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| Lines of Defence/how is the document audited? | *This should show how the document gives assurance against risk for example*1. *Policy approved*
2. *Training to staff*
3. *Manager checks via 1:1s*
4. *Internal audit programme?*
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**Residents in prison policy 2021**

**Hexagon Housing Association**

**Residents in prison policy 2021**

**1.0 Scope**

1.1 This policy covers when a resident with a tenancy is sentenced or remanded to prison.

**2.0 Aims of the policy**

2.1 Hexagon Housing Association will seek to support an imprisoned resident. Where possible, this will enable the resident to maintain their tenancy while in prison, so that they have a home to return to on their release.

2.11 The exceptions to this general approach will be:

1. Where the offence was itself a breach of the tenancy, examples of this include, although are not restricted to:
* theft from neighbours
* attacks on neighbours
* drug dealing from the property
* any offence where the association could have obtained a Possession Order in relation to the offence on the basis of the available evidence
1. Where the offence is considered to relevant to the accommodation

 These two exceptions will be considered separately, if, due to the length of the prison sentence, there is no prospect of the resident returning to the property within 12 months.

2.2 To support the resident to try and reduce the potential of rent arrears and the resulting danger to the tenancy

**3.0 Equality and diversity impacts**

An initial screening has been made via the EiA template and there are no adverse equality impacts

**4.0 Consultation**

This policy has been commented on by RAG at their meeting on 2nd March and their comments have been accommodated where appropriate

**5.0 Statement**

5.1 When a resident is in prison, the property will remain their principal home unless they relinquish their tenancy. Hexagon will not treat it as abandoned where it is known that a resident is in prison - even if the sentence is a long one.

5.2 Hexagon will always attempt to contact the resident where there is a need to take action to end the tenancy.

5.3 Hexagon will always attempt to locate the resident and advise they seek legal advice about the legal rights and entitlements to housing related benefits.

5.31 While there is no entitlement to other benefits whilst is prison, some housing related benefits may be paid. Any benefits are only payable if the resident is intending to return to their home when released. The entitlements are calculated on the basis of nil income and are as follows:

5.32Housing Benefit

If the resident is an existing claimant of Housing Benefit then the following applies:

* on bail – the resident can get HB for up to 52 weeks if bail conditions require the resident to live away from home (e.g. in a bail or probation hostel) until the court hearing.
* On remand - the resident can get HB for up to 52 weeks while on remand awaiting trial or sentencing.
* Sentenced – HB can be paid for up to 13 weeks. The resident needs to expect to return home within 13 weeks of the date that they first went into custody, including any time on remand.

No HB will be paid for any period if the length of the sentence means that the resident will not return home within 13 weeks of the date that they first went into custody.

5.33 Universal Credit

If the resident is an existing claimant of Universal Credit then the following applies

* they can continue to get UC housing cost payments for up to 6 months, whether on remand, on bail or sentenced.
* But if a custodial sentence is given, and the time expected to be spent in prison (including on remand) is more than 6 months, UC will not be paid.
* A new UC claim cannot be made in prison. But if the resident was entitled to UC, but not receiving it, backdated payments may be possible.

(Shelter April 2019)

5.4Joint Tenants

5.41 Where one resident in a joint tenancy is convicted and sentenced to prison, the remaining resident remains responsible for the rent.

5.5 The most common result of a resident being in prison will be rent arrears. Hexagon will maximise the approaches that can be taken to try and reduce the potential of this and the resulting danger to the tenancy. This will include advising the resident, any partner or considering a family member or friend as a “temporary caretaker”. Hexagon will not want to prejudice the right to recover possession in the future in those circumstances, so the caretaker will be told that any payments received will be accepted as mesne profits, and should not be taken as an intention to create a new tenancy.

5.6 We will end the tenancy:

* Where there are the exceptions such as those in 1.2
* Where there is a Possession Order which the resident is in breach of.

In both of the above two cases, Hexagon will take action whether or not the resident gives up the tenancy.

* Where the resident in prison is unable to find any way of ensuring that the rent is paid, they should be encouraged to give up the tenancy.
* If the resident does not return to the property after the release date and it can be confirmed that the resident has been released from prison.
* There is no response from the resident or they will not agree to any of the options above and arrears are rising, a NSP should be served and Possession Proceeding started in the normal way.
1. **Relevant legislation and guidance**
* Housing Act 1985
* Housing Act 1988
* TORTS (Interference with Goods Act) 1977
* Protection from Eviction Act 1977
1. **Relevant Hexagon policies and procedures**
* ASB Policy 2020
* Domestic Violence Policy 2020
* ASB Absolute Possession Procedure 2018
* Abandonment, Illegal Occupants and Subletting policy 2018
* Residents in Prison Procedure 2021