



Millat Asian Housing Association
'Community Based
Community Led'

MILLAT ASIAN HOUSING ASSOCIATION

RENT ARREARS CONTROL POLICY & PROCEDURE

PURPOSE:

This document gives the Association's Rent Arrears Control Policy & Procedure

Approved by the Board in April 2022

To be reviewed in April 2027

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1.0 **Policy Aims**

1.1 Introduction

Millat Asian Housing Association exists to provide good standard, affordable homes for people in greatest housing need. In order to maintain its financial stability and to keep rents as low as possible, it is essential that the Association minimize arrears of rent. The aim of this policy is to achieve that whilst treating those tenants in arrears fairly but firmly. Eviction of tenants will continue to be regarded as a last resort where there is clearly no alternative for the Association.

1.2 Regular Rent Payments – Early Action

Tenants should be encouraged to maintain regular rent payments, and where arrears start to build up it is essential that early action is taken. Low levels of arrears are easier to deal with and more within the tenant's means to clear. The higher the arrears, the more difficult, unpleasant and time consuming the problem can become.

Tenants in arrears will be informed at an early stage using standard/personal arrears letters, emails, text messaging and personal contact via the phone. Tenants will be made aware that the rent payment is a contractual obligation of the Tenancy Agreement irrespective of whether the rent is paid by Housing Benefit or not. Constant negotiation and dialogue should take place at every stage of the process

As part of early action Housing Officer will participate in the sign-up process providing advice, assistance and explanation of the policies and procedures and consequences of non-compliance.

1.3 Personal Contact

It is essential that personal contact with the tenant is established early and this should be at least one week after arrears have accrued. At every stage of the arrears process, tenants will be clearly informed of what action the Association is taking, the reasons why, and what the Association expects of the Tenant to solve the arrears problem. At every stage of the process negotiations should be in place to come to an agreement with the tenant to prevent legal action.

1.4 Benefit Advice

Where a tenant is on low income and as such they are normally entitled to housing and other Welfare Benefits. It is important that such tenants are given as much help and advice as possible to ensure that they claim and receive the benefits to which they are entitled to. The contact details of the various CAB offices should be given, and tenants sign posted accordingly. These may cover: -

Basic debt counselling and/or referral to specialist debt agencies e.g., Citizens Advice Bureau.

Housing Benefit/Council Tax/Universal Credit Office

Income Support
Tax Credits
Child Benefit

Disability Living Allowance
Attendance Allowance
Employment and support Allowance
Social Fund Grants/Loans

1.5 Record Keeping

It is important that the Association maintains good information and record keeping systems so that both individual and overall arrears can be monitored on a regular basis. This should be on Omniledger. Copies of all letters sent out should be kept on file

1.6 ARREARS PROCEDURE - Action Timetable

Action	Responsibility
TENANCY SIGN UP	Housing Officer
INCOME/HOUSING BENEFIT CHECK. Discuss rent issues which should include housing benefit, policy and procedure, payment methods, advice and assistance. Rent is due every week on Monday and to be paid one week in advance.	Housing Officer
1st REMINDER LETTER (if joint tenancy a letter should be sent out to each tenant - 1week arrears	Housing Manager Admin Asst.
TELEPHONE. Email OR SEND TEXT MESSAGE – 2 weeks arrears A visit may be necessary if no mobile or land line is available	Housing Manager / Admin Asst.
SECOND AND FINAL REMINDER LETTER –3 weeks arrears	Housing Manager
NOSP TO BE SERVED– 4 weeks arrears. unless ground 8 is intended to be used (Appointment included as part of correspondence). Seek Landlord for approval	Housing Officer / Housing Manager.
PHONE, Email AND OR TEXT MESSAGE – ongoing from week 1- Tenant given the option to come to an arrangement to clear the arrears.	Housing Officer / Housing Manager.
COURT WARNING LETTER- 6 weeks arrears resident given one last chance to come to an agreement to clear the arrears	Housing Officer / Housing Manager.
COURT REFERRAL – 7 weeks arrears. Notify landlord and obtain permission from landlord.	Authorised by Housing Manager
COURT APPLICATION – 9 weeks arrears. Continue chasing tenant by telephone, email, text or letter or visits while waiting for court date.	Housing Manager

Letter sent to resident exactly 10 days before court hearing informing them of the court date and hearing, any Housing benefit issues, and a copy of the rent statement should be enclosed	Housing Manager
COURT HEARING AND POSSESSION ORDER Arrange solicitor's attendance as soon as court hearing date has been issued	Housing Manager.
TENANT and LANDLORD NOTIFIED OF THE OUTCOME OF THE COURT HEARING. Negotiations should take place for a resolution	Housing Manager
APPROVAL FOR EVICTION Seek Millat Board and Landlords approval	Chair/ Board
TENANT AND LANDORD NOTIFIED OF IMPENDING EVICTION	Housing Manager.
EVICTION	Housing Officer / Housing Manager.

2.0 Rent Payment Methods

The following method of rent payment exists:

- a. Rent paying book
- b. Bank Standing Order.
- c. Paid direct into Millat Bank Account
- d. By a crossed cheque.
- e. Housing Benefit direct / Universal Credit direct

Tenants may pay in cash at the office only in exceptional circumstances. A receipt must be issued and recorded in rent receipt book. All cash receipts must be checked by two staff members.

2.1 Withholding of Rent

Tenants cannot legally withhold rent because repairs have not been carried out, or indeed because of any other tenancy complaints. However, every effort should be made to honour the Association's legal responsibilities so that arrears control can be maintained.

2.2 Rent Accounting & Arrears Report

All payments are credited to the account as soon as they are received by the Association. The Admin Asst. will liaise with the Housing Officer if there are any problems. Payments made are credited and recorded on Omniledger.

2.3 Arrears Monitoring/Meetings

The Admin Asst will meet with the Housing Manager every month to discuss Arrears cases over 4 weeks. An Arrears monitoring will be undertaken by the Housing Manager at the meeting, discussing individual cases, action taken, and proposed further action. The Housing Manager will set appropriate targets to be achieved by the Housing Officer, which will be monitored every 4 weeks.

All arrears over 7 weeks will be reported to the Board by the Housing Officer or Housing Manager every month along with agreed actions.

Every quarter the Housing Manager will report to the Board on overall level of arrears, no of NOSP served, court applications made and any forthcoming evictions etc.

2.4 Transfer criteria for Tenants with arrears

Millat will **not**, in most cases, approve transfer for tenants who are in arrears. Where a tenant applies to be placed on the transfer list, they will be advised to have a clear rent account or else they would not be eligible for a transfer. In case of transfer, the priority of the case will be considered, and a check on the rent account made.

Approval for a transfer may only be given if their account is clear. If the tenant is in arrears they will be advised of this policy.

2.4.1 Exceptions to Section 2.4

Override Priority Transfers: If a tenant requires an urgent transfer (i.e., within our Override category, including decants, harassment, violence, chronic medical or homeless cases), then they may be considered for a transfer.

Housing Benefit delayed Payment: Other exceptions to the policy may be made where a tenant is on Housing Benefit, and it has been confirmed in writing by the relevant Local Authority have all the relevant details and payment is due directly to Millat. If necessary, apply for dual payments.

3.0 BEFORE THE TENANCY BEGINS

3.1 Office interview

Information should be obtained about prospective tenants' financial circumstances and rent history. This should be recorded on their office interview/home visit assessment form. Details relating to welfare benefits claimed, salary etc. and eligibility to housing benefit should also be noted. If the need arises the revenue officer will provide a welfare benefit assessment and advice on income management where appropriate and sign post them for employment services.

3.2 Signing Up

Housing Officer or the Housing Manager must sign up the tenant.

The method of rent payment which the tenant intends to use should be established. (See 2.0). Tenants must be made aware that rent is due on Monday of each week in advance and regular payments need to be maintained.

Details on tenant's income should also be verified to make sure that the tenant can pay the rent and benefits are maximised

When the tenant is signed up, they should be given full information about Housing Benefit and assistance should be given to the tenant in completing a Housing Benefit application.

The tenant should be encouraged to authorise the Local Authority to pay their Housing Benefit direct to the Association.

Tenants should be advised to obtain receipts from the HB office when a claim is submitted – regardless of whether it is a new or existing claim. The receipt must be provided by tenants to Millat office within 7 days of sign up

Tenants should be advised to contact the Department of Work and Pensions (DWP) immediately to confirm their change of address to reduce delays and ensure there is no effect to Housing Benefit entitlement.

Also, if there are vulnerability issues these should be noted on Omniledger, and details of any support need recorded accordingly.

3.3 Follow up visit

Housing Manager will visit tenants 6 weeks after the commencement of the tenancy and if there are any problems in respect of rent payment the Housing Officer should liaise with them accordingly.

4.0 During the Tenancy - Problem indicators

Housing Officer should keep a close eye on the tenant's rent accounts in order to prevent arrears occurring and/or escalating. In particular they should:

- (a) Monitor cases on a weekly basis
- (b) Identify adjustments, unusual figures or unusually large credits, which may be due to a mis-posting.
- (c) Try to identify tenants who have failed to adjust their payments after a recent rent increase or who are not paying their contribution to Housing Benefit direct.
- (d) Try to identify situations where housing benefit payment have stopped or are unusual.
- (e) Look for sudden changes in the pattern of payments.
- (f) Establish face to face or phone contact to negotiate with tenant resident to clear any outstanding arrears in the shortest period of time.

4.1 Letter 1 (see appendix 1)

The purpose of arrears letters is to let the tenant know that they are in arrears. The policy dictates that residents will be informed of their arrears at an early stage and action taken before the debt reaches an unmanageable level. Tenants who owe two weeks' arrears should be sent a letter advising them of the debt and asking them to clear it or contact their Housing Officer to discuss the matter. In the case of a joint tenancy each resident should be sent a separate letter.

Standard letters are kept on the PCs, and it is possible for each the Housing Officer to send "personalised" letters to those tenants in arrears as requested.

Housing Officer should contact tenants by phone, email and or text messaging at specific stages of the arrears process. All calls, emails and text messages should be logged on Omniledger.

4.2 Letter 2 (see appendix 2)

If the first letter does not achieve any result, that is to say the tenant does not clear the arrears or contact the Housing Officer, then a further letter should be sent no more than two weeks after the first.

4.3 Visit and undertaking

Visits should only take place where other means of contact have failed to achieve the right result. In cases where Housing Benefit is pending a visit may be required in order to assist the speedy assessment of Housing Benefit. If a tenant is elderly/disabled or has dependent children emphasis should be on a home visit. **(Appendix 3 can be used as Pro-forma).**

4.4 Purpose of the Visit

As stated, earlier visits should only take place where other means of contact have failed but also to get an up to date picture of the tenant's circumstances.

It is a good idea for HOUSING MANAGER/ HOUSING OFFICER to carry with them useful forms, e.g., housing benefit application forms, standing order forms, information about welfare benefits. Also checks should be made if the resident is on the staff security list, any vulnerability issues so that a member of the family or support worker can be present

The key facts to establish on a home visit are:

- the reason(s) for the arrears. If possible, obtain details of other debts
- income levels
- proposals for reducing the arrears
- family composition
- changes in circumstances - amount of any benefits received - whether social services involved
- health problems.
- check for any repairs/disrepairs

A standard form as attached at **Appendix 3** should be used as a basis for meeting.

4.5 Signing an undertaking

Where an agreement is reached with a tenant for them to pay a regular sum, they should be encouraged to sign an undertaking setting out the terms of the agreement. Two copies to be signed, one copy for the tenant and one copy for the file. **(Appendix 4).**

Agreements should only be made that are reasonable and affordable for the tenant and should be dealt with personally by the Housing Officer and not by post.

Following the visit, the Housing Officer should make a full record of the visit and the outcome on Omniledger, and a file note kept.

4.6 Confirmation Letters

A letter should be sent to the tenant confirming the arrangement which should include the time it would take to clear the arrears to which they have agreed and underlining the necessity of adhering to it. If a home visit is not possible and the resident can only be contacted by telephone, then the Housing Officer should still send a letter confirming any agreement and enclosing a copy of the agreement to sign and return.

4.7 Final Letter (see appendix 5)

If a home visit has been arranged but the tenant is not at home nor have, they contacted the Housing Officer, or they have not adhered to the agreement made, then a final letter should be sent. This letter should warn the tenant that failure to pay a substantial sum within the next seven days or to contact their Housing Officer will result in a "Notice of Seeking Possession" being served.

4.8 Further Methods of controlling Arrears – HB Direct

Housing Benefit Direct can be arranged where:

- a. The tenant is eight weeks or more in arrears or
- b. The tenant and the association agree to it

However, even where Housing Benefit is paid direct, the tenant may still have to pay an amount on his/her own resources to meet the full rent.

DWP Arrears Direct may be appropriate where the tenant is in receipt of Income Support. A deduction can be made at source and paid direct to the Association to help clear the arrears. The DSS conditions, which must be met, are:

- a. The tenant owes at least four weeks rent and
- b. The tenant has not paid any money in the previous 13 weeks.

However, the **DWP** has discretion to pay before 13 weeks non-payments.

Deductions from wages may be an appropriate method of controlling arrears if the tenant is in paid employment and if both, they and their employer are agreeable. The Housing Manager should ask the tenant to make arrangements direct with their employer, giving them a bank standing order form to give to their employer or alternatively ask them to sign a letter from the Association to their employer. The amount to be deducted will be based on the tenant's financial circumstances

N.B. It is not Millat policy to use distraint as a method of recovering money and under no circumstances should be distraint to be used to control arrears.

5.0 Notice of Seeking Possession (see appendix 6)

If there has been no reduction in arrears and after all forms of contact has been exhausted then a NOSP should be served no later than six weeks in arrears, unless the Association is satisfied that the delay is due to a Housing Benefit delay.

The landlord RPs must be informed of this action. The Housing Officer will pass the paperwork to Housing Manager for the NOSP to be signed accordingly.

There may be instances where a tenant persistently fails to clear arrears which are a lower level where it will be necessary to serve NOSP. In such cases the Housing Manager must make the decision.

5.1 Contents/Procedure of NOSP

A Notice Seeking Possession in effect it is a warning that in 4 weeks the Association may apply for a Possession hearing at which we can ask for a Possession Order. Whenever possible we should explain what the NOSP is and that only a court order can end the tenancy.

Before completing the NOSP, it is essential that the Housing Officer completes the appropriate notice. All Millat tenancies are Assured Tenancies

In the case of **Assured Tenancies**, non-payment is covered by **Ground 8** which refers to:

"Rent arrears, where both at the date of service of the Notice of Seeking Possession and at the date of the hearing the tenant owes two months' rent or more". If Ground 8 is proved, possession is mandatory.

Ground 8 must not be used without Millat Board or Chair's action (whichever is sooner) and landlord's permission, and where there are children in the family.

Ground 10, which refers to ***"rent arrears, where arrears were outstanding both at the date of service of the Notice of Seeking Possession and the start of court proceedings"***.

Ground 11, which refers to ***"persistent delay in paying the rent, even when no rent is owing at the time of court proceedings"***. If Grounds 10 or 11 are proved, possession is discretionary.

The NOSP normally contain the following information:

- a. The full name(s) of the tenant(s)
- b. The full address of accommodation
- c. The ground on which possession is sought
- d. The arrears owed in the week the Notice is served
- e. The date of serving the Notice
- f. The date on which the period of Notice expires i.e., four clear weeks from the first: 1st. Monday after the Notice is served.

The Notice must be signed by the Housing Officer or Housing Manager. A signed copy of the Notice should be placed on the tenant's file and recorded on the Omniledger.

5.2 Accompanying Letter (see appendix 7)

A letter should accompany the Notice, containing the following information:

- a. Details of the arrears owed
- b. Implication of failing to clear the arrears before expiry of the Notice, i.e., Court Action and its likely costs.
- c. An appointment date or visit arranged
- d. Details of advice agencies who can provide advice and support

5.3 Service of NOSP

Notice to be served in the following way:

- i. By hand to the tenant on or off the premises.
- ii. On the premises posted through the letterbox of their flat, (not the main door Letter box) or if there is no letterbox under the door.
- lii By post (Recorded delivery). a witness statement should be prepared to confirm that this was the case and placed on file)

5.4 Notice Period

The four-week notice period is a vital time for resolving arrears problems before a decision needs to be made as to whether to proceed to the next legal action stage. Constant negotiations should take place with the tenant to resolve arrears issues and come to an equitable agreement. Liaison should be made with Housing benefit to be appraised of any issues outstanding

The Housing Officer should agree action with the Housing Manager within one day of the expiry date but will usually include:

- telephone or text contact with resident or next of kin
- providing support and advice if there are benefit problems particularly Housing Benefit problems. This can involve referring the tenant for an appointment with the Citizens Advice Bureau
- when contact is established, it should always be emphasised that if an agreement to pay the rent and arrears is breached, we will proceed to court.
- any agreement to pay the rent must be confirmed in writing with a warning of what action will be taken if the agreement is broken.
- In cases where the resident has supplied all the necessary information to housing benefit and payment has been made of sums not covered by housing benefit court action should **not** proceed

6.0 Court Action

If no progress is made by the tenant to pay or to clear the arrears, then on expiry of the NOSF the tenant should be informed by letter hand delivered letter that we have made a court referral. A decision to withdraw the Court action should also be taken by the Housing Manager and in his/her absence the Director.

6.1 Applications for Possession Hearing

Action: The tenant must be warned that this action is being taken and what the consequences are by letter which should be hand delivered. They should be encouraged to clear the arrears in full.

The necessary forms are completed which should include

- a) N5 form, claim for possession
- b) N119, particulars of claim
- c) A copy of the Notice to Seek Possession and witness statement if Notice was sent by post,
- d) A copy of the rent account and
- e) A copy of the Tenancy Agreement.

The Housing Manager will check that the forms are correctly completed, and policy has been adhered up to the date of court referral and then sign the necessary forms

The completed court application form should be sent to the relevant owning RP to sign the application and statement. This to be returned to Millat for posting off the application to the court Copies of applications kept in the tenancy file. The decision to withdraw a court application can be taken by the Housing Manager or the Director such cases file notes must be maintained.

If after the court referral the tenant wishes to make an agreement, this should be made with the Housing Officer which should be reasonable i.e., paid off in the shortest possible time and affordable (see appendix 4). Any agreements outside this should only be made with approval of the Housing Manager. Please note that court costs should be included as part of the agreement. If the agreement is not adhered to by the hearing, then the appropriate order will be sought

The nature of the court system means that it may take some time before a case is heard in court. It is important therefore that contact is maintained on a weekly basis by all means available for all arrears to be cleared or a reasonable agreement to be set in place before the case is heard in court.

6.2 Use of Solicitors

In most cases DIY Action will be appropriate. However, in some cases a solicitor may be instructed with the Director's approval

Solicitors should be provided with the following information and instructed that the Association wishes to obtain a possession order against the tenant:

- a. Copy of the Notice and details of how much and when it was served.
- b. Copy of the tenancy agreement.
- c. Current rent
- d. Current level of arrears.
- e. Rateable Value of the flat

6.3 Payments Made Before Hearing

It is possible that after legal proceedings have been commenced the tenant will start to clear the arrears. If the tenant makes a lump sum payment which clears all their arrears including the costs, then it is reasonable to adjourn the case. Any decision to alter proceedings should be taken by the Housing Manager in conjunction with the Housing Officer. However, the Association may endeavour to secure an award for costs at the appointed hearing.

The resident should be notified of the forthcoming Court date, current housing benefit position (if applicable) date and time of hearing, copy of rent statement and point out what order the association will be seeking.

1-2 days before the Hearing date the Housing Officer should visit the property to determine whether it has been abandoned, or a last attempt to contact the Tenant if no agreement has been made.

6.4 Accepting Rents

It is permissible to continue to accept rent payments right up to the date of the Court hearing, as the tenancy will still exist until such time that it is ended by the court.

7.0 COURT ATTENDANCE

The Housing Officer and or Housing Manager will attend the Court on behalf of the Association and where possible you should always encourage the tenants to attend. If they cannot attend the Court and an agreement has been reached with the tenant, then get them to sign a consent order (**Appendix 8**) to produce at the Court

In case of solicitors' involvement, a Barrister appointed by the Association's solicitor will normally present the case to the Registrar. In straightforward and non-complex cases,

however, the Housing Officer will follow a DIY action procedure. It is normal practice for the Housing Officer or the Housing Manager or whoever served the Notice to attend court.

7.1 Preparation for the Hearing

The Housing Officer should discuss with the Housing Manager what order should be sought at the court 10 days before the hearing date.

Before leaving for the court, check to see if any rent has been paid that day. Take: -

- The Tenancy file, including family composition and details of income.
- Tenancy Agreement and any amendments (name changes etc.)
- Notice of Seeking Possession and witness statement of proof of service
- rent arrears statement (going back 2 years) up to and including the date of the hearing
- current rent and any agreements made with the Tenant.
- Copies of all correspondence
- The Housing Associations registration documents plus any agreement to clear debt earlier signed by the tenant.
- Copy of the management agreement with the relevant RP

7.2 At the Hearing

Most Judges and Court Registrars are familiar with Housing Associations and will allow representation by non-legal staff.

In some cases, the Housing Officer will have to ask the Judge for "leave to represent the Association in this case".

Most Judges will start off the proceedings by going through the main details of the case. You should always address the Judge in the appropriate way and behave in the manner fitting to the court (please note that the presiding judge would make sure that the rent arrears protocol is adhered to), so the Housing Officer needs to make sure that all correspondence is in chronological order

If the resident does attend Court this provides a final opportunity for making an agreement prior to the Hearing.

If the tenant clears all or most of the arrears immediately prior to the hearing, then normally the Association will agree to adjourn the hearing for possession but may apply for costs only. Again, the decision should be made by the Housing Officer with approval of the Housing Manager.

The tenant should be informed that the Association will apply to have the cases restored for hearing should further arrears accumulate.

7.3 Suspended Possession Order and Postponed orders

If an agreement can be reached with the tenant for reducing the arrears by regular weekly or monthly payments then the Association should ask the Judge for a Possession Order, suspended for 28 days on payment of the current rent plus the agreed amount", together with a money judgement for arrears and costs.

The effect of this would be that possession would be suspended if the resident adheres to an undertaking to pay the current rent plus an agreed sum towards the arrears. Based on individual circumstances the agreement should be reasonable and affordable.

If no agreement is reached, but the tenant appears in Court, the Judge will normally grant a suspended order and encourage the Tenant to make an undertaking.

In respect of postponed orders an order is made without a possession date, so the tenancy stays intact. If the order is broken negotiations should be made with the tenant to make up any shortfall or the case will be referred to court.

. 7.4 Outright Possession Order

If the tenant has not contacted the Association nor reached agreement by the time of the hearing, then an Outright Possession Order should be applied for. This will be based on the type of tenancy. For an assured tenancy if there are eight weeks rent outstanding where ground 8 is used then an outright order will be sought, the judge does not have any discretion not to give possession. In cases where ground 10 and 11 is used outright possession order can be sought but it would be the judge's discretion whether to grant it or not. Notwithstanding the effect of this would give the Association the right to repossess the flat or house. When the order is granted, and the possession date has passed continued occupation of the property would be at the discretion of the association and any agreements should be for the shortest period and if broken then a warrant should be applied for immediately

8.0 After the Court Hearing

After the Court Hearing the Housing Officer make an entry on Omniledger of the order granted when possession can be taken, costs awarded and.

The Possession Order should be checked for accuracy when received From the Court by the TSM and, if there are any errors, should be returned immediately for correction. This is important to prevent difficulties arising later should it be necessary to enforce the Order.

Immediately after the hearing a letter should be sent to the tenant outlining the position following the Possession Order. In the case of a suspended order the tenant needs to be advised of the consequences of not keeping to the terms of the order. With regards to the Outright Order the tenant should be advised to pay all the arrears outstanding including costs or else a warrant will be requested. The letter should also state that Court costs will be debited on to the rent account.

Any correspondence to tenants against whom an Outright Possession Order has been obtained must be worded with care to avoid the implication that a new tenancy has been created, e.g., letters should be headed 'Without Prejudice', refer to 'the occupier' instead of 'the tenant' and to 'debt' or 'mesne profit' instead of 'arrears'.

8.1 Debiting Costs

Court costs should be entered on to Omniledger and should be reflected on the arrears outstanding when contacting residents.

8.2 Rent Increases after the Granting of a Suspended Possession Order

Notices of rent increase should be served in the normal way. Where the Order has specified that the tenant should pay something in addition to their normal weekly rent the tenant should be asked to increase their weekly payment to maintain the level of the weekly reduction in their arrears.

NB: Solicitor's advice is that this approach might cause difficulties in Court should Millat seek to enforce the Order for possession. Rent increases must be implemented and that the risk is worth taking.

8.3 Failure to comply with Court Order

If a tenant fails to comply with the terms of a Possession Order the Housing Officer or the Housing Manager should write to the tenant reiterating that failure to comply will result in eviction.

Further attempts should be made to find out why the tenant is not paying. To try to arrange direct payments to the Association for example, by Housing Benefit/Universal Credit and arrears direct, by weekly standing order, attachment to earnings etc. It may also be considered appropriate for the Housing Manager to interview or visit the tenant to discuss the seriousness of their position. If help and assistance is required, then a referral to the citizens advice Bureau should be made

If the tenant offers to vary the terms of the possession order, all details should be taken, and legal advice obtained about returning to court. A letter should be sent confirming that intention. Do not agree to vary the terms without legal advice.

8.4 Permission to Evict

When all attempts to contact the tenant have been exhausted, either by visit, letter, text messaging and by telephone the Housing Officer should immediately request permission to evict through the Chair via the Housing Manager. This is done in the form of an Eviction report (**Appendix 9A**)

The report must indicate clearly action has been taken against the Tenant, as well as support and advice given. It must show this policy has been followed and every effort made to obtain payment of the rent. The report must be agreed by the Housing Manager and authorised by the Chair/ Secretary. The Housing Manager will request permission to evict from the Board (**Appendix 9B**) and the relevant owning RP/ Landlord.

Before preparing the report, a letter should be sent to the tenant advising that permission to evict will be sought. In the letter, the Tenant should be advised that they have a right to make a written appeal to the Chair/ Secretary and this will be considered alongside our eviction report. An appeal must be made within 7 days and the papers passed to the Chair/ Secretary within 2 working days of receipt of a letter from the tenant.

A copy of the report should be placed on the file, and Omniledger updated. A letter should be sent to the Tenant informing them of the decision.

9.0 Eviction – Procedure

Upon receipt of permission to evict the tenant the Housing Manager/ Housing Officer should apply for a Bailiffs warrant within two working days. If the tenant starts to comply with the terms of the Suspended Possession Order by bringing the rent account up to date from the date of granting the original Possession Order, then any decision not to proceed with an

eviction should be taken by the Housing Manager in conjunction with the Housing Officer. In the case of an Outright Order if full payment is made and a firm commitment is in place to pay the rent then the Housing Manager will have to decide if the eviction will go ahead.

The tenant should be sent a letter informing them that a Warrant has been Applied for.

9.1 Warrant for Possession

To apply for the Warrant for possession the Housing Officer will be required to make an application on the form N325. The Housing Manager would sign the form and the cheque requisition form. A cheque to be issued within five working days

The tenant must be contacted available (i.e., telephone, email, text and visit) within two days and informed that a Warrant has been requested from the Court. They must be asked to make contact immediately and clear all the arrears and court costs in full

Once the eviction date is known the Housing Officer must update Omniledger

The Warrant information from the Court contains a reply slip that must be completed confirming that the Association will attend. This also asks us if the presence of the Police may be needed.

The resident should be contacted available (i.e., telephone, text message and visit) again explaining that they are to be evicted and that they will have to leave the premises when ordered to do so by the Bailiff on the day and time of the eviction.

9.2 Local Authority Homeless Persons Unit

As a matter of good practice, the Local Authority Homeless Persons Section should be contacted and advised of the impending eviction. This is in case the tenant makes an application as homeless to the Local Authority

9.3 Postponing Eviction

Based on the kind of order granted for example a Suspended Order if the resident makes up the deficit and brings the rent account in line with the court order consideration will be made to suspend the eviction, this will be decided by the Housing Manager. In the case of an outright order if the resident clears all the arrears including court costs, then consideration can be made to suspend the eviction by the Housing Manager. In exceptional circumstances a large lump sum payment will be accepted with a proviso that the balance will be cleared on an agreed period. Notwithstanding the final decision will have to be made by the Housing Manager in consultation with the Chair

If a decision to suspend an eviction is agreed, every effort should be made to contact the bailiff available.

If it is too late to do this, they should attend the eviction and cancel the warrant there.

If the tenant applies for a stay of execution, Housing Officer should attend court to represent Millat. Each case should be approached based on its merits. If an agreement is made at court and the eviction is to be suspended approval should be sought from the Housing Manager. If necessary Millat Solicitors will be instructed to attend the hearing.

9.4 Eviction Arrangements

When the date of the eviction is obtained the Housing Officer should arrange for a Locksmith to be present to secure the tenants' property after they have left.

The Carpenter/Locksmith should be asked to attend at least 15 minutes before the eviction time. The Housing Manager should be advised of the impending eviction. This in order that the property can be re-allocated as soon as possible, and arrangements made to carry out an inspection of the void property for the preparation of an inventory.

10.0 On the date of the eviction:

- a) The Housing Officer should complete the housing movements diary and advise the Housing Manager of the estimate time of return
- b) The Housing Officer should attend, if necessary, with the Police, if the tenant is off the Staff Security list or we have been advised by the court, they should be present.
- c) The Housing Officer should have a mobile telephone so the Police and/ or the office can be contacted if there is a problem
- d) Meet the Bailiff outside (arrive at least 10 minutes early). If you are late the Bailiff will not wait (if a situation like this occurs, then contact the court to get the bailiffs number). For health and safety reasons the slightest sign of withdraw and contact the police.
- e) once the resident has vacated, the property must be secured by the locksmith in attendance. All locks must be changed, and the premises secured (with Sitex). The Bailiffs will normally allow a few minutes for the tenant to collect a few personal possessions before they must leave. A full inventory must be compiled of any goods/possessions remaining in the
- f) if the tenant is not in a Torts Notice must be pinned on the door stating (on headed notepaper)
- g) Many tenants will have removed their belongings from the premises before the eviction date. If there are still possessions to be removed, we will allow access if they have a removal van present. However, an officer must always be present to prevent the tenant re-taking possession. The time period allowed is 7 days after the eviction date after this the belongings will be disposed of

For security reasons the Housing Officer must be accompanied by another officer from the Association at an eviction.

11.0 After the Eviction

Once evicted, a tenant will not be re-housed by the Association. The tenancy should be ended on the computer.

11.1 Tenants Belongings

If the tenant leaves behind any possessions, then the Housing Officer should take an inventory and the tenant should be requested to collect their possessions at the earliest opportunity. If the tenant does not respond to this request, then the possessions should be stored, and every possible attempt made to get the tenant to collect them. It is important that these attempts are documented.

If the possessions remain uncollected after three months, the tenant should be warned that

they would be disposed of.

11.2 Debt Recovery-Write off

All steps possible should be taken to recover the debt but if this proves impossible then the debt should be written off according to the Association's usual procedure.

Notes to the Arrears Procedure

1.0 Pre- Action Protocol

It is most important that Millat Officers to follow the guidance From the Ministry of Justice: **Pre-action Protocol for Possession Claims always based on rent arrears** when chasing and acting for rent arrears.

In the Association's above rent control policy and procedures, the Pre-Action Protocol has been followed. If these procedures or the **Pre- Action Protocol** has not been followed properly then it is likely that the judge may dismiss any claim for rent arrears

2.0 This procedure is intended to assist the HOUSING MANAGER to deal with cases of arrears where the tenant owes 2 weeks or more in rent, right through to an eviction.

2.1 Note 1

If the tenant owes up to 2 weeks rent, take no formal action. However, if the amount owed is persistent, you should try to pursue the tenant to pay off the amount owed in small weekly sums. You should issue a rent card, even if they are on full housing benefit, and ask them to pay the equivalent of DWP direct weekly rate per week until the debt is cleared.

2.2 Note 2

After sending out Letter 1, monitor the case closely. If the tenant makes contact, arrange for clearing the arrears, after discussing with them their regular expenditure. Try to make a realistic arrangement that the tenant is likely to stick to. Do not make agreements for large amounts of money, which the tenant will not be able to maintain.

2.3 Note 3

If the tenant does not make contact, send Letter 2, offering a date and time when you can meet to discuss arrears. If a formal agreement is made, this must be monitored closely and any breach to the agreement must be tackled quickly.

2.4 Note 4

If no contact or agreement is made, the next letter must be sent out within 7 days of the previous letter. This is intended to demonstrate the seriousness with which the association sees arrears. If there is no response to that, then do not delay in taking the next action.

2.5 Note 5

It is essential that no new or different agreements are made after the court hearing. To do so would create a new tenancy and it would require a new Notice of Seeking Possession being served and to go to court again to progress the matter further.

If the tenant offers to pay at a rate different from the terms of the suspended possession order, you should have the case returned to court to allow the judge to decide if a variation to the earlier agreement is appropriate.

2.6 Note 6

At all times, you must stress to the tenant that the payment of rent is their responsibility, even if they are on housing benefit. They **MUST** take responsibility for sorting the problem out.

2.7 Note 7

If you feel it appropriate you can chase the relevant Housing Benefit department, encourage tenants to appeal against their decisions or have decisions reviewed, if there are grounds for doing so.

Appendix 1

Name & Address

Date:

Ref: Arr01

Dear

Re: Rent Arrears

I am writing to inform you that your rent arrears increased to £ x as of (date)

As of this amount you need to pay £ y and the remainder is due to outstanding housing benefit.

You are requested to clear the debt immediately and please pay your week ly contributions regularly without a miss. I enclose your rent statement.

Please contact me if you have any problem with paying your rent.

Yours sincerely

Housing Officer/ Housing Manager

Email:

Appendix 2

Name & Address

Date:

Ref: Arr02

Dear

Re: Rent Arrears of £ xx as at (date)

I write further to our letter of (date).

As of today, your rent arrears increased to £ yy. This level of arrears is unacceptable to the Association. I must ask you to clear the arrears to avoid further action. I enclose your rent statement

Alternatively, could you come to our office at the address below on (date) at (time) to discuss the matter and to make an agreement as to how you wish to clear the debt.

Please contact me on telephone 0208 640 6413 if the above date is inconvenient to you or if you have any further query.

Yours sincerely

Housing Officer/ Housing Manager

Email:

Appendix 3

Millat Asian Housing Association

Rent Arrears Home Visit

Name: **Date of Visit**

Address:

Tenancy Date:

Family composition:

Income/Benefits:

Any health issues?

Change in circumstances – family /income

Reason for arrears:

Any repairs/disrepairs?

Proposals for reducing the arrears:

Name of visiting officer:

Millat Asian Housing Association

AGREEMENT TO CLEAR RENT ARREARS

NAME:

ADDRESS:

ARREARS: £ As at

I/We hereby agree to clear my/our rent account by paying at least £ per week off my/our arrears, in addition to my current rent.

The first payment will be made on

Signed: _____ Tenant/s)

sign _____

**Both Tenants to
if joint tenancy.**

Date:

Signed: _____ (Housing Officer/ Manager)

Date:

Appendix 5

Name & Address

Date:

Ref: Arr03

Dear

Re: Final Warning before taking legal action for Rent Arrears

I am writing to inform you that your rent arrears are £xx as at (date).

Despite our reminders and your failure to keep to your agreements to clear your arrears I must now request you to clear your debt immediately. I enclose your rent statement.

If you do not either clear your arrears or substantially reduce your debt within the next 7 days, then we will have no alternative but to serve you a Notice of Seeking Possession. This may result in you losing your home at (address)

Please do not hesitate to contact me on Tel 0208 640 6413 if you have any problem or if you have any further query.

Yours sincerely

Housing Officer / Housing Manager

Email:

APPENDIX 6

HOUSING ACT 1988, Section 8 as amended by
Section 151 of the Housing Act 1996

Notice seeking possession of a property let on an Assured Tenancy or an Assured Agricultural Occupancy

Please write clearly in black
ink.

This form should be used where possession of accommodation let under an assured tenancy, an assured agricultural occupancy or an assured
shorthold tenancy is sought on one of the grounds in Schedule 2 to the Housing Act 1988.

Please tick boxes where
appropriate and cross out text
marked with an asterisk (*) that
does not apply.

Do not use this form if possession is sought on the "shorthold" ground under section 21 of the Housing Act 1988 from an assured shorthold
tenant where the fixed term has come to an end or, for assured shorthold tenancies with no fixed term which started on or after 28th February
1997, after six months has elapsed. There is no prescribed form for these cases, but you must give notice in writing.

(i) Name(s) of
tenant(s) / licensee(s)*

1. To:

(ii) Address of premises.

2. Your landlord /licensor* intends to apply to the court for an order requiring you to give up possession
of:

(iii) Give the full text (as set out
in the Housing Act 1988 as
amended by the Housing Act
1996) of each ground which is
being relied on. Continue on a
separate sheet if necessary.

3. Your landlord /licensor* intends to seek possession on ground(s) in Schedule 2 to the
Housing Act 1988, as amended by the Housing Act 1996, which read(s):

Ground 10 Schedule 2 of the Housing Act 1988 – Some rent lawfully due from the tenant:

- a) is unpaid on the date on which the proceedings for possession are begun; and
- b) except where subsection (1)(b) of section 8 of the act applies, was in arrears at the date of the service of the notice under
that section relating to those proceedings.

Ground 11 Schedule 2 of the Housing Act 1988 – Some rent lawfully due from the tenant:

Whether or not any rent is in arrears on the date on which proceedings for possession are begun, the tenant has persistently
delayed paying rent which has become lawfully due.

4. Give a full explanation of why each ground is being relied on:

You are in substantial rent arrears. At the
close of business on , your rent
was in arrears of £

(iv) Continue on a separate
sheet if necessary.

Notes on the grounds for possession

- If the court is satisfied that any of grounds 1 to 8 is established, it must make an order (but see
below in respect of fixed term tenancies).
- Before the court will grant an order on any of grounds 9 to 17, it must be satisfied that it is
reasonable to require you to leave. This means that, if one of these grounds is set out in section 3,
you will be able to suggest to the court that it is not reasonable that you should have to leave, even
if you accept that the ground applies.
- The court will not make an order under grounds 1, 3 to 7, 9 or 16 to take effect during the fixed
term of the tenancy (if there is one) and it will only make an order during the fixed term on grounds
2, 8 or 10 to 15 or 17 if the terms of the tenancy make provision for it to be brought to an end on
any of these grounds.
- Where the court makes an order for possession solely on ground 6 or 9, the landlord must pay
your reasonable removal expenses.

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(v) Give the earliest date on which court proceedings can be brought.

5. The court proceedings will not begin until after:

- Where the landlord is seeking possession under grounds 1, 2, 5 to 7, 9 or 16, court proceedings cannot begin earlier than 2 months from the date this notice is served on you (even where one of the grounds 3, 4, 8, 10 to 13, 14A, 15 or 17 is specified) and not before the date on which the tenancy (had it not been assured) could have been brought to an end by a notice to quit served at the same time as this notice.
- Where the landlord is seeking possession on grounds 3, 4, 8, 10 to 13, 14A, 15 or 17, court proceedings cannot begin earlier than 2 weeks from the date this notice is served (unless one of 1, 2, 5 to 7, 9 or 16 grounds is also specified in which case they cannot begin earlier than two months from the date this notice is served).
- Where the landlord is seeking possession on ground 14 (with or without other grounds), court proceedings cannot begin before the date this notice is served.
- Where the landlord is seeking possession on ground 14A, court proceedings cannot begin unless the landlord has served, or has taken reasonable steps to serve, a copy of this notice on the partner who has left the property.
- After the date shown in section 5, court proceedings may be begun at once but not later than 12 months from the date on which this notice is served. After this time the notice will lapse and a new notice must be served before possession can be sought.

6. Name and address of landlord/licensor*.

To be signed and dated by the landlord or licensor or his or her agent (someone acting for him/her). If there are joint landlords each landlord or the agent must sign unless one signs on behalf of the rest with their agreement.

Signed:

Date:

**Please cross out text marked with an asterisk (*) that does not apply*

Please specify whether: landlord / licensor* / joint landlords* / landlord's agent**

Name(s)
(Block Capitals)

Address

Telephone: (Daytime)

(Evening)

What to do if this notice is served on you.

- This notice is the first step towards requiring you to give up possession of your home. You should read it very carefully.
- Your landlord cannot make you leave your home without an order for possession issued by a court. By issuing this notice your landlord is informing you that he intends to seek such an order. If you are willing to give up possession without a court order, you should tell the person who signed this notice as soon as possible and say when you are prepared to leave.
- Whichever grounds are set out in section 3 of this form, the court may allow any of the other grounds to be added at a later date. If this is done, you will be told about it so you can discuss the additional grounds at the court hearing as well as the grounds set out in section 3.
- If you need advice about this notice, and what you should do about it, take it immediately to a citizens' advice bureau, a housing advice centre, a law centre or a solicitor.

Appendix 7

Name & Address

Date:

Ref: Arr04

Dear

Re: Notice of Seeking Possession

Enclosed with this letter is a Notice of Seeking Possession, which has been served on you because your rent arrears were £ xxx at the week beginning (date). I also enclose your rent statement.

This Notice is a legal warning that if you do not take immediate steps to reduce your debt, the Association will apply to the County Court for possession of your home. If a possession order is granted by the Court this could lead to the Association evicting you and making you homeless.

The Association will not apply to the Court for possession of your home until after the date specified in the Notice of Seeking Possession i.e. (date). It is essential therefore that you contact me immediately and come to an agreement with me to repay your debt.

I am prepared to accept repayment by installments and if you make and keep to a satisfactory agreement now, no further legal action will be taken against you.

I will visit your home on (date /time) to discuss if you have any problem. Please contact me on telephone 0208 640 6413 if this appointment is inconvenient for you and to arrange another appointment.

If you are entitled to Housing Benefit, then it is your responsibility to chase your Housing Benefit / Universal Credit Office to pay the benefits due.

I would advise you to seek independent advice on your position, your rights and options open to you, from your local Citizen's Advice Bureau, law Centre or a Solicitor.

Yours sincerely

Housing Officer/ Manager

Email:

Enc.

Appendix 8

Millat Asian Housing Association AGREEMENT TO CLEAR RENT ARREARS

COURT HEARING DATE:

NAME:

ADDRESS:

ARREARS £ _____ as at _____.

I/We hereby offer to pay £ _____ per week/month off my arrears, in addition to my current rent.

The first payment will be made on _____.

I also agree to pay the Court costs involved in Millat Asian Housing Association taking this action.

I agree to Millat Asian Housing Association seeking a Suspended possession order on these terms.

Signed (Tenant(s)):

Date:

Signed
(Housing Officer / Housing Manager)

Date:

Appendix 9A

Millat Asian Housing Association

LEGAL ACTION REPORT - Approval for Eviction

PREPARED BY:

Date

TENANT(S)

Name

1	

ADDRESS

PARTNER

Date of birth

None	
------	--

DEPENDANTS

Date of birth

--	--

OTHER OCCUPIERS

Date of birth

None	
------	--

INCOME DETAILS

TENANT

OTHER OCCUPIERS

TENANCY DETAILS

Type	
Date Commenced	
Rent (Incl.)	£ per week

ARREARS

Rent Arrears (as at	£
Other debt included in money	Nil

PREVIOUS COURT ACTION:

Appendix 9B

Millat Asian Housing Association Ltd

For Chair's Action / Board Meeting

Date of Meeting

Eviction Report – by Housing Manager for discussion and approval

1.0 Recommendation:

It is recommended to approve the eviction

2.0 EVICTION REPORT

Tenant:

Address:

Household:

Size:

Tenancy commencement:

Current Rent Arrears at date of report:

Additional Debt to Millat: (i.e., court fees, re-charges?)

Currently weekly Rent incl. service charge:

Date NOSP served:

Arrears at service of NOSP:

Details of Court Action: SPO obtained on

Eviction Date:

3.0 Background