



Trust Housing Association Ltd

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Rent Accounting and Arrears Policy

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Rent Accounting and Arrears Policy

1. Introduction

- 1.1 Rental income¹ represents Trust Housing Association's main source of income. It is essential, therefore, that the Association operates a policy and procedure for the effective management of rent arrears. By keeping rent arrears to a minimum this will contribute to ensuring the Association's financial viability.
- 1.2 The policy specifies how the Association will manage rent accounts, including the key areas of prevention and recovery of rent arrears. It also indicates lines of responsibility for the operation of the policy and covers the areas of target setting, monitoring and review.
- 1.3 The policy complies with the relevant legislation, the Communities Scotland Performance Standard AS1.8: Arrears (We act to prevent arrears of rent and service charges building up. We recover any arrears fairly and effectively.), and the Scottish Federation of Housing Associations *Raising Standards in Housing* chapter 15 'Rent Arrears: Prevention, Management and Recovery'.
- 1.4 A detailed procedure accompanies this policy, clearly setting out the steps to be followed at each stage in the rent account management process, and by whom.

2. Aims and objectives

- 2.1 The main objectives of the Rent Accounting and Arrears Policy are to maximise the rental income received and minimise the level of arrears, through:
 - preventative measures and encouragement of a positive payment culture;
 - efficient and effective rent account management;
 - prompt identification, recovery and control of rent arrears;
 - clear and effective communication.

¹ References in this policy to rental income, rent accounts, rent payments, rent arrears etc, are not simply references to rent. Unless stated otherwise, they relate to the total overall charges, for example rent and service charges, and any other charges that may be applicable.

- 2.2 In addition, the Association aims through the Rent Accounting and Arrears Policy to help sustain tenancies. To achieve this it is recognised that the particular needs and circumstances of any vulnerable groups or individuals must be taken into account and appropriate support provided or sourced where required. A balance has to be achieved between supporting tenants in difficulty, and taking firm but fair action against someone who chooses not to pay.
- 2.3 The effectiveness of the policy will be monitored on a continual basis to ensure targets are being met and aims being achieved.

3. Legislative framework

- 3.1 There are a number of pieces of legislation which can impact on the Association's management of rent accounts and its arrears recovery process. The main legislation is listed below.
- **The Housing (Scotland) Act 2001** – sets out the rights of tenants and details the rent arrears recovery grounds pertaining to the Scottish Secure Tenancy. This Act amends the previous 1987 and 1988 Acts.
 - **The Data Protection Act 1998** – relating to the gathering of and sharing information about tenants. This legislation can affect the Association's ability to provide assistance to or request assistance from another organisation in respect of a current or former tenant's rent account.
 - **The Disability Discrimination Act 2005** – the Association must ensure its services are accessible to all. In relation to rent accounting, for example, this will include providing a range of payment options; and providing information in alternative formats as required. This Act amends the previous 1995 Act.
 - **The Children Scotland Act 1995** – the Association would have to consider this Act prior to proceeding with a recovery of possession, where children are part of the household.

4. Rent account management – staffing: Trust Housing

- 4.1 A dedicated team of staff is responsible for the rent account management and arrears recovery process within Trust Housing. The Association believes that the use of a specialist Rent Team has the following advantages:
- Priority given to rent account management, therefore no impact of work pressures from other areas;

- consistency of approach;
 - professionalism;
 - knowledge and expertise, particularly beneficial in more complex arrears cases;
 - one point of contact for tenants;
 - establishment of good working relations with local councils and other agencies; and facilitating support for tenants;
 - commitment to achieving targets and improving performance.
- 4.2 Whilst having a dedicated team dealing with rent account management is believed to be the best approach for Trust, it is recognised that the Housing Officer still has an important role to play. The Housing Officer will often be known to tenants and may have knowledge of circumstances affecting a tenant's ability to pay their rent. It is appropriate, therefore, that the Housing Officer carries out any visit required due to rent difficulties.
- 4.3 For this reason, a co-ordinated approach will be taken between the Rent Team and the Housing Officer as circumstances require. The *Rent Accounting and Arrears Procedures* detail the staffing responsibilities at each stage of the process.
- 4.4 The Rent Team will receive training in relevant areas, ensuring they have the knowledge and skills required both to provide an effective rent account management service, and sensitively deal with the various needs and circumstances of Trust's client group. The training needs of the team will be monitored on a regular basis, and as part of the annual appraisal system, to ensure continued performance and improvement.
- 4.5 In addition, Housing Officers and development based staff will be trained so they can help tenants with housing benefit and other welfare benefit forms, and provide them with information on other sources of assistance.
- 4.6 The Association's Board supports staff in operating and reviewing the policy. It has a key role in agreeing demanding but realistic targets and supporting staff to meet these. The Board will endorse the arrears action taken by operational staff, including legal action, where this is judged to be the only remaining option.

5. Rent account management – staffing: Isle of Arran Homes

- 5.1 The Rent Team does not cover Isle of Arran Homes, as it is not regarded as the best approach here. Isle of Arran Homes is a much smaller community centred organisation with a local staff presence on the island, and it is believed that a more generic approach is the most appropriate. Isle of Arran Homes staff deal with rent account management directly.

- 5.2 Isle of Arran Homes staff do, however, follow the same principles as the main Rent Team in their approach to rent accounting and arrears management. These are the principles of prevention, monitoring and recovery as laid out in this policy.

6. Rent account management – IT

- 6.1 The Association recognises that an effective IT system is essential to the effective management of rent accounts.
- 6.2 The rent account management system Trust has in place is designed for the requirements of Registered Social Landlords, including the following:
- Records are updated immediately following any action on the system;
 - clear history of all payments and other actions are shown;
 - arrears balances can be split into technical and non-technical arrears²;
 - different types of payment are clearly identified;
 - accurate arrears reports can be produced to focus staff action;
 - letters can be generated for each stage of the arrears process;
 - enquiries can be dealt with quickly and efficiently.

7. Prevention of rent arrears

- 7.1 Prevention of rent arrears is fundamental to good rent account management. Promoting good payment practices amongst tenants and helping to stop arrears from accruing is key to the Association's policy aims of maximising rental income and sustaining tenancies.
- 7.2 The following approaches form part of Trust's policy of prevention:
- **Promotion of a positive payment culture** – by highlighting to tenants the link between rental income and the Association's ability to deliver a high quality service; and by ensuring the arrears policy is publicised and tenants are aware of the possible consequences of non-payment, in terms of their tenancy.
 - **Range of payment options** – the Association recommends that tenants make rent payments directly through their bank and will encourage them

² **Technical arrears** – not actually an arrear, housing benefit is usually paid in arrears and therefore a balance can be showing on an account where a housing benefit payment is awaited;
Non-technical arrears – a true arrear, the balance actually owing by the tenant.
An account can have an outstanding balance made up of both technical and non-technical arrears, the non-technical arrear being the real arrear owed by the tenant. Therefore, it is important that the IT system can distinguish between the two for rent account monitoring purposes.

to do so. However, a range of other convenient and simple to use options is also available to them. Tenants can choose the option best suited to them, thus helping to prevent arrears which may be due to the practicalities or physical constraints of making payments.

- **Advice to new tenants** – information on payment responsibilities and how the Association deals with non-payment, on housing benefit and further support, is provided when an applicant is made an offer of tenancy and at the tenancy sign-up stage. This is then followed up in more detail at a ‘settling in’ visit after a tenant moves in. Discussing rent payment at these early stages can help identify potential issues and those tenants in need of specialist support as soon as possible. Tenants can then be advised where to obtain additional advice and support, and follow-up action can be highlighted for anyone identified as being particularly vulnerable.
- **Housing benefit** – good working relations will be established with the housing benefit departments of the local authorities in whose area the Association has housing stock. By having a good working relationship, it is envisaged that any difficulties being experienced by an individual tenant, or at an organisational level, can be resolved as quickly as possible.

In addition, Trust staff can give basic advice to applicants and tenants on applying for housing benefit and filling in the forms, as well as notifying tenants of any major changes to housing benefit legislation which could affect them. Where tenants are applying for housing benefit, staff will advise them of the advantages of choosing Housing Benefit Direct (housing benefit coming directly to the Association rather than the tenant)³, and will encourage the return of housing benefit review forms and the notification of any changes in their circumstances.

- **Specialist benefits advice** - welfare benefits advice is important because rent arrears are often linked to wider debt problems. If the wider issues are not addressed then rent arrears are likely to be a recurring problem. The Association does not currently provide specialist advice in this area, however staff will keep up to date information on the various local and national organisations providing such advice and support. Tenants

³ **Housing Benefit Direct** – this is advantageous for tenants due to the cyclical payment patterns of housing benefit. Trust charges are calendar monthly and are due on the first of each month; housing benefit payments tend to be made four weekly or fortnightly in arrears. So a tenant receiving housing benefit will have to wait for their cheque before they can pay their rent, meaning their rent payment will be late. In addition, because they only receive a four week payment rather than a monthly payment, they have to make up a shortfall each month. If they choose to have their housing benefit come directly to Trust, then they do not have to be concerned about paying late; and they are advised of anything they may be due to pay each month and have no additional amount to make up.

requiring this service can either be referred to appropriate agencies or given details of how to contact them directly.

- 7.3 Underpinning this policy of prevention and the aforementioned approaches is good verbal and written communication with tenants, via a variety of methods, such as leaflets, newsletters, and visits. All communication will be clear and simple to understand, and can be made available in various formats as required.

8. Monitoring and recovery of rent arrears

- 8.1 Early intervention is essential to the effective management of arrears. As the Association's charges are calendar monthly, then current tenants' accounts will be monitored on a monthly basis to check that payments have been made.
- 8.2 The monitoring of accounts will be carried out on a system basis. The system will identify the amount of the arrear, the number of payments missed, and the length of time in arrears.
- 8.3 To ensure monitoring can be carried out as effectively and efficiently as possible, the Association will aim to post payments to tenants' accounts on a daily basis and to raise the debit on the first of each month.
- 8.4 Tenants will be advised as soon as a missing payment has been identified, and at the latest before their next payment is due. Therefore, no more than one payment will have been missed before a tenant is made aware that there is an arrear on their account. Any special needs of a tenant, and any specialist advice or support that they may require, will be taken into account when starting any arrears action.
- 8.5 Where a tenant cannot clear their outstanding balance at once, then a payment arrangement will be agreed with them. Any arrangement agreed will be realistic and manageable for the tenant.
- 8.6 The consequences of breaking a payment arrangement will be stressed to tenants, and they will be encouraged to contact the Association if they are having difficulty sticking to the arrangement. In addition, the Association will seek a tenant's authority to involve the social work department as early as possible in the arrears management process, to try to assist their accessing the appropriate support.
- 8.7 Payment arrangements will be closely monitored in the same way as rent accounts to ensure that they are being adhered to, and where they are not, prompt action will be taken.

- 8.8 Where a tenant takes no action to clear or reduce an arrears balance, or where they continually break agreed payment arrangements, then the Association will consider legal action against the tenant. As with earlier arrears action, the circumstances of the tenant, and any specific reason there may be for their arrears, will be taken into account before commencing any further action.
- 8.9 Legal action is seen as a last resort and will be considered only after every effort has been made to come to an arrangement with a tenant and all other action has been exhausted. It will not be used as a threat against a tenant, but will be commenced only where the Association intends to pursue it to a conclusion, which could mean eviction.
- 8.10 Staff will determine whether action should be for debt recovery, repossession of the property or both (conjoined). Consideration will also be given to other available options for recovery, such as benefit deduction and wages arrestment.
- 8.11 The Association will adhere to the prescribed form of Notice of Proceedings in pursuing legal action. When seeking Decree, action will be instructed via the Association's Solicitors. Where authority to evict has been granted, then approval will be required from the Customer Services Sub-Committee to implement the Decree. If approval is required outwith the Committee's regular meeting cycle, the Convener will be contacted directly for authorisation.
- 8.12 Where the intention is to proceed with legal action, the tenant will be advised this is the case to give them a final opportunity to resolve the issue. This will also illustrate to the court that every effort has been made to resolve the situation before resorting to legal action.
- 8.13 After commencing with legal action, it will be made clear to the tenant that the situation can still be resolved prior to the case reaching court.
- 8.14 Where court action is proceeding for recovery of possession, the Association will inform the Social Work department and Homelessness team of the local council, irrespective of the tenant's wishes, to ensure they receive the necessary support and advice.
- 8.15 Clear and comprehensive records, both written and system based, will be maintained of all action taken. This is important both for staff in their day to day work, and as evidence in any case proceeding to court.
- 8.16 Credit balances on accounts will be monitored in the same way as arrears balances, in order that they do not accumulate. Before any refund is made, it will be verified that there is a true credit on an account and that it belongs to

the tenant. Their account will be checked to ensure the credit balance is not due to an overpayment of housing benefit or a misposted payment to the wrong account. It will also be verified that the tenant has no other debts outstanding to the Association, for example an unpaid rechargeable repair. Where this is the case, the credit amount will be used to clear or offset the outstanding debt.

- 8.17 Once it has been confirmed that a tenant is due a refund, a cheque will be sent to them. Where a tenant requires a refund to be made by Postal Order, then the tenant will bear the cost of the fee for the Postal Order, which will be deducted from the refund amount due.
- 8.18 The accompanying *Rent Accounting and Arrears Procedures* detail the specific stages, timescales, and lines of responsibility in the monitoring and recovery of rent arrears.

9. Former tenants

- 9.1 Former tenant arrears will be pursued using the same principles as current tenant arrears detailed in Section 7. Where appropriate, payment arrangements will be agreed with former tenants to clear arrears balances.
- 9.2 Tenants ending their tenancy will be reminded of their payment responsibilities and encouraged to provide a forwarding address⁴.
- 9.3 Former tenant arrears balances will only be written off where it is judged uneconomic to pursue, or where they cannot be recovered. Evidence will normally be required to demonstrate where a balance is not recoverable, for example a lawyer's letter confirming there are no funds in a former tenant's estate to settle their arrears balance.
- 9.4 Current tenant arrears take precedence because they can continue to accumulate, unlike former tenant balances. For this reason, staff time has to be concentrated on current tenant arrears. Where initial action to recover former tenant arrears has proved unsuccessful, balances over a certain amount will be passed to a reputable debtors firm to pursue further.
- 9.5 The accompanying *Rent Accounting and Arrears Procedures* detail the specific stages, timescales, and lines of responsibility in the monitoring and recovery of former tenant rent arrears.

10. Write-offs

⁴ Refer to Trust 'Voids Policy' and Voids Procedures for further detail.

- 10.1 As indicated at 9.3, former tenant arrears balances will only be written off where the amount is such that it would be uneconomic to pursue, or where the Association has pursued the debt then is subsequently advised that there are no funds in a former tenant's estate to settle the debt.
- 10.2 Balances on current tenants' accounts will not normally be written off. However, where a small balance exists and the value is such that it would be uneconomic to pursue, then on such an occasion a current tenant's balance may be written off.
- 10.3 The specific write-off amounts and stages are detailed in the *Rent Accounting and Arrears Procedures*.

11. Confidentiality

- 11.1 All information relating to a tenant's rent account will be treated as confidential and not disclosed to any other party, except upon the request of the tenant.
- 11.2 The exception would be when legal action is being taken against the tenant and the Association is seeking a Conjoined Decree. In such cases, the Association would always notify the social work department and homelessness team, with or without the tenant's permission⁵.
- 11.3 The Association recognises that some tenants would prefer that a friend or relative deal with matters in relation to their rent. This will be verified at the settling-in visit and where the tenant indicates a preference for this, they will be asked to nominate a specific named third party to deal with rent account matters on their behalf, and sign a Mandate to this effect. Correspondence regarding the rent account will still be sent to the tenant.
- 11.4 As a tenant's preferences and needs can change, this information will be verified periodically with all tenants. This will ensure that those who have signed a mandate still wish the nominated third party to act on their behalf; and that those who deal with their own financial affairs still wish to do so.
- 11.5 Where someone has financial Power of Attorney for the tenant, then a copy of this will be held on file and all contact regarding the tenant's account will be made via this person.
- 11.6 There may be an occasion where the Association believes it is appropriate and necessary to break confidentiality in relation to a tenant's account. This would be exceptional, for example, where a tenant is felt to be at risk if such

⁵ See Section 8.14

intervention is not taken. If such a case were to arise, the particular circumstances would be discussed with the Association's solicitors and specific legal advice taken, to ensure the Association was not breaching the terms of the Data Protection Act 1998 by discussing matters with a third party.

12. Performance monitoring

- 12.1 Through effective and efficient monitoring, Trust aims to maintain and, ultimately improve, its performance in the management and recovery of arrears.
- 12.2 **Targets** - an annual target for arrears will be set as part of the Association's Internal Management and Departmental Plans. The target will be challenging but achievable, and will have its basis in previous performance as well as available resources. The aim is for continuous improvement and the target will be reviewed each year.
- 12.3 **Measurement** – good quality information is important to be able to measure current performance against stated objectives and published targets. This will indicate the overall arrears percentage, but can also be broken down into technical and non-technical arrears; different banded amounts; and legal action cases.
- 12.4 **Reporting** –arrears reports will be produced for the Customer Services Sub Committee according to their regular meeting cycle, in order that they can verify staff performance against stated objectives.
- 12.5 **Benchmarking** – Trust will monitor performance not only against its own targets and objectives, but also against national standards, and the performance of other Registered Social Landlords, in particular its designated 'peer group' of landlords.

13. Equal opportunities

- 13.1 Trust operates an equal opportunities policy and this applies in all aspects of its business. In dealing with rent accounting and arrears, no tenant will be treated differently or less favourably on the grounds of race; colour; nationality; ethnic origin; religious belief; disability; gender; marital status; sexual orientation; or any other personal belief.
- 13.2 Upon request, the Association will make information on rent arrears and related matters available in alternative formats, such as large print, tape, Braille, and community languages.

14. Policy Review

- 14.1 The Rent Accounting and Arrears Policy will be reviewed initially after two years, and thereafter on a three yearly basis. The purpose of the review is to assess the policy's effectiveness in meeting targets and objectives, and identify any changes which may be required.
- 14.2 As part of this policy review, consultation will take place with both staff and tenants to ensure account is taken of operational issues and the opinions of service users.