

Rent Income & Arrears Procedure (J): Eviction

Housing Management

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User Manual & Guidance Notes

VERSION HISTORY

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1. OVERVIEW

Eviction must be seen as the ultimate sanction, when all other attempts at recovering the debt fail.

Every effort must be made up to a request for eviction (CDA7) to recover the debt. This will include telephone contact, interviews and home visits. A case conference involving all other agencies should be arranged if necessary. Special consideration must be given to minors, asylum seekers, the elderly, the infirm, and those with mental health problems (refer to section on vulnerable tenants). If the household is known to contain children or vulnerable adults a CAF referral form needs to be submitted to alert Children and Adult Services of the intention to evict. This care reflects the fact that CDA7 is a key milestone in the escalation policy.

2. PROCEDURE

Prior to any eviction action, a home visit must take place. If the property is found to be empty, refer to the abandoned property procedure.

The Income Officer should generate a request for eviction by authorising a CDA7 form on iWorld. The Income Team Leader should authorise the referral and then pass to the Income & Debt Services Manager. The CDA7 gives the Income & Debt Services Manager the delegated authority to approve an eviction. A copy of the possession order, shortfall calculation, response from HB, CAF referral form if applicable and the payment history should be included with the completed proforma.

When agreeing the CDA7 the Income & Debt Services Manager must be satisfied that Pre-Action Protocol has been followed, all advice has been given to tenant(s), and that all social and HB issues have been addressed.

Once eviction is agreed, Income & Debt Services Manager authorises RDA7 action on iWorld ([RDA7 Letter Confirms Eviction Date Applied For](#)) and informs the Income Officer who sends the generated letter to the tenant.

The paperwork is passed back to the Income Team Leader who in turn applies for an eviction date via Possession Claims Online (PCOL). If the claim pre-dates March 2010 when Southwark introduced PCOL, court form N325 needs to be filled out and submitted manually to Lambeth County Court with a cheque for £110.00 made payable to HM Court Services.

Where the Possession Order is more than six years old

Where a possession order is over six years old, the Income Officer must obtain leave from the Court to enforce the order should eviction be sought. A letter giving the tenant 14 days notice to clear the shortfall should have been sent and have expired. Unless the shortfall is cleared the officer can proceed to apply for the court's permission to issue a bailiff warrant. A witness statement needs to be prepared and submitted to Court along with supporting documents, court form N244 and applicable fee. This can be done on a DIY basis or with assistance of the Legal Services department.

Extreme care needs to be exercised in establishing whether an old possession order is still enforceable. This depends on the wording of the original order. If in doubt it is best to seek legal advice.

In some cases, especially where there is a long history of litigation, there might be instances when a Suspended Possession Order has been converted into a Postponed Possession Order, and a second possession date had been fixed at a later stage. In the case of AA – v – LBS, Judge Thornton QC ruled that the date of the original possession order needs to be used as a starting point when deciding whether the case has now become a 6 year warrant. This in turn will inform the Southwark Council Housing Operations

decision about whether an application to seek permission to issue a bailiff warrant needs to be sought from court prior to applying for an eviction date.

Guidelines for Conduct of Rent Arrears Evictions

1. Income Officers are primarily responsible for carrying out rent arrears evictions and an Income Officer is required to attend every rent arrears eviction with the court Bailiff.
2. Once the Bailiff has given the Income Officer vacant possession and the premises has been secured further enquiries and responsibility for the property will pass to the **Resident Services Officer**. It is therefore important that the Resident Services Officer attends the eviction as well for the purposes of collecting the new set of keys and taking pictures/inventory of the recovered dwelling and any possessions left within. In the event of either Income or Resident Services Officer being unable to attend a scheduled eviction due to unforeseen circumstances or emergencies, it is acceptable for the eviction to proceed, as long as an officer of the council is present on site to sign off the bailiff warrant and take possession of the dwelling.
3. Once notified of the eviction, Income Team Leaders or Officers are required to enter the date on iWorld, authorise EVDA ([EVDA Letters Confirms Eviction Date](#)) action and print the associated letter for posting or hand delivery to the premises.
4. The Income Officer must carry out a pre-eviction visit to inform the tenant or any occupiers to seek legal advice or apply for stay of execution if unable to pay off the debt in full. However, any such application will be opposed unless the debt is paid in full. ONLY the Central Operations Manager (in their absence Income & Debt Services Manager) can call off an eviction where the debt (rent arrears and court cost) has not been paid in full.
5. The Income Officer will liaise with SBS (north of the borough) or Mears (south of the borough) to arrange for a carpenter to attend the eviction. They will also inform their counterpart Resident Services Officer of the date of eviction and request their presence. If the tenant is particularly vulnerable, the Income Officer will request Social Services to attend. If violence or any form of physical aggression is suspected, the Income Officer will liaise with the Southwark Anti-Social Behaviour Unit (SASBU) to notify the police and arrange for their assistance. The Income Officer will also pre-warn the Bailiff Office.
6. At the eviction, the Income Officer must call the Income Team Leader overseeing the eviction (normally this would be their line manager) to report their presence on site once they get to the eviction address. Income Officers should bear in mind that the bailiff is an officer of the court enforcing a court order; he/she is in charge and Council officers should not interfere. The bailiff should be left to make investigations as to whether anyone is in the property or not. It is the bailiff that will give the instructions to the carpenter to force entry.
7. On gaining entry, the bailiff alone should be allowed to go in to investigate whether there is anyone on the premises. Income Officers should not enter the premises or sign off the warrant until all occupiers have left the premises.
8. If there are occupiers present at the time of eviction, all conversations should be left to the bailiff including the decision on whether to call for police assistance or not. In extreme circumstances the bailiff may refuse to proceed with the eviction.

9. Once the bailiff has obtained vacant possession and all occupiers have left the inside of the property, the Income Officer must sign off the warrant and should not allow the occupiers to re-enter the premises.
10. New keys to the property are to be handed back to the Resident Services Officer looking after the property and not to the Voids team.

The Role of Resident Services Officers - Arranging Goods Storage or Disposal

11. Any request to enter and remove personal effects should be handled by prior appointment with the **Resident Services Officer**.
12. In any event the Resident Services Officer for the patch will be required to attend the eviction and take responsibility for any valuable personal effects left in the premises.
13. In circumstances where occupiers have left personal effects in the dwelling after the eviction, especially if there are items that look in good condition, or if the flat is full of furniture etc, then it is the responsibility of the Resident Services Officer for the patch to treat the goods in accordance with section 41 of the Local Government (Miscellaneous Provisions) Act 1982, as amended.
14. If the goods are unwanted, the Resident Services Officer may arrange temporary storage through private contractors. The Resident Services Officer will issue the appropriate notice to the owner of such goods, after which the property may be sold or disposed of and any proceeds will be put towards storage costs.
15. If the whereabouts of the owner of any such property are not known and it is therefore impossible to serve notice on them to reclaim the property by a certain date (1-3 months time), then the property is vested in the Council and it may be sold after one month. The proceeds should be put towards the storage costs. If the owner collects the property, s/he should be charged the cost of storage unless they are being considered as homeless by the Housing Options or any other Local Authority.

Stays Of Eviction

Tenants have the right to apply for a stay of execution to suspend the eviction warrant.

The Income Officer, in consultation with the Income Team Leader, must decide whether to agree or oppose the terms of the stay.

Factors to take into consideration will include:

- any previous stay applications
- a history of broken agreements
- household composition
- any issues of vulnerability
- other agencies involved
- advice from Sustain
- outstanding HB issues.

The Income Officer must attend the court hearing and give evidence, along with details of the debt since the possession order was obtained.

It is not unusual for a stay hearing to take place on the same day as an eviction. In such circumstances:

- one Income Officer attends the court and one Income Officer is on standby at the site of the eviction; it is not acceptable to be waiting in a nearby office or anywhere else; the officer on standby must await further instructions at the address where the eviction is due to take place.

- the officer attending court must call the Income Team Leader and the Income Officer who is at the eviction site immediately after the stay hearing concludes and the outcome is known.

The result of a Stay hearing is recorded as a STAY on iWorld together with a CAG6 ([STAY Letter confirms Terms of Successful Stay Application](#)). If the terms are breached then SEVR (proforma for a subsequent eviction request) is generated ([SEVR Form of Request for Authority for Subsequent Eviction](#)). This can be completed and authorised in the same way as a CDA7. However, if there has been no recent contact with the tenant then new letter SPSL ([SPSL Letter advising tenant of Shortfall to Stay](#)) should be generated and sent prior to raising SEVR. This gives a final formal opportunity for the tenant to make contact/representations. Where there has been recent action/contact - especially where the stay itself is recent - then this letter may not be appropriate. Even here, if the amount of shortfall is small, or there are other extenuating factors, SPSL ([SPSL Letter Advising Tenant of Shortfall to Stay](#)) should be used prior to SEVR.

Once eviction is agreed, the Income & Debt Services Manager authorises RSEV action on iWorld ([RSEV Letter confirming Subsequent Eviction applied for](#)) and informs the Income Officer who sends the generated letter to the tenant.

The paperwork is passed back to the Income Team Leader who in turn applies for an eviction date via Possession Claims Online (PCOL) or by manual submission to Lambeth County Court if the claim pre-dates March 2010 when Southwark introduced PCOL.

Possession warrants are valid for a period of 12 months. If the subsequent eviction request takes place within that period, there is no charge as the warrant can be reissued by the court free of charge as many times as necessary within that time. Court form N445 needs to be filled out and submitted manually to Lambeth County Court.

If the previous possession warrant had expired court form N325 needs to be filled out and submitted manually to Lambeth County Court with a cheque for £110.00 made payable to HM Court Services.