Managers in both the Operations Directorate.

Staff

Employees are responsible for ensuring they are fully aware and adhere to the terms set out in the policy. The management of Arrears and ASB cases are predominantly dealt with by Income Recovery Officers and Neighbourhood Officers.

DEFINITIONS:

Eviction

Only applicable for any living tenant, where BHA legally brings a tenancy or licence to an end.

Mandatory Ground

For the purposes of this policy, a mandatory ground written in Legislation, that when used, the courts are required to give us possession of the property.

Notice to Quit (NTQ)

The notice is given to the tenant to leave the premises (quit) (at least 1 months' notice)
An NTQ is used to end a tenancy, but it does not have any effect when dealing with an assured or an assured shorthold tenant; where we would serve a Section 8 Notice on an assured tenant/assured shorthold tenant or an S.21 Notice on an assured shorthold tenant as appropriate.

NTQs arise when a tenancy loses its fully assured status, this happens when the tenant ceases to occupy their property as their only or principle home. The most common scenarios are:

- i. The tenant moves out without giving notice.
- ii. The tenant is deceased.

This notice is also given to licence holders to leave the premises (quit) (usually 7 or 28 days' notice but can be with immediate effect in extreme circumstances).

EIA

Equality Impact Assessment

RELVANT KEY LEGISLATION AND RELATED DOCUMENTS: (not limited to)

| Legislation | Documents |
|----------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Equality Act 2010 | Income Policy Corporate Strategy |
| Data Protection Act 2018 | Antisocial Behaviour Policy |
| Homelessness Reduction Act 2017 | Complaints Policy & Procedure Regulator of Social Housing Statistical Data Return |
| Housing Acts 1985, 1988, 1996 | COREHomes for Cathy Commitments |
| Anti-Social Behaviour, Crime and Policing Act 2014 | Pre-Action Protocol for Possession Claims by Social Landlords |
| Protection from Eviction Act 1977 | Procedures and forms: <ul style="list-style-type: none">• Abandonment Procedure• Eviction Request Form (ASB)• Eviction Request Form (Ar-rears)• Abandonment Form |
| Regulator of Social Housing – Regulatory Standards | |

EQUALITY IMPACT ASSESSMENT:

This policy has had an Equality Impact Assessment (EIA) that has identified that this policy does not discriminate either directly or indirectly and does not disadvantage any individual or group. An individual EIA will be completed for any eviction request. The EIA identified that reasonable adjustments may be needed for notifying tenants of a risk to their home (ie. Through a visit, phone call, or translated document) and for an appeal hearing.

DATA PROTECTION

This policy (and associated procedures) requires a Privacy Impact Assessment (PIA) and one was completed on 6 April 2021 and appropriate risk mitigations implemented.

Please refer to the Tenant and Employee Privacy Notices, and the Data Protection Policy and Procedures, for details on Broadland's use, security, sharing and retention of personal data.

IMPORTANT PRINCIPLES:

- We are committed to support tenants to sustain their tenancy.
- Where a tenant is engaging, making decisions or taking action to show they are working with us to address their rent arrears we will not seek to evict them.

Broadland Housing Group will only share personal data in accordance with the requirements of the GDPR/ Data Protection Act 2018. We will abide by the laws and regulations in relation to the right to confidentiality, data sharing and disclosure rules in the Act and in relation to any Civil and/or Criminal disclosure legal requirements. _

Broadland Housing Group will inform individuals of the identity of other parties to whom we may disclose, or to whom we may be required to provide, personal data; the circumstances in which this may happen, and when any exceptions to this rule may apply.

Please refer to the Data Protection Policy. This will inform you about BHG's approach to securing your data, the appropriate use of data, how long we store and retain your data, and your rights regarding your data.