

# **RENT ARREARS MANAGEMENT POLICY**

**DATE APPROVED: 29 MAY 2019**

## **1.0 INTRODUCTION**

Rental income is the Association's main source of income. This income enables us to meet our ongoing obligations to tenants, including repairs and maintenance and ongoing investment in our housing stock. We aim, therefore, to prevent arrears of rent and service charges and to recover arrears fairly and effectively. In order to achieve these aims, we will implement an effective strategy for prevention, control, management and recovery of arrears of current and former tenants.

## **2.0 AIMS AND OBJECTIVES**

2.1 We recognise the importance of minimising arrears and maximising rental income. However, we also recognise that a significant proportion of tenants are on low incomes or are dependent on benefits and that arrears can occur for a variety of reasons. We aim to minimise arrears levels while being sensitive to tenants' individual circumstances.

## **3.0 EQUALITIES**

As part of our commitment to equal opportunities, this policy can be made available in large print or audio tape or translated into another language if required. As required, correspondence and legal documentation relating to arrears will also be provided in formats appropriate to the needs of the tenant, whilst ensuring that they remain legally competent. We also ensure that we meet the equalities requirements of the Scottish Social Housing Charter as set out below.

## **4.0 LEGISLATION**

4.1 Relevant legislation includes:

- The Housing (Scotland) Act 2001. This establishes the regime of Scottish Secure Tenancies, the terms of such tenancies and the arrangements for repossession of a tenancy
- The Housing (Scotland) Act 2010. This sets out the terms of Pre-action Requirements under sections 14 and 14A of the Housing (Scotland) Act ("the 2001 Act") as amended by section 155 of the 2010 Act and Repossession

Orders under section 16 of the 2001 Act as amended by Section 153 of the 2010 Act.

- The Equality Act 2010. The Public Sector equality duty requires public authorities to have due regard to the need to eliminate discrimination, promote equality of opportunity and foster good relations. The Equality Act 2010 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 as do the General Data Protection Regulations 2018.
- The Human Rights Act 1998 influences 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.
- The Homelessness (Scotland) Act 2003 requires the Association to advise the relevant local authority in statutory form when legal proceedings to raise proceedings are commenced.
- The Welfare Reform Act 2012 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.

## **5.0 THE SCOTTISH SOCIAL HOUSING CHARTER, APRIL 2017**

5.1 The Charter, as required by the Housing (Scotland) Act 2010 section 31 sets the standards and outcomes that all social landlords should aim to achieve when performing their housing activities. With regard to the prevention, management and control of rent arrears, the relevant Charter standards/outcomes are:

### Equalities

Social landlords perform all aspects of their housing services so that: *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.*

### Communication

Social landlords must 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.*

#### Tenancy sustainment

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.*

#### Value for money

Social landlords manage all aspects of their businesses so that:

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

#### Rents and service charges

Social landlords set rents and service charges in consultation with their tenants and other customers so that:

*a balance is struck between the level of services provided, the cost of the services, and how far current and prospective tenants and service users can afford them, and*

*tenants can get clear information on how their rent and other money is spent, including details of any individual items of expenditure above thresholds agreed between landlords and tenants.*

#### Housing options

Social landlords ensure that:

*people at risk of losing their homes get advice on preventing homelessness.*

## **6.0 CONFIDENTIALITY**

6.1 We recognise the importance of confidentiality and will treat information that we receive in the strictest confidence under the Data Protection Act 1998 and in line with the General Data Protection Regulations 2018. We will not pass on or discuss with any third party any information provided by the tenant without their written permission. An exception to this may arise, where we have not been able to contact a tenant and we require to notify the local authority of action in relation to the tenancy - Section 11 notice, Homelessness (Scotland) Act 2003.

## **7.0 PREVENTION OF ARREARS**

7.1 To prevent arrears of rent and service charges building up, the association will:

- Endeavour to set rents and service charges which are affordable to those on low incomes, whilst ensuring business needs continue to be met.
- Provide pre-tenancy information to ensure new tenants are fully aware of their obligations regarding payment of rent, service charges, council tax and other housing related costs.
- Offer a range of payment methods to facilitate payment of rent.
- Offer flexible payment frequencies to accommodate individual circumstances.
- Promote uptake of Housing Benefit, Council Tax Reduction and Universal Credit to maximise tenants' income.
- Provide advice and assistance with claims for Housing Benefit, Council Tax Reduction and Universal Credit and ensure that applications are made promptly.
- Refer to the Independent Resource Centre welfare rights for estimate of entitlement to Housing Benefit /Housing Allowance, as part of Universal Credit, to give tenants an indication of the net rent charge they will be required to pay.
- Where appropriate, support and encourage tenants to authorise payment of Housing Benefit or Universal Credit housing costs, direct to the association.
- Provide verification of tenancy and housing costs for Housing Benefit and Universal Credit claims promptly.
- Promote uptake of Discretionary Housing Payment to maximise tenants' income and provide advice and assistance with claims.
- Encourage tenants to contact staff promptly if they anticipate difficulty paying rent and offer early, personal contact to discuss potential problems.
- Offer referrals to appropriate agencies for specialist advice and assistance with benefits and debt management advice.
- Provide information regularly via newsletters to all tenants regarding prevention of arrears and benefits information.
- Provide pre-termination of tenancy advice to ensure outgoing tenants are fully aware of their obligation to pay rent due up to the end of tenancy date.

## **8.0 MANAGEMENT AND CONTROL OF ARREARS**

8.1 We recognise that early identification of arrears and proactive and consistent action is essential to the management and control of arrears.

8.2 To manage and control arrears of rent and service charges, we will:

- operate an accurate and effective rent accounting system, with payments normally posted to rent accounts within two working days of receipt;
- monitor rent accounts weekly to allow early identification of missed payments;
- initiate arrears management action promptly, with an emphasis on personal contact;
- offer benefits advice and debt management advice and offer referrals to appropriate agencies for specialist advice and assistance;
- where appropriate, seek payment of arrears direct from tenant's benefits;
- ensure that payment arrangements agreed with tenants are reasonable and affordable;
- encourage tenants to contact staff promptly if they are experiencing difficulty maintaining payments;
- maintain regular contact with tenants and ensure they are aware of the implications of failure to pay rent and service charges due

8.3 These actions will be underpinned by a suite of robust procedures which are documented separately and on which staff receive training and reminders.

## **9.0 RECOVERY OF ARREARS / LEGAL ACTION**

9.1 We recognise that legal action should only be raised when all attempts to control an arrear have been exhausted. We will ensure that we comply with the Pre Court Action requirements.

The Housing (Scotland) Act 2001 requires a landlord to serve upon a tenant and any member of the tenant's household aged 16 years or over a Notice of their Intention to raise proceedings in the Sheriff Court to obtain a Court Order for repossession of his/her home. It must set out the grounds on which the landlord is seeking repossession and give particulars of the way in which the landlord believes that the grounds for repossession apply. All pre-action requirements must have been completed before service of the notice.

9.2 Before serving a Notice of Proceedings for Recovery of Possession, we will ensure, therefore, that:

- The tenant has been provided with clear information about the terms of their tenancy agreement and full details of outstanding rent and any other outstanding financial obligation of the tenancy.
- Reasonable efforts have been made to provide the tenant with advice and assistance on eligibility for Housing Benefit, Universal Credit housing costs and other benefits or grants.
- The tenant has been provided with information about independent sources of advice and assistance in relation to management of debt.
- Reasonable efforts have been made to agree with the tenant a reasonable plan for future payment of rent and payment of arrears of rent and any other outstanding financial obligation of the tenancy.
- The tenant has been advised to contact West Dunbartonshire Council or Shelter or Citizens Advice for advice and assistance regarding the implications of legal action.

Responsibility for instigation of court proceedings rests with the Housing Manager. Where a court order for repossession has been obtained (decree granted) and it is considered that eviction may be necessary the case will be referred to the Director for approval. A report will also be provided to the Management Committee when an eviction is scheduled to take place.

9.3 A Notice of Proceedings will not be served if

- There is an outstanding application for Housing Benefit or Universal Credit that could result in an award of Housing Benefit or Universal Credit that would be sufficient to either pay arrears in full or reduce arrears by an amount acceptable to the Association.
- The tenant is taking action that is likely to result in payment of arrears of rent and any other financial obligation of the tenancy within a reasonable time or is adhering to an agreed payment arrangement.

9.4 If all the pre-action requirements have been met and a tenant fails to respond to requests to contact the Association, or refuses to make an arrangement for payment of arrears, or persistently fails to adhere to an agreed arrangement for payment, the Association will

- Serve a Notice of Proceedings for Recovery of Possession
- Instruct court action for recovery of possession of property and/or repayment of arrears if a tenant fails to make and maintain an

arrangement for payment during the six months duration of the notice; any action raised will also include recovery of court expenses

- Consider, where appropriate, making an application to the Courts for an arrestment of the tenant's wages
- Notify West Dunbartonshire Council, in accordance with Section 11 of the Homelessness etc (Scotland) Act 2003, that proceedings for possession have been raised.
- Liaise with West Dunbartonshire Council's homelessness prevention staff throughout the duration of court action.
- Attempt to maintain contact with the tenant throughout the duration of the action to keep up to date with any changes to their circumstances that would affect how the association proceeds with court action.

9.5 The Association recognises that eviction is a last resort. If, after a decree for ejection/eviction is granted, an arrangement for payment in full of the arrears that is acceptable to the Association is made and maintained, we may not enforce the decree.

9.6 If no acceptable proposal for payment is made and maintained, we will enforce the decree for ejection/eviction within the timescale allowed by the court.

## **10.0 FORMER TENANT ARREARS**

10.1 We will seek to recover arrears from former tenants. If a forwarding address is known, the former tenant will be contacted and given the opportunity to arrange payment of arrears, by instalments, under an agreed arrangement, where appropriate.

10.2 If the Association is unable to trace the former tenant, or the former tenant fails to respond to requests to contact the Association, or refuses to make an arrangement for payment of arrears; or persistently fails to adhere to an arrangement for payment, the association may instruct a debt collection agency to trace the former tenant and recover the debt.

10.3 If a former tenant cannot be traced, or if it is unlikely that the debt will be recovered, or it is not viable to pursue the debt, the Management Committee may be asked for approval to write off the debt.

## **11.0 PROCEDURES**

11.1 Comprehensive procedures for all aspects of arrears prevention, control and recovery are specified in housing management procedure documents.

## **12.0 TRAINING**

12.1 We are committed to ensuring staff receive training to remain up to date in changes to the benefits system or legislation,

## **13.0 PERFORMANCE MONITORING**

13.1 Monthly arrears reports will be presented to the Management Committee.

13.2 Arrears information will be confidential; tenants' names or addresses will not be disclosed to committee members.

13.3 Key Performance Indicators will also include:

- information on the rent collected as a percentage of rental income due
- the number and percentage of tenants in arrears
- number, value and percentage of rental income due to housing benefit/ universal credit
- amount and percentage of former tenant arrears written off at year end
- gross rent arrears as a percentage of rent due as at year end
- number and percentage of court actions initiated which result in eviction
- the reason for the eviction
- the number of abandonments will also be reported upon as this can often be an indicator of debt issues and/or the Association having initiated legal action.

## **14.0 ROLES AND RESPONSIBILITIES**

14.1 The Management Committee will monitor the implementation of this policy to ensure that it is properly operatedp, and that there is effective scrutiny of the implementation of the policy.

14.2 The Housing Manager has responsibility for overseeing the implementation of the policy and our housing management staff are

responsible for key aspects of the day to day service delivery with delegation of specific tasks to appropriate staff.

14.3 Responsibility for instigation of court proceedings rests with the Housing Manager. Where a court order for repossession is obtained (decree granted) and it is considered that eviction may be necessary the case will be referred to the Director for final approval. A report will also be provided to the Management Committee when an eviction is scheduled to take place.

14.4 The Committee will ensure that the policy is meeting its intended objectives and that monitoring, and reporting takes place in accordance with the Charter indicators listed in the Monitoring and Review section of this policy.

## **15.0 COMPLAINTS**

15.1 Complaints regarding arrears management will be referred, in the first instance, to the Association's Director. If the matter is not resolved, tenants or former tenants will be advised to complain in accordance with the Association's complaints procedure, copies of which are available on our website, and at our office and available from staff.

15.2 If after exhausting the Association's complaints procedure a tenant or former tenant is still unhappy, they should contact the Scottish Public Services Ombudsman (SPSO):

- Scottish Public Services Ombudsman  
Bridgeside House  
99 McDonald Road  
Edinburgh, EH7 4NS

Telephone 0800 377 7330 (free phone) or 0131 225 5300

Fax 0800 377 7331

Text 0790 049 4372

E-mail [ask@spsso.org.uk](mailto:ask@spsso.org.uk)

SPSO

Freepost

## **16.0 REVIEW OF POLICY**

16.1 This policy will be reviewed every three years, or sooner if required by legislation, guidance or practice.