

Rent Arrears – New Protocol

Since October 2006, a new protocol has applied where a social landlord wishes to gain possession of a property occupied by a tenant under a secure tenancy, where possession is sought on the grounds of arrears of rent. It does not apply to claims in respect of long leases.

The protocol requires that the landlord should contact the tenant as soon as possible after the tenant's rent falls into arrears, to discuss the arrears, the tenant's financial position and his or her entitlement to benefits.

The protocol has special protections built into it in order to protect vulnerable tenants – for example where the tenant is a minor, has difficulty in reading or understanding the information from the landlord, may require an assessment for community care or where there are factors which mean that the Disability Discrimination Act 1995 applies.

In general, proceedings will not be appropriate where the Department for Work and Pensions can arrange to pay the outstanding rent from the tenant's benefit entitlement or where the tenant can demonstrate that he or she has provided the local authority with the information necessary to have a reasonable prospect of substantiating a claim for housing benefit and has paid the sums due which are not covered by housing benefit.

Proceedings for possession will normally be postponed if the tenant agrees to pay back the arrears and keeps to the agreed schedule of repayment.