Impact Housing Association Limited

A. i. Eviction Policy

1.0 Policy Statement

Impact aims to enable its residents to maintain their tenancies and to create sustainable communities. Eviction will generally be an act of last resort, taken when any other action would be inappropriate or when all efforts to tackle breaches of the tenancy/licence agreement have been exhausted. However, there may be circumstances, for example extremely serious anti-social behaviour, a serious indictable offence being committed or using a property for illegal or immoral purposes when eviction may be considered the only appropriate action, and be sought at the outset.

2.0 Key Strategic Links

This policy links to the organisational strategic objective of 'meeting people's housing needs'.

3.0 Key Policy Link

This policy should be read in conjunction with the Rent Arrears, Anti-Social Behaviour, CBL Lettings and Starter Tenancy policies, procedures and strategies, and Impacts Single Equality Scheme.

4.0 Key Objectives

The key objectives of this policy are:

- To comply with all current regulatory guidance and the law
- To ensure that guidelines are in place for the proper authorisation of eviction by Impact Officers
- To ensure, where appropriate, that eviction is the last resort with Impact pursuing alternative interventions at early stages of the eviction process. In more serious cases (see 1.0 for examples) eviction may be pursued at the very outset.
- To ensure appropriate support, advice and guidance are provided to residents being evicted
- To treat residents in a fair and non-discriminatory way, in accordance with Impacts Single Equality Scheme.
- To ensure staff are suitably trained to provide a consistent approach across the organisation

5.1 Definition

For the purpose of this policy and accompanying procedures, the following definitions shall apply:
Eviction is the recovery of occupied accommodation owned or managed by Impact Housing Association

The policy applies to properties owned by Impact but managed by other agencies on Impact’s behalf.

6.0 Key Points of Policy

6.1 Eviction will be considered and must be referred for consideration and authorisation to the relevant Senior Manager (see footnote) in the following circumstances:

- Where the Court has granted an order for possession on one or more of the grounds as set out in the tenancy Agreement and Schedule 2 of the Housing Act 1985 and Impact is entitled to possession absolutely or the tenant is in breach of the terms of a suspended possession order (postponed)

- Where the tenant has a Starter or Assured Shorthold tenancy and has breached the tenancy conditions, and the specified period following service of a Section 21 notice has elapsed. Where the tenant has not vacated the premises after this period, eviction may be via a subsequent court order for possession.

- Where no secure tenancy exists either because the occupant is an illegal occupier or remains in occupation after the secure tenant has vacated the property, and the occupant does not have a need for the property under Impact’s Lettings policy

- Where the occupier is a licensee and has breached the terms specified in the licence agreement as grounds for eviction

6.2 Authorisation

Evictions must be authorised by the appropriate Senior Manager (Housing Manager or Positive Impact Manager) using delegated authority granted by Impact’s Board

The Manager will review the case in detail to ensure that all appropriate actions have been carried out in line with Impacts Policies and Procedures and relevant legislation, including the Mental Capacities Act. Authorisation will be obtained using the organisational standard form ARR 4 (Appendix 1) prior to seeking a warrant for possession to enforce an order (General Needs), or at the point of serving a Notice to Quit letter (Positive Impact).
Where there is a significant change to the circumstances given on the ARR4 form e.g. a large rent payment is made to reduce or clear arrears, this must be discussed with the authorising Manager prior to the eviction being enforced. The outcome of this discussion must be recorded on the ARR 4 form.

Authority to evict will be valid for a period of twelve months from the point of approval unless there has been a significant change of circumstances.

6.3 Information to the resident

Residents will receive written notification that the eviction is to proceed from Impact. Impact will inform the resident of the date and time of the eviction, together with advice about clearance and storage of belongings. Licensees will be given this information in the Notice to Quit letter.

6.4 Pre-Action Protocol

1, Part 3 of the pre-action protocol provides that where a landlord commences possession proceedings on a mandatory ground (i.e. there is a restriction on the Court’s discretion on making an order for possession and/or to which s.89 Housing Act 1980 applies) social landlords must undertake certain actions prior to commencing possession proceedings. These are as follows:

- At the time of service of the NTQ/possession proceedings (or shortly afterwards), write to the occupant(s) explaining Impact currently intends to seek possession and requiring the occupants to notify it in writing within a specified period of time of any personal circumstances or other matters which they wish to be taken into account.
- If any written representations are received these must be considered
- In the event Impact decides to proceed with a claim for possession after receipt and consideration of representations, give written reasons for doing so
- The above matters must be included in schedule form either in the particulars of claim or a witness statement when the possession claim is made.

2, The pre-action protocol does not apply to excluded licences as it is not necessary to commence court proceedings to regain possession. Therefore it is not necessary to follow the protocol when seeking possession of shared accommodation.

6.4 Advice

Prior to a household being evicted Impact will seek to discuss housing options and assistance that can be provided, including signposting to other agencies/services. Impact will inform the relevant Local Authority Homeless department of the eviction, including the date of the eviction, and will work to
any agreed local processes.

Where there are dependent children or elderly or vulnerable people a referral will also be made to the appropriate Social Services department (Children’s Services, Adult Social Care).

If a resident is being evicted who is in receipt of support services, the relevant worker/Agency will be informed at the earliest opportunity, and be kept informed of progress.

6.5 Licencees

The process for evicting residents with licence agreements (excluded licences, e.g. those living in shared supported housing accommodation), is outlined in the Evictions and Terminations Procedure – Positive Impact flowchart (Appendix 2). Where eviction is being pursued the resident will be given a written Notice to Quit, in the specified form prior to eviction (see Appendix 3 for sample Notice to Quit letter). The notice will include the date and time the resident must leave the premises and the reason for eviction.

The period of notice given will be dependent on the seriousness of the breach of the terms of the Licence Agreement. Where gross misconduct as defined in the Agreement is deemed to have occurred and where the resident remaining in the premises would present a serious risk to other residents, staff or other persons, then, subject to the appropriate authorisation, the resident can be given notice to leave immediately. This notice must be served by the Service Manager, Service Coordinator or Lead ILW plus one other person. Dependent on the level of risk this period can be extended up to a maximum of two days. In all other circumstances a notice period of up to 28 days will apply, as specified in the contractual agreement.

Where a licence has been granted for self-contained accommodation (e.g. foyer accommodation) this is a non-excluded licence. In these cases the provisions of the PEA 1977 apply:

- A minimum of 4 weeks’ notice in writing with the prescribed information included in the notice
- The NTQ must comply with any contractual requirements included in the Licence regarding expiry date (i.e. 4 weeks ending on a Sunday or Monday depending on what, if anything, the Licence Agreement says in this regard);
- If the occupier does not leave the property after the NTQ expires, Impact will have to commence possession proceedings through the court.
Except in the instance of gross misconduct, a Notice to Quit should normally only be served where the resident has been given every reasonable opportunity to change their behaviour and appropriate support has been provided or made available to enable this. Previous warnings (verbal, by letter etc.), including the possibility of eviction, should have been provided prior to eviction. An example warning letter is attached as Appendix 4. Prior to enforcement of the notice, authorisation for the eviction must have been obtained via the ARR4 form.

6.6 Right to appeal-

Tenants with a Starter Tenancy and residents with Assured Shorthold Tenancies in Positive Impact accommodation have a right to appeal a decision to evict. The details of the appeals process and timescales is given in the Association’s Starter Tenancy Policy. Other tenants and residents, including licensees do not have a right of appeal.

6.7 Enforcement

A letter is sent to the tenant/resident by the evicting team prior to the eviction, advising the tenant of the time and date of the eviction and of expectations (e.g. removal of belongings, return of keys, condition of property etc.). The letter also confirms previous advice regarding support and assistance.

All evictions will be attended by a minimum of two persons from Impact (for general needs a member of the Voids team and a member of the evicting team). A contractor will also attend, organised by the Voids team, to change door locks on general needs properties. Where there is a concern that the tenant/resident, or member of their household will become violent, the evicting team will arrange for the police to attend.

Further guidance on arrangements and precautions for eviction is given in team Eviction Risk Assessments.

6.8 Belongings

If a resident does not want their belongings they should complete a permission to dispose of personal belongings form. The process for disposal of former tenants’ belongings and the Permission to dispose of personal belongings form is detailed in Appendix 5.

6.9 Red Flag

Where an eviction is enforced and the tenant has been previously identified as potentially dangerous (i.e. there is a Red Flag against the tenant on the IBS system), then the Red Flag will remain against the tenant, once the tenancy becomes ‘former’.
7.0 Monitoring, Review and Consultation Process

Regular monitoring will take place to ensure Impact is only taking action to evict tenants in line with this policy. The level of evictions and reasons for each eviction will be reported to the Accountable Performance Group each quarter.

8.0 Key targets and Performance Indicators

- Numbers by category of Evictions carried out and periodic comparison
- Benchmarking, with particular regard to best practice.

Duncan Tilbe
Revised November 2015
Impact Housing Association Limited ARR 4

Possession checklist and Senior Manager approval for eviction

This form must be completed for all cases when applying to the court for a bailiff to enforce possession or in the Positive Impact Service when a license needs brought to an end.

Name of tenant:

Age and date of birth:

Address:

1. Please outline below a summary of the circumstances of the case and actions. Include a brief overview of any written correspondence, telephone and face-to-face discussions. The rent arrears state at £ as at today’s date.

2. Are there any special circumstances in respect of the tenant(s) or any household member’s vulnerability or are there any safeguarding issues? (If yes give details of action taken)
   e.g.: If there are vulnerable children or adults involved have Children/Adult Services or other support services been informed?

3. Is there any C.A.B., Law Centre or other legal involvement?

4. Has the Local Authority Homelessness Department been contacted regarding the impending homelessness situation

Arrears Officer:

Signed by (requesting officer):

Date:

Senior Managers Checklist

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Circumstances reviewed</td>
<td>□</td>
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Details of discussion and any comments
Appendix 1

Possession Approved

Signed by Senior Manager

Date
Appendix 2

Evictions & Terminations Procedure – Positive Impact

Positive Impact Instigated
- ASBO
- NON-ENGAGEMENT

Refer to Service Co-ordinator who will assess and investigate and if necessary complete an ARR4

ARR4 sent to a Senior Manager to authorise – as listed in the Eviction Policy

If upheld the Senior Manager will forward a signed copy back to the Service Co-ordinator & a copy placed on the residents file

The Co-ordinator or the Lead ILW and 1 other will then serve the notice to the resident notify the resident

NOTICE SERVED

After the allocated time period the tenant will

Vacate

Vacates – Finish tenancy on IBS with reason being EVIC – Tenant Evicted

Abandon

Abandons – refer to the Eviction Policy (Tenant not in property)

After the allocated time period the resident does not vacate

If the residents does not vacate at this time – the Income Manager Worker would initiate court and legal proceedings

All Tenancies closed down on IBS with reason being EVIC – Tenant Evicted. Please note: all Evicted Tenancies MUST have a signed ARR4

Income Management Instigated
- NON-PAYMENT

Income Management complete the ARR4 – and forward to the Senior Manager to authorise (as listed in the Eviction Policy)

If upheld the Senior Manager will forward a signed copy back to Income Management

Income Management inform the scheme and arrange an appointment to serve the notice to the tenant & copy given to the scheme to place on the residents file

Please refer to the Organisations Eviction Policy on SharePoint (SharePoint / Policies & Key Docs (link on left hand side of Home page / Eviction Policy June 2012)
28 days’ Notice to end your license to occupy

This notice formally terminates your license to occupy (address)

This is due to you breaching your Licence Agreement by (insert details and dates).

The specific conditions of your Licence Agreement that have been breached are:

(Insert the relevant clause(s))

• Owing to the seriousness of your actions, we have no other option but to issue you with notice to end your licence as per our Eviction Policy.

You must vacate your room by (insert date) taking all your belongings and personal possessions. We will not be responsible for anything you leave behind.

If you fail to vacate the room on (insert date) we will take legal action to regain possession of the room.

If you would like to appeal this decision please contact Julie Monk, Director of Assets and Homes. You must make your appeal within 14 days. You can appeal in writing, by email or by phone. Julie’s contact details are as follows.

Julie Monk
Eden Rural Foyer, Old London Road, Penrith, CA11 8ET
Telephone 01768 861695
Email juliem@impacthousing.org.uk

Further advice can be obtained from (insert contact details for local Homeless Department, local CAB and any local Law Centre, including telephone numbers)
Signed………………………………………………………………………………………….
On behalf of Impact Housing Association Ltd.
Date:
Dear Name,

Written Warning

Re: Breach of Licence Agreement & Positive Impact agreement

This section explains the reasons why the warning is being issued e.g. you have caused a noise nuisance to other residents playing loud music at unsocial hours. The particulars of this issue are as follows:

Insert Details

Both your Positive Impact and Licence Agreement clearly state the following: This section needs to include the relevant excerpts of the license agreement and PI agreement

By causing a noise nuisance you are in serious breach of your Licence Agreement. This letter is being issued as a formal written warning and requires you to stop creating any noise nuisance and to comply with the terms and conditions of your Licence Agreement. Should the problem continue, or there are any other breaches of your Licence Agreement, then serious consideration will be given to serving a Notice to Quit requiring you to leave the premises.

This section should include some more personal detail relating to the person, their circumstances and prevention methods to prevent the resident from moving forward in the warnings process. It may also include details on previous conversations or support given to the resident relating to this topic.

This is a serious issue and I look forward to your co-operation in this matter.

If you would like to discuss any of the content of this letter with me then please do not hesitate to contact me.

Yours sincerely

Job title
Appendix 5

PROCEDURE FOR THE DISPOSAL OF FORMER TENANTS' BELONGINGS

1. When tenants are notified of an impending eviction, they will be advised to remove all their possession(s) from the property. Any goods left behind after eviction are still the property of the tenant. They do not become the property of Impact Housing Association.

2. In law Impact Housing Association becomes an involuntary ‘bailee’ of these goods, and it cannot simply dispose of them. The law does not provide clear guidelines. However, Impact is covered by the general provisions of the Torts (Interference with Goods) act 1977. This requires reasonable efforts to be made to trace the tenant but, if these fail, the possessions may be sold or destroyed.

3. In all circumstances at an eviction Impact will ensure that two Officers are present and that they:
   - Ask the tenant or the tenant’s representative if they want the items stored or disposed of – if so they must sign, in duplicate, the form for this purpose. Storage will be for a maximum of 4 weeks and the former tenant will be charged for this service.
   - Take detailed written inventory of goods in the property.
   - Take photographs of any goods in the property.
   - Officers will wait at the property whilst essential belongings are collected.

4. If the tenant is not present at the eviction, reasonable efforts will be made to contact the former tenant to establish what they want to happen to their belongings.

5. Arrangements will be made for the removal of any items as soon as possible. If Impact considers that the goods have been abandoned and are of little value, they will be disposed of. Examples would be food in the fridge, old newspapers, furniture in poor condition etc.

6. If Impact considers that the goods may not have been abandoned, the value of the goods will be assessed and weighed against the cost of applying to the Court for an order for sale of disposal and the risk of any proceedings being brought by the former tenant. Where decided that the goods should not be disposed of, they will be placed in storage.

7. Impact will comply with any order made by the Court relating to the disposal of a former tenants’ possessions.
PERMISSION TO DISPOSE OF PERSONAL BELONGINGS (EVICTION OR ABANDONMENT)

“I …………………………………………………………former tenant

Of ………………………………………………………………………………………

Hereby relinquish the tenancy of the above property and give Impact Housing Association Ltd permission to dispose of any items/property left in the premises. In consideration of Impact Housing Association agreeing to clear the premises of my personal belongings and dispose of the same, I agree and undertake to pay Impact Housing Association Ltd:

- Its reasonable costs of clearing the property of my personal belongings and disposing of the same; and
- A sum in respect of lost rental income for the period Impact was unable to re-let the premises due to Impact clearing the premises of my personal belongings”.

Signed: ………………………………………………………………………………..