



Trust Housing Association

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Trust Housing Association

CS016 - Tenancy Arrears Management Policy

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1. Introduction

- 1.1 Rental Income¹ represents Trust Housing Association's main source of income. It is therefore essential that the Association operates a policy and procedure for the effective management of rent account and arrears management.
- 1.2 Preventing and managing rent arrears is crucial to maximise the resources available to improve and maintain the Associations' stock and this will also contribute to ensuring our continuing financial viability.
- 1.3 Trust Housing Association seeks to support its tenants to avoid rent arrears and the potential risk of excess debt and tenancy termination via eviction.

2. Aims & Objectives

The main objectives of this policy are:

- 2.1 To maximise the rental income received through
 - Efficient and effective rent account management
 - Encouraging a positive payment culture
 - Increasing tenants ability to pay by offering varied payment methods
 - Clear and effective communication
- 2.2 Minimise the level of arrears through
 - Adopting a firm but fair approach to arrears recovery
 - Early action to prevent arrears arising or increasing
 - Prompt identification of rent arrears
 - Taking a staged approach in which action is targeted and recorded
 - Assisting tenants to manage debt by offering flexible and realistic payment plans
 - Offering income maximisation assistance via the Trust Benefits Advice Service.
- 2.3 Tenancy sustainment

¹ References in this policy to rental income, rent accounts, rent charges, rent payments, rent arrears etc unless stated otherwise relate to the total overall charges, for example rent, heating and service charges.

- Create a positive payment culture by requiring part period payment of rent on a pro rata basis from the tenancy start date
- Making full use of all available remedies and use eviction only as a last resort
- Offer tenants the services of the Benefits Officer and appropriate sources of independent financial advice on benefits and debt throughout a tenancy.

3. Legislative Framework

3.1 The Rent Accounting and Arrears Policy meets with all relevant legislative and good practice requirements in minimising rent arrears. This includes the following:

- **Housing (Scotland) Act 2010** – the policy adheres to this Act, in particular guidance in relation to the recovery of possession of a tenancy when a tenant has breached the conditions of their tenancy agreement by accruing rent arrears.
- **Homelessness Etc (Scotland) Act 2003** – we comply with this Act, in particular Section 11 which requires Landlords to notify the relevant Local Authority when they raise proceedings for possession in a Court.
- **Data Protection Act 1998 and Freedom of Information (Scotland) Act 2002** – within the terms of these Acts, the Association will ensure that information provided by an applicant and/or tenant, or sought by the Association is relevant only to the payment of rent, managing of rent arrears and that all such information received is treated the strictest confidence. Under the provisions of these Acts individuals have the right to see and receive a copy of any personal information that is held about them by the Association and to have any inaccuracies corrected.
- **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.
- **Debt Arrangement and Attachment (Scotland) Act 2002** – in the event that legal action is required the Association will comply with this Act.
- **Equality Act 2010** – the association aims to promote equality and diversity and operate equal opportunities policies which inform all aspects of its business. It will ensure that it adheres to the Equality Act 2010 by being committed to equal and fair treatment for all and opposed to any form for unlawful discrimination.

4. Rent Accounting & Arrears Prevention

4.1 The 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 Associations' policy aims of maximising rental income and sustaining tenancies.

4.2 The following approaches form part of the Policy of prevention:

- **Advice to new tenants** - The Association will provide tenants with clear and detailed information on rent charges for the property which they have accepted.
- **Promoting a positive payment culture** – By highlighting to tenants the link between rental income and the Association’s ability to deliver a high quality service. By ensuring tenants are aware of the possible consequences of non-payment in relation to their tenancy. The Arrears Policy is available on request to any tenant who wishes a copy.
- **Initial part period payment-** by ensuring new tenants pay a part period rent amount to cover the period from their tenancy start date to the end of the billing period increases the likelihood of the tenancy being sustained and minimises the risk of early arrears for the Association.
- **Housing benefit** – The Association has established good working relationships with the housing benefit departments within the Local Authorities where there is stock. This ensures quick and satisfactory resolution to any difficulties experienced by either a tenant or the Association. The Welfare Reforms introduced from 2013 and the introduction of Universal Credit will impact on the present arrangements. The Association will endeavour to establish effective working relationships with all relevant agencies to allow continued support and assistance to tenants.
- **Welfare benefit advice** – As rent arrears are often linked to wider debt problems, it is essential this is addressed as a whole. The Association has a Benefits Officer in post who can offer specialist advice and support to ensure benefit entitlement maximisation. This service is available to prospective as well as current tenants.
- **Independent financial advice** – In addition to the services provided by the Benefits Officer, the Association will provide information on local welfare advice agencies. Tenants will be encouraged to contact these agencies as a source of independent financial advice.

4.3 The foundation of this Policy of prevention and the aforementioned approaches is good verbal and written communication. All communication, including letters, leaflets, newsletters, telephone conversations and visits will be made as clear and easy to understand as possible.

5. Initial Rent Payment- Creating a positive payment culture

5.1 THA creates a positive payment culture from the start of a tenancy in an effort to improve tenancy sustainment and minimise the risk of arrears from the start of the tenancy.

5.2 THA prefers tenants to make a rent payment prior to the start date of their tenancy to cover the period from their tenancy start date to the last day of the payment cycle i.e. last day of the month.

- 5.3 Tenants will pay their rent charge direct to THA and will be required to pay the amount due for their first months rent (or part thereof) in time for it to have cleared by their date of entry
- 5.4 The level of rental payment to be taken from tenants prior to the start date of the tenancy will be set by THA and reviewed as deemed appropriate. Consideration will be given to the likely outcome of any Housing Benefit or Universal Credit application and therefore the affordability of the rent due at the start of each tenancy to cover the first months rent (or part thereof) for the tenant.
- 5.5 All new tenants would be expected to have an appropriate payment arrangement in place to ensure their rent payments following the initial payment are paid on time and cover their normal rent liability amount.

6. Arrears Recovery & Monitoring

- 6.1 Early intervention is essential in the effective management of arrears and also helps ensure the debt does not become unmanageable. Where arrears do occur, prompt action is necessary to minimise the impact they have on both the Association and its tenants. Personal contact between Trust staff and the tenant should be used in conjunction with other communication methods as a means of managing arrears.
- 6.2 For the purpose of Reporting and meeting KPI's, arrears will be split into technical (i.e. those where local authority housing benefit payments are still to be made) and non-technical (i.e. those which are due to the non-payment of rent). The ability to differentiate in this way is likely to change through the impact of Welfare Reform and Universal Credit and this issue will be kept under review.
- 6.3 Tenancy accounts will be monitored on a monthly basis via system reporting.
- 6.4 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.
- 6.5 Rent arrears recovery will be based on a staged escalation process, up to and including repossession for non-payment of rent.
- 6.6 Where a tenant cannot clear their outstanding balance in full then a realistic and manageable payment arrangement will be agreed with the tenant.
- 6.7 Any payment arrangement 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.
- 6.8 The Association will maintain a clear and comprehensive record of all action taken and of all contact with the tenant.

- 6.9 The Association will provide clearly written arrears letters which detail the current outstanding balance, what action is required and the appropriate contact details to discuss the matter.
- 6.10 The Association will satisfy Pre-Action Requirements as set out by the Scottish Government, summarised below.

Pre- Action Requirements

- Give clear information about the tenancy agreement and the unpaid rent or other financial obligations.
- Make reasonable efforts to give help and advice on eligibility for housing benefit and other types of financial assistance.
- Give information about sources of help and advice with the management of debt.
- Make reasonable efforts to agree with the tenant a reasonable plan for future payments.
- Consider the likely result of any application of housing benefit that has not yet been decided.
- Consider other steps the tenant is taking which are likely to result in payment within reasonable time.
- Consider whether the tenant is complying with the terms of an agreed plan for future payments; and
- Encourage the tenant to contact their local authority.

7. Legal Action

- 7.1 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 and acts of the tenant will be taken into account before commencing any further action.
- 7.2 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.
- 7.3 Possession action is seen as a last resort and will be considered only after the pre-action requirements have been met and all other actions have 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 ultimately mean eviction.
- 7.4 The Association will adhere to the prescribed form of Notice of Proceedings in pursuing possession action. When seeking Decree for Recovery of Possession, action will be instructed via the Association's Solicitor. When authority to evict has been granted, approval will be required from the Board to implement the Decree.

- 7.5 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. All correspondence, visits and conversations must be documented.
- 7.6 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.
- 7.7 Where legal action is proceeding for Recovery of Possession, the Association will inform the Social Work and Homelessness departments of the relevant Local Authority irrespective of the tenants' wishes, to ensure they receive the necessary support and advice.

8. Former Tenants

- 8.1 Former tenant arrears will be pursued using the same principles as current tenant arrears as detailed in Section 6. Where appropriate payment arrangements will be agreed with former tenants to clear the balance.
- 8.2 Tenants ending their tenancy will be reminded of their payment responsibilities and encouraged to provide a forwarding address.
- 8.3 Where initial action to recover former tenant arrears has proved unsuccessful balances will be passed to a Debt Collection Agency to pursue. Former tenant arrears balances will only be written off where it is judged uneconomic to pursue, or where they cannot be recovered. Evidence will be required to demonstrate where a balance is not recoverable. The debt will then be written off in accordance with the Association's Financial Policy FR06 – Delegated Authority.

9. Irrecoverable Debts/Write Offs

- 9.1 As indicated at 7.3 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 unsuccessfully.
- 9.2 Balances on current tenants' accounts are not normally written off. However, where a small balance exists and the value is such that it would be uneconomic to pursue, then on occasion this balance may be written off.
- 9.3 A regular review of irrecoverable debt and proposed write offs should be completed, this should normally be done at least quarterly and the process should identify those accounts where avenues for recovery have been exhausted and are subsequently deemed to be un-collectable.
- 9.4 An appropriate justification from the list below should be used for each account written-off:

- a) Gone away (No trace/forwarding address)
- b) Bankrupt/Sequestered
- c) Uneconomic to pursue
- d) No realistic prospect of recovery (further details required).

9.5 All sums in excess of £2,000 to be written-off should be submitted to the Board for approval. Sums less than £2,000 can be authorised for write-off as detailed in the delegated authority schedule which forms part of FR06.

9.6 Where subsequently, the possibility arises of recovering sums previously written-off, arrangements should be made to reinstate the debt.

10. Performance Monitoring

10.1 The Association aims to maintain and ultimately improve its' performance in the management and recovery of arrears through effective and efficient monitoring in the following areas:

- **Targets** – an annual target for arrears is set at the start of each financial year. 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 will be reviewed each year.
- **Measurement** – quality information is important to be able to measure current performance against stated objectives and published targets. This will indicate the overall arrears percentage, and will also be broken down into current and former tenants arrears. Where possible, technical and non-technical arrears and legal action cases will be identified. Full compliance with the SHR's Annual Return on the Charter will be met.
- **Reporting** – arrears performance indicators will be produced for the Audit & Performance Sub-Committee and/or Board according to their regular meeting cycle; in order that they can verify staff performance against stated objectives.
- **Benchmarking** – the Association 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.

11. Data Protection

11.1 We will comply with the provisions of the Data Protection Act 1998, which gives individuals the right to see and receive a copy of any personal information that is held about them by the Association and to have any inaccuracies corrected.

12. Anti-Bribery

- 12.1 The Association is committed to the highest standards of ethical conduct and integrity in all its activities and, to ensure compliance with the Bribery Act 2010, it has introduced an Anti-Bribery policy and procedures. These must be adhered to by all employees, Board Members and associated persons or organisations acting for or on behalf of Trust when undertaking any actions referred to in this policy.

13. Equality, Diversity & Inclusion

- 13.1 As leaders of EDI, the Association aims to promote equality and diversity and operate equal opportunities policies which inform all aspects of its business. It will ensure that it adheres to the Equality Act 2010 by being committed to equal and fair treatment for all and opposed to any form of unlawful discrimination.

As such, in considering this policy, no one will be treated differently or less favourably than others because of any of the protected characteristics as listed in the Equality Act 2010:

- disability;
- gender;
- gender reassignment;
- pregnancy and maternity;
- race, colour or nationality;
- sexual orientation; or
- religion or belief.

Or because of any other condition or characteristic which could place someone at a disadvantage were it to be taken into account, unless this can be objectively justified in terms of the legislation.

Trust will make reasonable adjustments for disabled people where necessary and possible to do so.

- 13.2 Upon request, the Trust will make information available in alternative formats, such as large print, tape and Braille to overcome communication barriers.

14. Policy Review

- 14.1 This Policy will be reviewed on a three-yearly basis. The purpose of the review is to assess the policy's effectiveness and adhering to current legislation and good practice, and identify any changes which may be required.

15. Document References

- 15.1 In all Trust's official documents, where references are made to specific job titles, roles, groups or committees, such references shall be deemed to include any changes or amendments to these job titles, roles, groups or committees resulting from any restructuring or organisational changes made within the Association (or, where this policy also applies to another member of the Trust group, made within that group member) between policy reviews.