



WILLIAMSBURGH

HOUSING ASSOCIATION

Rent Arrears Policy

This policy is available in different languages and other formats such as Braille or tape on request.

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1. Introduction

Rent is the Association's main source of income.

Arrears control is an integral part of organisational service delivery and its importance is recognised within our stated business objectives.

We will continue to review our business processes with a view to pro-actively managing all debt due to the Association. A concerted effort will be made to minimise rent arrears in the following areas:

- **Current Tenant Arrears,**
- **Former Tenant Arrears,**

Arrears control is necessary for the undernoted reasons:

- To maximise income thereby ensuring that quality services can be provided to all tenants.
- To allow us to meet our business objectives and financial commitments.
- To prevent the debts of those tenants with arrears becoming unmanageable.

We recognise that some households may fall into arrears for reasons associated with poverty. For example, many households in arrears are families with relatively low income. Rent arrears are therefore, in some cases, an indication that the tenant has additional financial problems.

We have, therefore, developed this arrears policy to focus on both arrears prevention and the maximisation of benefits.

2. Equal Opportunities

The Association is committed to the principles of equal opportunities and good practice. In this regard, we acknowledge the Scottish Social Housing Charter Outcomes and Standards (April 2017) : Outcome No. 1, Equalities, which states:

“every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services.”

Accordingly, we shall ensure that, specifically in regard to rent arrears, all tenants, current and former are treated equally, irrespective of their sex or marital status, race, disability, age, sexual orientation, language or social origin, or other social attributes, including beliefs or opinions such as religious beliefs or political opinions.

The Equality Act 2010

The Equality Act 2010 has introduced 9 protected characteristics:

- age;
- disability;
- gender reassignment;
- marriage and civil partnership;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- Sexual orientation.

The Data Protection Act 1998

Sets standards for the gathering and sharing of personal information.

3. Scottish Social Housing Charter, Legal Framework and Good Practice

Scottish Social Housing Charter

The Association, in preparing this policy and the related procedures has given consideration to and sought compliance with The Scottish Social Housing Charter, Outcome No.2 Communication, Outcome No.11 Tenancy Sustainment, Outcome No.13 Value for money.

Social landlords manage their businesses so that:

- tenants and other customers find it easy to communicate with their landlord and get the information they need about their landlord, how and why it makes decisions and the services it provides.

Social landlords ensure that:

- tenants get the information they need on how to obtain support to remain in their home; and ensure suitable support is available, *including services provided directly by the landlord and by other organisations.*

Social landlords manage all aspects of their businesses so that:

- tenants, owners and other customers receive services that provide continually improving value for the rent and other charges they pay.

Legal Framework

When progressing the recovery of rent arrears through legal action, it will be done in accordance with the Housing (Scotland) Act 2001, Housing (Scotland) Act 2010, Homelessness etc. (Scotland) Act 2003 and any other relevant legislation.

The Human Rights Act 1998

Has an effect on housing management functions, including Recovery of Possession Proceedings.

The Bankruptcy and Diligence (Scotland) Act 2007

Sets out the legal framework for recovery of debt, including rent arrears

Welfare Reform Act 2012

The Welfare Reform Act 2012 made changes to the rules concerning a number of benefits offered within the social security system and became law on 8 March 2012. The Act includes

- The introduction of Universal Credit
- Stronger penalties for fraud and error
- New "claimant commitment"
- Phasing out of Disability Living Allowance and replacement with Personal Independence Payment
- Reform of Housing Benefit, including introduction of under-occupancy charges
- Changes to the Social Fund, including greater power to local authorities
- Reform of Employment and Support Allowance
- Changes to child support

While the most significant of these is the introduction of Universal Credit, all aspects of the Act will have significance for tenant's ability to pay their rent and meet the other essential costs associated with maintaining a tenancy, and may impact on rent payment and arrears.

3.1 Good Practice Guidance

Practice Online – Chartered Institute of Housing

4. Aims and Objectives

The rent arrears policy and associated procedures aim to ensure that the following principles are complied with, in the prevention, management and recovery of rent arrears:

- To contain actual arrears levels to less than 4.5% and to monitor our performance against targets set for arrears levels.
- To provide good quality pre-tenancy advice and assistance.
- To ensure all tenants who may have an entitlement to housing benefit/universal credit, are offered assistance in the completion of a housing benefit claim form/ in their application for Universal Credit.
- To identify arrears problems at an early stage.
- To ensure effective written and oral communication with tenants, including the offering of support from our Housing Officers, benefits advisor, or referral to any other support agency, as appropriate.
- To continue to develop our customer profiling strategy to ensure we have relevant information about our tenants and their household, such as contact details (mobile, email), communication preferences (e.g. language, large print), economic status, household information and whether they have an appropriate bank account to allow transactions such as direct debits.
- To ensure that we have effective control mechanisms and a range of payment options in place to maximise rent collection and help minimise arrears.
- To ensure tenants are aware of the various methods of payment available, enabling selection of the most suitable to their circumstances.
- To ensure that tenants have access to clear information and advice about income maximisation, including eligibility for housing benefit, debt counselling, welfare benefits advice and housing support.
- Ensure effective liaison with other agencies such as Housing Benefit, Citizen's Advice and other support projects.

- To ensure a consistent approach is maintained to arrears recovery.
- To ensure that we have a performance culture where the prevention and management of rent arrears is given a high priority.
- To instigate legal proceedings only when voluntary arrangements have failed.
- To sanction eviction only as a last resort, when the Housing Manager is satisfied that all other reasonable methods of dealing with the arrear have been investigated and failed.
- To ensure staff and committee are clear of the procedures for arrears prevention and recovery and of their areas of responsibility.
- To ensure that tenants are not discriminated against through service delivery on the grounds of sex, marital status, race, disability, age, sexual orientation, language or social origin or any other personal attributes such as beliefs or opinions.
- To ensure that this policy complies with the law and good practice in relation to rent arrears recovery.

5. Delegated Authority

The Housing Manager, (within the guidelines and procedures that form part of this policy) and the Housing Officers have delegated authority to take necessary action to control arrears, in full consideration of the individual circumstances of each case.

The Senior Housing Officer will have the authority, within agreed procedures, to pursue serious arrears through court action, with authorisation from the Housing Manager to obtain decree for repossession. The decision on whether or not to enforce the decree will be taken by the Housing Manager or Chief Executive in the Housing Managers absence, who have been given delegated authority from the Committee to approve evictions.

Any eviction agreed will be reported to the Committee via quarterly reports.

6. Pre-Tenancy Advice and Arrears Prevention

A proactive approach to preventing rent arrears will be adopted by the Association's staff at all times. This will begin when housing application packs are provided to applicants. Within the packs will be a leaflet providing advice and information, tenancy responsibilities, including budgeting money and paying rent.

Rent payment proposals and payment method selected will be discussed at point of offer and confirmed at viewing/sign up appointment. Direct Debits will be promoted where appropriate.

At the time of agreeing to accept an offer of tenancy, an applicant who advises that they will pay their rent by housing benefit/universal credit will be interviewed by our Benefits Adviser who will assist the applicant to apply for the appropriate benefit.

Those tenants entitled to housing benefit will be encouraged to sign housing benefit mandates which will ensure that housing benefit is paid directly to the Association.

Where existing tenants with serious arrears are in receipt of Universal Credit, a request will be made for the housing cost element of their Universal Credit payment and arrears direct to be paid directly to the Association.

6.1 Offer of Housing

The Association will ensure that, when issuing an offer of housing, the prospective tenant is advised of the rent charge for the property, and understands that it is payable monthly in advance, on or before the 28th of each calendar month.

The new tenant will be made aware that one month's rent in advance is required where they are not expected to qualify for housing benefit or Universal Credit. Where benefit is anticipated they will be asked to begin making regular weekly payments from the date of sign up on the understanding that monies will be refunded should the benefit be backdated appropriately when received.

At this time, support issues, identified as being required to sustain the tenancy, will be brought to the attention of the Tenancy Team.

On acceptance of the tenancy the Benefits Adviser will, where appropriate, assist the new tenant to complete the housing benefit application or apply for Universal Credit and outline the implications of non-payment of rent. An estimated benefit calculation will be made at this time.

We will work closely with all new tenants to ensure that they are fully aware of their full range of responsibilities under their tenancy agreement, including the obligation to pay rent on the due date. We will confirm that failing to pay rent when lawfully due could have serious implications, potentially including loss of their tenancy.

We will explain clearly our arrears policy and procedures to our new tenants when they sign up for their new home.

During the sign up interview, the Benefit Advisor will ask the tenant to complete a Data Protection Mandate allowing the Association to share with external agencies on matters in relation to their tenancy, where appropriate.

6.2 Methods of Payment

Where there is a requirement for the tenant to make rent payments personally, a variety of payment methods will be offered in order to establish the most suitable. These will include:

- Direct Debit Mandate
- Swipe Payment Card
- Chip and Pin (for initial payment)
- Internet Payments

Tenants will also be advised that they may make payments outwith the regular debit cycle should this be more suited to their personal circumstances.

Following the signing of the tenancy agreement, the tenant will be given a new tenant welcome pack which includes information on how to pay rent.

When the new tenancy account has been created, the tenant will be sent a new tenant welcome letter, that contains details of the rent payable, ways in which payments can be made and details of any arrears.

6.3 Settling In Visit

The Tenancy Team will conduct new tenancy settling in visits for each new tenant. The Association aims to complete 100% of all New Tenancy Visits, however priority will be given to those in their first tenancy, those who are under 25, receiving support or vulnerable, formerly homeless, with a history of arrears or anti-social behaviour.

At this time the housing staff will explain that the Association takes arrears very seriously. This first visit should be attempted within 28 days of the tenant's date of entry. In the event that access is not obtained, the housing staff will attempt a further two visits. If access is still not possible, an assessment will be made about the tenant's occupancy. Consideration will be

given to the rent account and repair records. If the housing staff is satisfied that the tenant is residing in the property, no further action will be taken. If however, there are doubts a letter advising that it is suspected that the property has been abandoned will be served.

6.4 Rent Account Statements

Rent account statements will be provided to tenants in arrears in the following circumstances:

- When 'Final Warning' letter issued.
- When a 'Notice of Proceeding for Recovery of Possession' is issued.
- When recovery through Court action is initiated.
- When Decree is being sought.

In addition, a rent account statement will be sent to each tenant, together with their annual rent review letter.

Rent statements may also be issued at any time by Housing staff, or upon request from the tenant.

6.5 Rent Increases

Details of any rent increases will be forwarded to Renfrewshire Council's Housing Benefit Section, as early as possible, in order to ensure the timeous updating of their payment systems and avoid tenants falling into arrears.

Where tenants are in receipt of Universal Credit, it is their responsibility to inform the Department for Works and Pensions of any rent increase. We will provide as much assistance as possible for tenants to do this.

6.6 Interagency Working

The Housing Management Team is committed to joint working with Renfrewshire Council Housing Benefit Section and other

external agencies to establish an accessible multi-agency advice service to assist all tenants with financial problems.

In addition, housing staff will make appropriate referrals to the Benefits Adviser to assist tenants with income maximisation and arrears prevention.

6.7 Housing Benefit

In communications with tenants we will stress the importance of responding to requests from Renfrewshire Council's Housing Benefit Section for information, and the timeous completion of housing benefit review forms.

We will also encourage tenants to instruct any entitlement of Housing Benefit to be paid directly to their rent account, wherever possible, to avoid any time delay in receipt of payments.

6.8 Universal Credit

Universal credit brings together several different benefits and combines them into one monthly payment which will go straight into the tenant's bank account.

Universal credit will replace:

housing benefit

income-based jobseeker's allowance

income-related employment and support allowance

income support

child tax credits

working tax credits.

The Association will be notified, in writing, of any tenant who has made a claim for universal credit. Contact will be made with the tenant to provide assistance with budgeting and ensuring

that we ascertain dates of payments to enable payment plans to be put in place for paying the monthly rent charge. Regular contact will be maintained with any tenants receiving universal credit to avoid arrears accruing.

7. Arrears Actions

7.1 Initial Action Following Arrears Accrual

The Rent Team are responsible for regularly monitoring all arrears cases and taking appropriate action. On a daily basis, Housing Officers and Housing Area Assistants will monitor their arrears through our IT system.

Housing staff will maintain personal contact with the tenants throughout the arrears recovery process. This will involve a range of methods including letters, telephone calls, telephone texts, to ensure contact is maintained while implementing the procedures as outlined in this policy.

7.2 Early Intervention

All tenants will receive written confirmation of their rent arrears, as a minimum, once per month, regardless of whether there has been a claim submitted for housing benefit.

Where a claim for housing benefit has been submitted, the housing staff will liaise with Renfrewshire Council's Housing Benefit section to establish what, if anything is required to progress the claim. This action will continue until the claim is finalised, and may include intervention by the Benefits Advisor.

7.3 Arrears Pursuance

Where a tenant misses their regular payment toward arrears and has made no contact with their Housing Officer or Housing Area Assistant, written confirmation of the arrear will be sent to the tenant. In addition, other methods of contact will be considered including telephone call, telephone text or email.

The action most appropriate to the tenants circumstances and level of arrears will be conducted.

Where there is no response from the tenant, they will be contacted in writing. The communication may include an arrangement with effective date. The most appropriate action will be dependent on the tenant's circumstances.

Where a housing benefit/universal credit payment is not received, a letter will be issued to the tenant, notifying them of this and providing information as to the steps that they should take.

Where Renfrewshire Council's Housing Benefit Section/DWP advise of a change to the regular amount, a letter will be sent to the tenant advising them of this, together with any adjustments necessary to their regular payment arrangements.

All arrangements made will be confirmed in writing to the tenant.

In all circumstances, contact will be made with the tenant, either verbally, electronically or in writing, as quickly as possible. We will aim, however, to do this within one week of the action identified being required.

As a minimum, all arrears cases will be routinely monitored on a monthly basis.

Referrals to our Benefit Adviser will also be made as appropriate.

7.4 Notice of Proceedings for Recovery of Possession

Notices of Proceedings for Recovery of Possession will only be issued to the tenant and all qualifying occupiers when all reasonable methods to resolve the arrear have been taken but not succeeded. In addition, we aim to have attempted 3 methods of personal contact with the tenant.

A Notice of Proceedings for Recovery of Possession will be issued to the tenant, and all qualifying occupiers at the

discretion of the Housing Officer, based on the arrear and circumstances, and only where it has been served in accordance with Pre Action Requirements under section 155 of the Housing (Scotland) Act 2010, a Notice of Proceedings for Recovery of Possession.

The conditions (pre-action requirements) that must have been met are:

- We must provide the tenant with clear information about the terms of the tenancy agreement together with any outstanding rent and any other financial obligation of the tenancy.
- We must make reasonable efforts to provide the tenant with advice and assistance on the tenant's eligibility to receive housing benefit and other types of financial assistance.
- We must provide the tenant with information about sources of advice and assistance in relation to management of debt.
- We must make reasonable efforts to agree with the tenant a reasonable plan for future payments to the landlord and any plan must include proposals in respect of future payments of rent, outstanding rent and any other financial obligations of the tenancy.
- We must not serve a Notice of Proceedings if an application for housing benefit or universal credit for the tenant has been made (but not yet determined) and is, in our opinion, likely to result in benefit being paid at a level which would allow the tenant to pay, or reduce by an amount acceptable to us, the outstanding rent and any other financial obligation of the tenancy.
- We must not serve a Notice of Proceedings if the tenant is taking other steps which, in our opinion, are likely to result in payment within a reasonable timescale of the outstanding rent and any other outstanding financial obligation of the tenancy or the tenant is complying with a repayment plan agreed with us.

- We must encourage the tenant to contact the local authority in whose area the house is situated.

The required statutory notice that Court action may be raised will be given. In addition, a rent account statement will accompany all Notices of Proceedings issued.

Notices will be served by the Sheriff Officer.

Where the tenant fails to respond to the Notice and court proceedings are being considered by the Housing Officer, the tenant will first of all be invited to contact the Senior Housing Officer to discuss the severity of their situation.

Throughout the 6 month period from the date that the Notice is issued, the Housing Officer will actively continue to monitor the arrear, communicate with the tenant and make referrals to other agencies as appropriate.

Where the tenant has failed to engage in or maintain an agreed repayment arrangement and it is felt appropriate to instigate legal proceedings for recovery, the Housing Officer will follow the procedures in accordance with Section 11 of the Homelessness etc. (Scotland) Act 2003 before passing the case to the Association's Senior Housing Officer who deals specifically with legal action. The tenant will be advised in writing of the course of action being followed.

All legal instructions throughout the case will be dealt with by the Senior Housing Officer. In her absence, the Housing Officer's within the Rents Team will assume responsibility of these duties.

7.5 Legal Action

At all times during the course of legal action, the Senior Housing Officer will actively monitor the arrear, communicate with the tenant, and make referrals to other agencies as appropriate.

Where legal action is being instructed, and following notification of any Court dates, the Senior Housing Officer will notify the tenant in writing.

The Senior Housing Officer will notify the tenant of the outcome of all court hearings, in writing. In all cases, support and advice will be offered throughout the Court process.

7.6 Continued Cases

Where cases are continued at Court, the Senior Housing Officer will notify the tenant in writing of the outcome and will monitor the arrangement in accordance with the Court decision.

7.7 Sisted Cases

All cases sisted at Court will have their arrangement monitored monthly as with other legal action cases. Where the tenant defaults on the arrangement, they will be written to advising of the arrear and requesting that any missed payments are rectified.

Following this, the Senior Housing Officer will continue to monitor the case, and ensure personal contact with the tenant is made.

Should attempts to reinstate the arrangement fail, personal contact with the tenant will be attempted before returning the case to Court.

7.8 Decree

Where all attempts to recover arrears have failed and it is considered necessary to obtain a Decree, the tenant will be notified in writing. A rent account statement will also be provided to the tenant at this time.

The Senior Housing Officer will also ensure procedures are followed in accordance with Section 11 of the Homelessness etc. (Scotland) Act 2003 and our agreement with Renfrewshire Council.

In the absence of the Housing Manager, any requests for decree will be discussed with the Chief Executive.

Where Decree is granted the Senior Housing Officer will notify the tenant in writing, that their case will be considered by the Housing Manager.

Following consideration of the case by the Association's Housing Manager, the Senior Housing Officer will prepare written notification to the tenant of the decision. This letter will be hand delivered.

7.9 Eviction

Where an eviction is proceeding, instructions will be issued to Sheriff Officers within one week of receiving the court paperwork and the date specified therein.

The Senior Housing Officer will advise the tenant in writing when the date of the eviction is known.

Where the tenant makes a substantial payment prior to the eviction, preventing the eviction from proceeding will be at the discretion of the Housing Manager and/or Chief Executive.

Evictions will be attended by the Housing Officer, Maintenance Officer, Sheriff Officer and the joiner instructed by the Association.

Where there are personal possessions remaining in the property, the Housing Officer will make an inventory and take photographs and will decide on whether items should be stored temporarily.

7.10 Expenses

The Association will, in all cases, pursue the recovery of scale expenses awarded by the Court, in the Association's favour.

8. Relationship Breakdown

In the event of joint tenant's separating and no longer living at the home, every effort will be made to recover the relevant rent due from the tenant no longer residing at the property.

Where payments are still not forthcoming, attempts will be made to contact the joint tenant in person, either by telephone or by calling at their new home (if within reasonable distance to the Association's office).

Where there is still no payment made, the case may be referred to the Association's debt recovery agent.

9. Former Tenant Arrears

Where tenants terminate their tenancy and arrears exist, the Association will expect them to either clear the sums due or make an arrangement to do so.

Where payments are not received, our Housing Assistant will contact the former tenant, in writing, at their forwarding address requesting that payments, as arranged, be made.

Where there is still no payment made, the case will be referred to the Association's debt recovery agent.

Where all of the foregoing steps have been taken and proved unsuccessful, the Management Committee will consider whether the debt concerned should be written off.

Any former tenant applying for rehousing or to mutually exchange with a current tenant, will be expected to adhere to the Association's Allocation Policy in respect of repayment of arrears, regardless of whether the former tenant debt has been written off.

10. Methods of Recovery

Wherever necessary, the Association will consider various methods of recovery including:

- Direct deductions from DWP and Universal Credit benefits.

- Wage arrestment.
- Bank account arrestment.

This list is not exhaustive.

11. Irrecoverable Debt

When attempts to recover the outstanding rent arrears by both housing staff and the Association's appointed debt recovery agent have failed, a report will be presented to the Association's Management Committee to consider writing off the debt.

It will also be necessary for the Management Committee to consider writing off rent arrears that fall into the following categories:

- Death of the tenant.
- Sequestration/Bankruptcy of the tenant.

This list is not exhaustive.

12. Reporting

Quarterly reports on rent arrears will be presented to the Association's Committee. The reports will include the following:

- Current tenant arrears.
- Former tenant arrears.
- Legal action cases.

13. Training

The Association recognises the need for quality staff training in all aspects of our operation and places particular emphasis on this area. Regular training for all housing management staff will be arranged.

This will take place internally with the Housing Manager being the lead officer. As a minimum, this will be held after each review of this policy.

New members of housing management staff will receive such training as part of their induction programme.

Where the Housing Manager feels that it is appropriate, external training sessions will be used to complement that provided internally.

14. Monitoring and Evaluation

On a weekly basis, the Senior Housing Officer will monitor and discuss arrears cases with Housing Officers for monitoring in accordance with this policy.

In addition, on a quarterly basis, our performance will be monitored against the targets set by the Committee, in order to identify areas where performance could be improved.

15. Data Protection

The Association will store personal information provided on both our computer and filing systems. At all times we will act in compliance with the Data Protection Act 2018. Applicants may request copies of the information that the Association holds on file. All such requests will be processed in accordance with the Association's Data Protection Policy.

16. Review

This policy and procedure will be reviewed by the Committee every three years to ensure that it responds to any changing circumstances.

This review will take place following the appropriate consultation with tenants as outlined in our Tenant Participation Strategy.