



Williamsburgh

HOUSING ASSOCIATION

• Limited •

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 objective no. 3,

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 reduce arrears in the following areas:

- Current Tenant Arrears,
- Former Tenant Arrears,
- Sales Ledger,
- Factoring,

by 31st March 2013.

This will involve the Association anticipating and being prepared for the impact of welfare benefit reform, with not only an effective rent arrears management policy, but staff trained in the new rules and actively offering advice.

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 2012) : 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 estate management, all residents – tenants and owner occupiers, 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.

3. Good Practice and Legal Framework

Good Practice

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.

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

The legislative framework which affects the recovery of rent arrears includes:

- Housing (Scotland) Act 1987
- Housing (Scotland) Act 2001
- Housing (Scotland) Act 2010
- Data Protection Act 1988
- The Disability Discrimination Act 1999
- The Human Rights Act 1998
- The Children Scotland Act 1995
- Debtors' Scotland Act 1987

3. Good Practice and Legal Framework Contd.

3.1 Good Practice Guidance

3.2 Legal Framework

The legislative framework which affects the management and prevention of rent arrears and recovery:

The Housing (Scotland) Act 1987

- Section 53 requires landlords to supply a written tenancy agreement stating the terms of the tenancy.
- Section 47 lays down the procedures to be followed and the format of the prescribed notice required to raise proceedings for possession.
- Schedule 3 lays out the grounds for possession for secure tenancies. The relevant grounds in relation to rent arrears are covered in detail in the section on Legal Action.
- Section 30 replicates the above requirement to provide a written tenancy agreement laying out the terms of the tenancy and a weekly rent book (where rent is payable weekly). A formal notice in terms of the Assured Tenancies (Rent Book) (Scotland) Regulations, 1988 must also be provided.
- Section 18 lays down the requirements necessary for an order for possession to be granted.
- Section 19 lays down the format for the prescribed notice required to raise proceedings for possession.
- Schedule 5 lays out the grounds for possession, there are three relevant grounds, and again these are dealt with in the section 'Taking Legal Action'.

3. Good Practice and Legal Framework Contd.

3.2 Legal Framework Contd.

The Housing (Scotland) Act 2001

- This Act introduces a new set of tenancy rights across all social landlords, the Scottish Secure Tenancy (SST) which was implemented from 1st September 2002. The tenancy, to a large extent, replicates the secure tenancy but with the scope to introduce additional contractual rights similar to those in the assured tenancy sector. The section 'Legal Action' details the rent arrears recovery grounds.

The Housing (Scotland) Act 2010

The Housing (Scotland) Act 2010 ("the 2010 Act") introduced pre-action requirements that landlords must satisfy in all rent arrears cases before serving a notice on a tenant.

The Disability Discrimination Act 1999

- The Disability Discrimination Act 1999 places a duty on public bodies to make their services accessible. This should be considered in a wider framework in relation to service provision e.g. having a variety of alternative payment methods etc.

The Human Rights Act 1998

- The Human Rights Act 1998 may have an impact on certain RSL housing management functions, including the way RSLs approach Recovery of Possession Proceedings. It is good practice to carry out an audit of organisational policies and procedures to ensure compliance with the European Convention.

3. Good Practice and Legal Framework Contd.

3.2 Legal Framework Contd.

The Data Protection Act 1998

- The Data Protection Act 1998 has implications for the gathering and sharing of information about tenants. This can impact on the organisation's ability to assist local authorities in relation to Housing Benefit reviews. A more detailed reference to the implications for housing providers can be found in the Raising Standards in Housing chapter 'Access to Information'.

The Children Scotland Act 1995

- The Children Scotland Act 1995 places a duty on Local Authorities and RSLs to consider the implications of the Act before embarking on recovery of possession action.

Debtors' Scotland Act 1987

- Debtors' Scotland Act 1987 enables RSLs to seek wages arrestments from a debtor.

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 5.5% and to monitor our performance against targets set for arrears levels.
- To provide good quality pre-tenancy advice and assistance.
- To ensure all new tenants who may have an entitlement to housing benefit, are offered assistance in the completion of a housing benefit claim form when they sign for their tenancy.
- 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, welfare rights officer, or referral to any other support agency, as appropriate.
- To ensure that 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.

4. Aims and Objectives Contd.

- To instigate legal proceedings only when voluntary arrangements have failed.

- To sanction eviction only as a last resort, when the Management Committee are 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. 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.

5.1 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 2 weeks rent where partial housing benefit is anticipated.

At this time, support issues, identified as being required to sustain the tenancy, will be brought to the attention of the Housing Officer. In addition, the services of our Welfare Rights Officer will be offered, if required.

On acceptance of the tenancy the Housing Officer will, where appropriate, assist the new tenant to complete the Housing Benefit Application Form and outline the implications of non-payment of rent. An estimated benefit calculation will be made at this time, and a provisional payment arrangement agreed.

During the sign up interview, the Housing Officer 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.

5. Pre-Tenancy Advice and Arrears Prevention Contd.

5.2 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 welcome new tenant letter, that contains details of the rent payable, ways in which payments can be made and details of any arrears.

5. Pre-Tenancy Advice and Arrears Prevention Contd.

5.3 Settling In Visit

Housing Officers will conduct new tenancy settling in visits for each new tenant. At this time the Housing Officer will explain the rent arrears policy explaining that the Association takes arrears very seriously. This first visit should be attempted within 21 days of the tenant's date of entry. In the event that access is not obtained, the housing officer 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 officer 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.

5.4 Rent Account Statements

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

- Each time a home visit is conducted.
- 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 the Housing Officers, or upon request from the tenant.

5. Pre-Tenancy Advice and Arrears Prevention Contd.

5.5 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.

5.6 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 officers will make appropriate referrals to the Welfare Rights Officer to assist tenants with income maximisation and arrears prevention.

5.7 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. Tenants will be advised that they may submit any required information to W.H.A.'s offices as our Customer Services and Housing Management staff are trained in the housing benefit verification framework.

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. Arrears Actions

6.1 Initial Action Following Arrears Accrual

Housing Officers are responsible for regularly monitoring all arrears cases and taking appropriate action. On a weekly basis, Housing Officers will prioritise their arrears for monitoring and also check the position of any arrangements made.

Each rent account with an arrears balance will be monitored on a monthly basis and assessed for action by Housing Officers.

Housing Officers 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, home visits and office interviews, to ensure contact is maintained while implementing the procedures as outlined in this policy.

6.2 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.

When prioritising arrears cases on a weekly basis, Housing Officers will identify any arrears home visits required, and carry out accordingly.

Where a claim for housing benefit has been submitted, the housing officer 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 finalized, and may include intervention by the Welfare Rights Officer.

6. Arrears Actions Contd.

6.3 Arrears Pursuance

Where a tenant misses their regular payment toward arrears and has made no contact with their Housing Officer, written confirmation of the arrear will be sent to the tenant. In addition, additional methods of contact will be considered including telephone call, telephone text or home visit. The action most appropriate to the tenants circumstances and level of arrears will be conducted.

When a home visit is conducted, written confirmation of the arrear and an up to date rent statement will be provided. If the Housing Officer is unable to gain access at the visit, written communication will be deposited through the letter box requesting that the tenant contact the Housing Officer to discuss their rent account.

Where there is no response from the tenant, they will be contacted in writing either offering an appointment to attend our office, suggesting a time that the Housing Officer will revisit, or providing an arrangement with effective date. The most appropriate action will be dependent on the tenant's circumstances.

Where a housing benefit 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 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.

6. Arrears Actions Contd.

6.3 Arrears Pursuance Contd.

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

Home visits will be offered in all instances where tenants are unable to come to our office.

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.

6.4 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, one of which will have been a home visit.

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.

6. Arrears Actions Contd.

6.4 Notice of Proceedings for Recovery of Possession Contd.

The conditions that have to 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 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.

6. Arrears Actions Contd.

6.4 Notice of Proceedings for Recovery of Possession Contd.

- 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 either be hand delivered by the housing officer and one witness to the delivery, or alternatively, the Notice may be served by the Sheriff Officer if this is deemed to be the most appropriate course of action by the housing 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 attend a meeting with the Housing Manager 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 housing officer dealing specifically with legal action. The tenant will be advised in writing of the course of action being followed. The case will then be discussed with the housing manager who will have final authorisation for instructing the action.

All subsequent legal instructions throughout the case will be authorised by the Housing Manager. In her absence, the action will be discussed with the Senior Housing Officer and signed off accordingly.

6. Arrears Actions Contd.

6.4 Notice of Proceedings for Recovery of Possession Contd.

In the event of Decree being sought and the Housing Manager being absent, authorisation from the Director must be obtained.

6.5 Legal Action

At all times during the course of legal action, the housing officer for legal actions 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 housing officer will notify the tenant in writing.

The 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.

6.6 Continued Cases

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

6.7 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 housing officer will continue to monitor the case, and ensure personal contact with the tenant is made.

6. Arrears Actions Contd.

6.7 Sisted Cases Contd.

Should attempts to reinstate the arrangement fail, a minimum of one home visit will be attempted before discussing with the Housing Manager, returning the case to Court.

6.8 Decree

Where all attempts to recover arrears have failed and it is considered necessary to obtain a Decree, the housing officer will conduct a home visit one week in advance of the court date. A rent account statement will be provided to the tenant at this time, together with written confirmation of the action to be sought at court.

Where no access is gained, the Housing Officer will arrange an appointment for the tenant to attend our office.

The Housing Officer for legal actions will also ensure procedures are followed in accordance with Section 11.

The Housing Officer will then discuss requesting Decree with the Housing Manager prior to instructing the Association's solicitor. The Housing Manager, or in her absence, the Director must authorise the requesting of a Decree.

Where Decree is granted the housing officer will notify the tenant in writing, requesting that they attend an interview with the Housing Manager. The letter will also advise the tenant of the date that their case will be presented to the Association's Management Committee for their consideration.

Following consideration of the case by the Association's Management Committee, the housing manager will prepare written notification to the tenant of their decision. This letter will be hand delivered.

6. Arrears Actions Contd.

6.9 Eviction

Where an eviction is proceeding, instructions will be issued to Sheriff Officers within one week of the Management Committee meeting.

The housing officer will advise the tenant in writing when the date of eviction is known.

Where the tenant makes a substantial payment following the Management Committee meeting, but prior to the eviction, preventing the eviction from proceeding will be at the discretion of the Director and/or Housing Manager.

Evictions will be attended by the housing officer, maintenance 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, where possible. The Housing Officer will then refer to the Association's abandonment procedures for guidance on storage, if appropriate.

6.10 Expenses

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

7. 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). This will be done within one calendar month of the aforementioned letter being sent.

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

8. 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, the Housing Officer or 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.

9. Methods of Recovery

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

- Direct deductions from DWP benefits.
- Wage arrestment.
- Bank account arrestment.

This list is not exhaustive.

10. 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.

11. Reporting

Quarterly reports on rent arrears will be presented to the Housing Management Sub Committee. The reports will include the following:

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

12. 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.

13. Monitoring and Evaluation

On a monthly basis, the Senior Housing Officer will select a number of arrears cases, aimed to be approximately 5% of all cases, for monitoring in accordance with this policy.

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

14. 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 1998. 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.

15. Review

This policy and procedure will be reviewed by the Housing Management Sub 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.

