

**WARWICK DISTRICT COUNCIL**  
**HOUSING & PROPERTY SERVICES**

**RENT ARREARS POLICY and PRACTICE**

**DRAFT**

## **1. OBJECTIVES**

- 1.1 Warwick District Council (the Council) will endeavour to collect all rent due by striking a balance between the financial needs of the Council and the social needs of tenants. The Council will take into account the impact on tenants of any changes that may be introduced to the social security system.
- 1.2 The Council has the responsibility for reducing rent arrears and for prevention of further debt by giving advice and assistance to existing tenants and to new tenants.
- 1.3 Where rent arrears occur, the Council will adopt a firm but fair approach to help tenants rectify the situation and wherever possible keep their tenancy and their home. It understands that tenant's circumstances change for a variety of reasons and this often makes it difficult to pay the rent. A sensitive approach will be adopted for those tenants adversely affected by changes to social security and in their personal circumstances.
- 1.4 Warwick District Council's aim is to collect 100% of all rent due. To do this, the Council's Rent Arrears Policy is designed to minimise the level of rent arrears in a sensitive, but effective manner. To do this, the Council will provide assistance and guidance to help tenants to maximise their income and provide sound advice on making the payments necessary to keep their rent accounts up to date. This will include helping those tenants whose accounts do fall into arrears recover the situation and bring their accounts up to date.
- 1.5 The Council wants to sustain tenancies by addressing the underlying causes of debt by reducing financial and social inclusion through its financial inclusion strategy. This includes helping people to have a better understanding of personal financial accountability, effective budgeting and access to affordable financial advice and appropriate financial products.

## **2. POLICY AIMS**

- 2.1 This Policy applies to all tenanted and shared ownership properties managed by Warwick District Council.
- 2.2 Warwick District Council's Sustaining Tenancies division will:
  - Monitor levels of rent arrears and make early interventions to prevent rent arrears arising
  - Offer early appropriate professional support and guidance to tenants to reduce rent arrears

- Take appropriate action in accordance with the level of rent arrears to recover the rent due to the Council
- Provide a wide range of payment options, and review these options regularly to make sure that tenants have as wide a range as possible of viable and accessible payment methods
- Wherever possible, prevent homelessness arising from rent arrears.
- The Council will pursue all possible avenues of recovery; this may involve legal remedies resulting in repossession of the property. However, legal action will only be taken when all other means of recovery of rent arrears have been exhausted. Evictions will only be considered as a last resort where all other alternative actions and remedies have failed.
- Avoid unnecessary court action
- Use eviction as a last resort where repayment arrangements have not been maintained.

### **3 DIVERSITY**

- 3.1 The Council will adopt a firm but fair approach to recovering rent arrears. It understands that tenant's circumstances change for a variety of reasons and this often makes it difficult to pay the rent.
- 3.2 The Council will ensure that no individual is discriminated against on grounds of marital status, sex, disability, age, sexual orientation, racial ground or other personal attributes including religious beliefs or political opinions.
- 3.3 The Council will act proportionately taking into consideration the relevant legislation and case law, with particular reference to Housing Acts 1985 & 1996; Equality Act 2010; Civil Procedure Rules 1988 and Manchester City Council v Pinnock & Ors (2010)

### **4 PREVENTION OF RENT ARREARS**

- 4.1 The Council have set up robust procedures to support the County Court protocol for applications for possession based on rent. The Protocol relates to "pre-action" events, and is primarily to be used before issuing a case to Court.
- 4.2 The Income Recovery Team, a service with in the Sustaining Tenancies division, is responsible for making sure that the protocol is followed. **(See appendix 2)**
- 4.3 The Council will offer tenants a range of support to try and prevent arrears occurring and when they do, from increasing. ensure their arrears do not escalate. This includes early contact; persistent awareness raising of the service; affordable payment plans; signposting to other services that can help tenants increase their income, manage their budgets and reduce financial problems; internal debt and money advice and partnership working to develop and tailor financial inclusion services across the district.

4.4 Financial Inclusion is at the heart of our Rent Arrears Policy and strategy in making sure our tenants have the financial capability to sustain their homes we will:

- Conduct pre-tenancy discussions to ensure that new and transferring tenants can afford their new tenancy, carry out a financial health-check and refer to specialist services if required, to encourage tenants to make paying their rent their first financial priority
- Establish the extent of financial exclusion among our residents
- Investigate sources of affordable credit, such as Credit Unions and promote those Credit Unions that are sustainable
- Offer suitable and cost effective contents insurance to our residents
- Raise awareness of ways to reduce fuel poverty
- Provide money and debt advice internally
- Provide information about, and referrals to debt and benefits advice
- Aim to maximise our tenants' income and benefits take-up
- Provide information about basic bank accounts
- Ensure our staff are trained and equipped to recognise financial exclusion
- Keep up-to-date with latest developments and good practice

## **5 TENANTS RESPONSIBILITIES**

5.1 The term 'tenant' includes sole and any joint tenants.

5.2 If two or more people have signed the tenancy agreement (joint tenants), they are jointly and severally liable for the payment of rent. This means that each person is fully responsible for the payment of all rent and all of any arrears of rent.

5.3 All tenants have an obligation under the Terms and Conditions of their Tenancy Agreement to pay rent due, in advance or before the end of the specific rental period set out in the agreement.

5.4 It is the tenant's responsibility to notify the Council of any changes in their circumstances, which may affect their ability to pay their rent.

5.5 Tenants are able to pay their rent using one of the following methods: -

- Standing Order
- Direct Debit
- Credit or Debit Card
- By phone
- On-line over the Internet
- Allpay points

## **6 INCOME RECOVERY PROCESS (Current tenant rent arrears)**

6.1 Our approach to preventing and collecting rent arrears will include:

- Offer a private interview either at a Council office or at the tenant's home
  - Assist in maximising income by signposting and referring for specialist money advice, including where appropriate, help and support claiming social security
  - Support tenants to increase their understanding of Universal Credit and any other relevant social security options
  - Help tenants and to be able to effectively manage their budgets
  - Calculate and agree reasonable repayment plans for those cases where tenants fall into arrears
  - Encourage contact by phone
- 6.2 Where tenants do owe the Council rent, we will take all reasonable action to recover the rent due. At each stage in the arrears process **(see appendix 1)**, we will contact tenants and ask them to pay the money owed.
- In all circumstances we will ask the tenant to clear the balance of the debt in its entirety. However, where this is not possible we will make an arrangement plan based on the tenant's ability to pay. Should a tenant keep to the arrangement, we will not take further action. Should the tenant fail to make the agreed payments, legal action will follow.

## **7 INTRODUCTORY TENANCIES**

- 7.1 An Introductory Tenancy is a one year probationary tenancy which applies to all new tenants.
- 7.2 An Introductory Tenancy does not have the same rights as a Secure Council Tenancy and Mandatory Possession would be awarded if the case progressed to Court within the first year of that tenancy.
- 7.3 Once the Notice of Possession has been served the tenant has the right to appeal the decision to end an Introductory Tenancy. The decision is considered by elected members through the Housing Review Panel (HARP) **(see appendix 3)**

## **8 FORMER TENANT ARREARS**

- 8.1 Tenants who end a tenancy are known as former tenants. If they leave any rent outstanding on their account, then this is known as Former Tenant Arrears (FTA). The approach to collecting current arrears is also applied to former tenant arrears in that the Council will provide advice and offer a reasonable opportunity for the tenant to pay before further legal and recovery action is taken.
- 8.2 Former tenants are contacted and given an opportunity to clear the debt. If the former tenant cannot be traced or refuses to accept responsibility for the debt it will be forwarded to a debt collection agency to collect. If after extensive research and trace activity the debtor cannot be traced the debt will be considered for 'write off'.

- 8.3 An FTA is 'written off' only for accounting purposes. Should the debtor contact the Council later, for whatever reason including an offer to clear the outstanding arrears the debt will be 'written on' and recovery action will recommence.
- 8.4 To help encourage the repayment of FTAs, the Council offers a concession for timely repayments. These concessions will be offered at the discretion of the Council and will be used primarily for negotiating full settlement of outstanding balances. The concessions available are set out below

Level of Debt	Concession available (full payment)	Concession available (-staged repayment over a negotiated period)
£100 - £1000	5-20%	10%
£1000+	10-25%	10%

## 9 **SHARED OWNERSHIP**

- 9.1 The Council expects all Shared Ownership Leaseholders (SOL) to pay their rent and other charges in line with their lease. It will regularly monitor such rent accounts and contact those who fall into arrears.
- 9.2 In the case of SOLs who fall into arrears we will normally expect those arrears cleared within a six month instalment. There may be discretion to widen this limit to 12 months if a substantial payment is made first. If an SOL has been found to sublet their home we will seek the full repayment of any debt in one payment as they will be classed as a commercial landlord.
- 9.3 If the Council is unable to recover the debt from the SOL or their mortgage provider then the Council will start legal proceedings. Any legal action will be:
- Reviewed by either the Sustaining Tenancy Manager or the Business Support Manager
  - Authorised by the Head of Housing and Property Services
- 9.4 If an SOL fails to clear the arrears and their mortgage provider refuses to pay the arrears, a 28 day notice will be given to the SOL and its lender that the Council intends to serve a Section 8 Notice Seeking Possession. If no payments are received and there are more than one month's rent arrears, a Section 8 Notice will be served. A court date will be allocated for a possession hearing and an outright possession will be sought of the SOL's property.
- 9.5 We will notify SOLs in advance of any legal action we intend to take. Any legal costs incurred by the Council in recovering the debt will

be added to the debt. Any possession proceedings will only be carried out after careful consideration of individual cases and will be authorised by the Head of Housing and Property Services.

## **10 GARAGE ARREARS**

- 10.1 Garage rent accounts should not be in arrears. Any arrears must be cleared in full. If garage arrears persist, then the Council will give one week's notice to repossess the garage and will pursue the garage arrears in line with above Former Tenants' Arrears process.
- 10.2 Any goods and possessions remaining in a garage once the Council take possession will be removed and disposed of.

## **11 LEGAL PROCEEDINGS AND COURT COSTS**

- 11.1 Proceedings through the County Courts will only be taken as a final resort. The Council will request an order for Court Costs. The tenant will be responsible for any Court Costs as well as any outstanding rent arrears

## **12 REVIEW AND MONITORING**

- 12.1 The Council will formally review its Rent Arrears Policy at least once every five years taking into consideration the Council's strategic aims and objectives and agreed performance indicators. It will also follow the Council's continued aim to draw on best practice and to deliver any government led initiatives which will enable the effective recovery of rent arrears
- 12.2 The Council will monitor performance on rent arrears using the following Performance Indicators
- Arrears expressed as percentage of the debit
  - Evictions expressed as a percentage of the overall stock
  - Number of cases 7 weeks in arrears
- 12.3 In addition to the Council have may periodically set local performance indicators that are measured and targeted on a monthly basis to ensure the continued improvement in its performance.

## **13 COMPLAINTS**

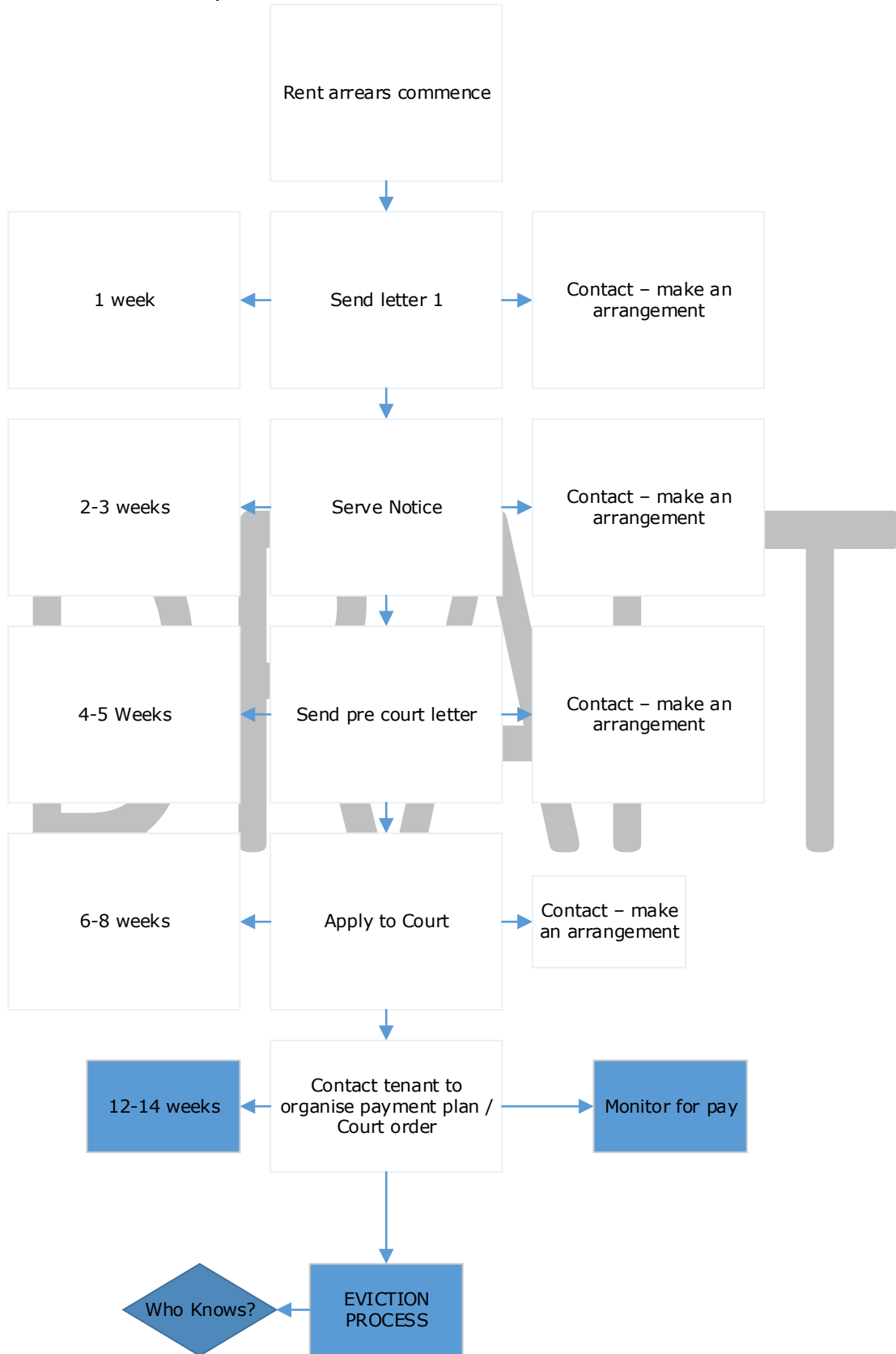
- 13.1 The Council operates a Complaints Procedure that is available to any person who is not satisfied with the way in which their case has been dealt with. Details of the Complaints Procedure can be obtained from the Council's Offices and on the internet
- 13.2 Separate from the Complaints Procedure any tenant who disputes the amount of rent arrears or any repayment programme can ask for an explanation or ask for an appointment with the Income

Recovery and Financial Inclusion Manager. The manager will review the case and in the event of any dispute will refer the case to the Sustaining Tenancies Manager.

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# APPENDIX 1 Simplified Rent Arrears Process



## APPENDIX 2 PRE-COURT PROTOCOL **(Red indicates how we comply)**

1. The landlord should contact the tenant as soon as reasonably possible if the tenant falls into arrears to discuss the cause of the arrears, the tenant's financial circumstances, the tenant's entitlement to benefits and repayment of the arrears. Where contact is by letter, the landlord should write separately to each named tenant. **(letter1)**
2. The landlord and tenant should try to agree affordable sums for the tenant to pay towards arrears, based upon the tenant's income and expenditure (where such information has been supplied in response to the landlord's enquiries). The landlord should clearly set out in pre-action correspondence any time limits with which the tenant should comply. **(arrangements)**
3. The landlord should provide, on a quarterly basis, rent statements in a comprehensible format showing rent due and sums received for the past 13 weeks. The landlord should, upon request, provide the tenant with copies of rent statements in a comprehensible format from the date when arrears first arose showing all amounts of rent due, the dates and amounts of all payments made, whether through housing benefit or by the tenant, and a running total of the arrears.
4. (a) If the landlord is aware that the tenant has difficulty in reading or understanding information given, the landlord should take reasonable steps to ensure that the tenant understands any information given. The landlord should be able to demonstrate that reasonable steps have been taken to ensure that the information has been appropriately communicated in ways that the tenant can understand. **(Home visits & use of the Big Word translation service)**
- (b) If the landlord is aware that the tenant is under 18 or is particularly vulnerable, the landlord should consider at an early stage –
  - (i) whether or not the tenant has the mental capacity to defend possession proceedings and, if not, make an application for the appointment of a litigation friend in accordance with CPR 21;
  - (ii) whether or not any issues arise under Disability Discrimination Act 1995; and
  - (iii) in the case of a local authority landlord, whether or not there is a need for a community care assessment in accordance with National Health Service and Community

Care Act 1990. **(Ensure Proportionality Assessment undertaken in order to comply with Pinnock)**

5. If the tenant meets the appropriate criteria, the landlord should arrange for arrears to be paid by the Department for Work and Pensions from the tenant's benefit. **(3<sup>rd</sup> party deductions)**
6. The landlord should offer to assist the tenant in any claim the tenant may have for housing benefit.
7. Possession proceedings for rent arrears should not be started against a tenant who can demonstrate that he has –
  - (a) provided the local authority with all the evidence required to process a housing benefit claim;
  - (b) a reasonable expectation of eligibility for housing benefit; and
  - (c) paid other sums due not covered by housing benefit.

The landlord should make every effort to establish effective ongoing liaison with housing benefit departments and, with the tenant's consent, make direct contact with the relevant housing benefit department before taking enforcement action. The landlord and tenant should work together to resolve any housing benefit problems. **(Court authorisation)**

8. Bearing in mind that rent arrears may be part of a general debt problem, the landlord should advise the tenant to seek assistance from CAB, debt advice agencies or other appropriate agencies as soon as possible. **(In house – CAB – Breathing Space)**

After service of statutory notices

9. After service of a statutory notice but before the issue of proceedings, the landlord should make reasonable attempts to contact the tenant, to discuss the amount of the arrears, the cause of the arrears, repayment of the arrears and the housing benefit position. **(Home Visits & Court warning letter)**
10. If the tenant complies with an agreement to pay the current rent and a reasonable amount towards arrears, the landlord should agree to postpone court proceedings so long as the tenant keeps to such agreement. If the tenant ceases to comply with such agreement, the landlord should warn the tenant of the intention to bring proceedings and give the tenant clear time limits within which to comply. **(Court warning letter)**

Alternative dispute resolution

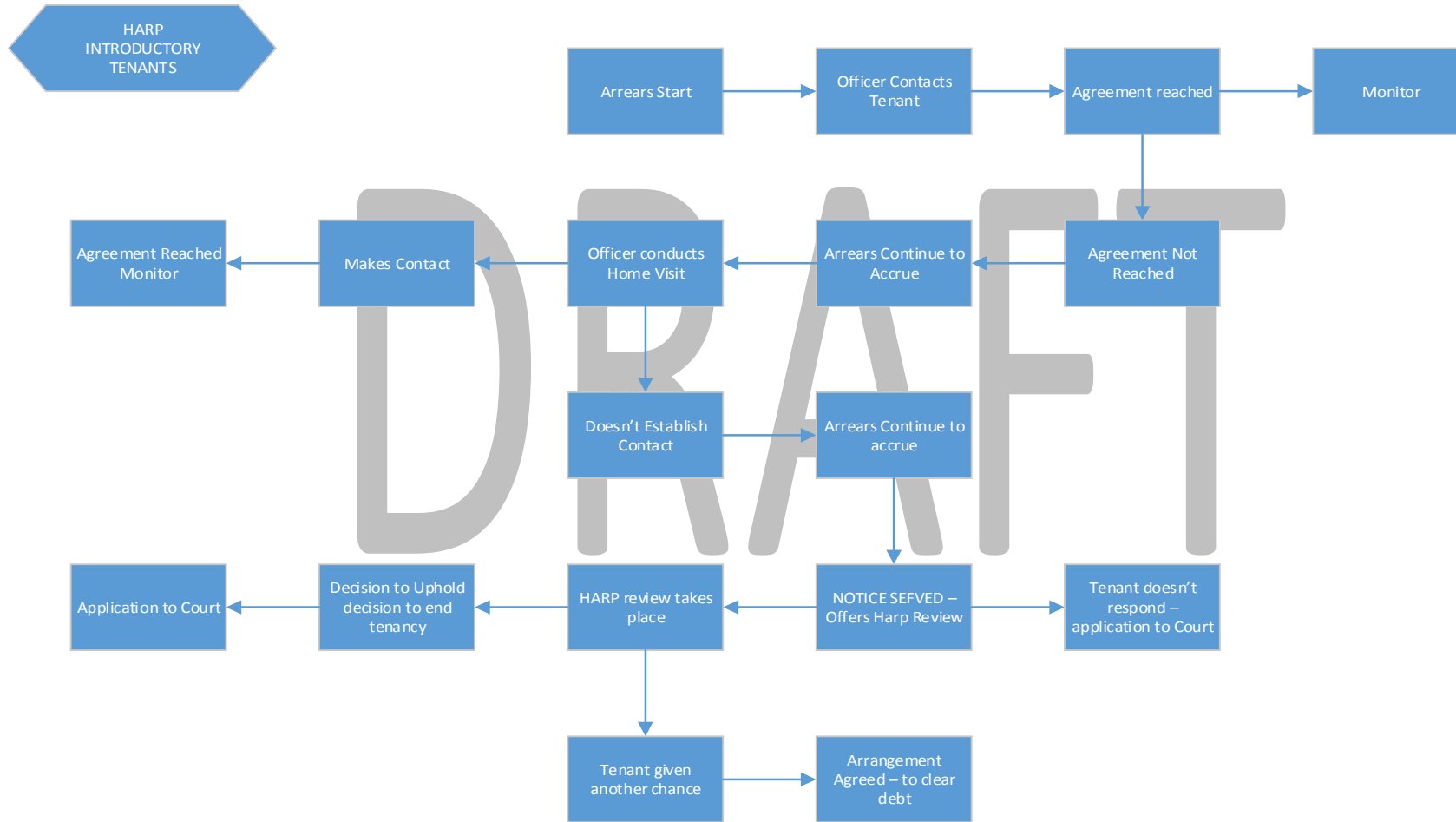
11. The parties should consider whether it is possible to resolve the issues between them by discussion and negotiation without recourse to litigation. The parties may be required by the court to provide evidence that alternative means of resolving the dispute were considered. Courts take the view that litigation should be a last resort, and that claims should not be issued prematurely when a settlement is still actively being explored. **(Agreements)**

#### Court proceedings

12. Not later than ten days before the date set for the hearing, the landlord should –
  - (a) provide the tenant with up to date rent statements; **(Court Hearing date letter)**
  - (b) disclose what knowledge he possesses of the tenant's housing benefit position to the tenant. **(court hearing date letter)**
13.
  - (a) The landlord should inform the tenant of the date and time of any court hearing and the order applied for. The landlord should advise the tenant to attend the hearing as the tenant's home is at risk. Records of such advice should be kept. **(Court Hearing date letter)**
  - (b) If the tenant complies with an agreement made after the issue of proceedings to pay the current rent and a reasonable amount towards arrears, the landlord should agree to postpone court proceedings so long as the tenant keeps to such agreement. **(Postponements now out of fashion – SPO fine)**
  - (c) If the tenant ceases to comply with such agreement, the landlord should warn the tenant of the intention to restore the proceedings and give the tenant clear time limits within which to comply.
14. If the landlord unreasonably fails to comply with the terms of the protocol, the court may impose one or more of the following sanctions –
  - (a) an order for costs;
  - (b) in cases other than those brought solely on mandatory grounds, adjourn, strike out or dismiss claims.
15. If the tenant unreasonably fails to comply with the terms of the protocol, the court may take such failure into account when considering whether it is reasonable to make possession orders.

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# Appendix Four



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