

## **EVICTIION POLICY**

### **Responsible Officer**

Director of Customer Services

### **Aim of the Policy**

This policy sets out the circumstances where Phoenix will apply for a bailiffs warrant after securing a possession order from the County Court for breach of tenancy.

### **Policy Scope**

The policy applies to Phoenix Community Housing tenants.

### **Policy Statement**

As a social landlord it is the primary duty of Phoenix Community Housing to provide homes for our residents and our focus is centred on supporting tenants to sustain their tenancies. There will be circumstances where it is necessary to seek possession of a property for breach of tenancy which may include anti social behaviour, rent arrears, property abandonment and tenancy fraud. This policy sets out the circumstances in which an eviction may take place.

### **The Policy**

#### **Section 1 - Introduction**

This policy sets out guidance for Housing Management and Rent Income staff on evictions.

#### **Section 2 – Possession Action**

As a landlord taking possession action is the ultimate sanction in dealing with breach of tenancy. Possession Orders can be obtained for breach of an express clause in the tenancy agreement and grounds set out in the Housing Act 1988. This policy will not prescribe when a notice should be served as there are several variables to consider.

When taking possession action, it is important to thoroughly prepare the case. Before granting an order the court will need to be satisfied that the correct procedures have been followed and that it is reasonable to make an order.

#### **Section 3 – Applying to Evict**

##### **Tenancy and Anti Social Behaviour**

When a Possession order has been granted or when a Suspended Possession Order has been granted and the terms have failed to be kept, the Housing Officer should discuss with the Housing Manager and instruct solicitors to apply for a bailiff's warrant.

##### **Rent Arrears**

In cases where an Outright Possession Order has been granted and or a Suspended Order has been breached and there has been no contact from the tenant, the Income Officer must first attempt a

home visit and, where appropriate, offer an appointment with the Financial Inclusion team or Citizens Advice to see anything further can be done to address the arrears. If there is no payment or if the tenant fails to engage with Phoenix Community Housing, then the Income Recovery Officer should complete a vulnerability check with Social Services and draft an Eviction Panel Report (EPR). The EPR must be authorised by the Income Manager and by the Head of Service before the Income Recovery Officer can apply for a bailiff's warrant.

### **Breathing Space**

The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020 came into force on 4<sup>th</sup> May 2021. The objective of the scheme is to give debtors 'breathing space' to get advice and find appropriate debt solutions.

'Breathing Space' is available to any individual with a problem debt and can be accessed through a debt advice provider authorised by the FCA to offer debt counselling or a Local Authority that is authorised to provide debt advice. A Notice is in force for up to 60 days with a midway review with the Debt Advisor. The Notice pauses enforcement action and creditors must cease contact, and freeze interest and charges if applicable.

Where a Breathing Space Notice has been received from an appropriate debt advisor we will place recovery action on hold until the expiry date of the notice. During this period, communication in respect of the debt will be initiated by the Debtor (tenant). We will not be able to contact the tenant to discuss legal action and cannot act on an eviction warrant until the notice has expired.

### **Monitoring and review**

We will ensure that

- Targets are set and key performance indicators are recorded and monitored to ensure the service is delivered effectively and improvements identified.
- Staff receive relevant training and information to enable them to provide high quality services.
- Clear and concise information is published about our service and the standards that can be expected.
- Performance information is regularly reported to our Executive Team and Board.

### **Legislation**

- Housing Act 1988
- Housing Act 1996
- Anti-social Behaviour, Crime and Policing Act 2014
- The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020

### **Reference to other documents and associated policies and procedures**

- ASB Strategy 2015 -18
- Anti Fraud Policy
- Rent arrears Policy

## Definitions

(Add in any relevant definitions of acronyms used)

| Term/acronym | Description                                     |
|--------------|---|
| Resident     | Includes tenants, freeholders and leaseholders. |
| Phoenix      | Phoenix Community Housing.                      |
| Debtor       | Person who is liable to repay a debt.           |
| Creditor     | Person or Organisation to whom a debt is owed.  |

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