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## RENT ARREARS PREVENTION AND CONTROL

### 1.0 INTRODUCTION

- 1.1 This policy outlines how we will seek to prevent and deal with rent arrears. We recognise that it is vital to maintain effective control of rent arrears in order to maximise our financial resources. We will seek to prevent arrears in the first place and, where debts do accrue, will ensure that prompt and effective action is taken to deal with them.
- 1.2 This policy is supported by detailed procedures. Tenants get clear information on how rent and other money is spent, including any details of individual items of expenditure above thresholds agreed between landlords and tenants.

### 2.0 THE SCOTTISH SOCIAL HOUSING CHARTER

- 2.1 The relevant standards and outcomes for the Rent Setting & Service Charges Policy are:

*Outcome 11: 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.

*Outcome 14: Rent 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 service provided, the cost of services, and how far current and prospective tenants and other customers can afford them.
- Tenants get clear information on how rent and other money is spent, including any details of individual items of expenditure above thresholds agreed between landlords and tenants.

### 3.0 POLICY AIMS

- 3.1 Under this policy we aim to:

- minimise the level of rent arrears by adopting preventative measures to avoid arrears arising and effective procedures for tackling arrears when they do arise;
- ensure that rent arrears are dealt with efficiently and effectively whilst ensuring that tenants' individual circumstances are taken into account and dealt with sensitively;
- ensure that all tenants are fully aware of their responsibility to ensure that rent is paid, and the implications of failure to do this;

- provide a welfare benefits and money advice service to assist tenants to maximise income and prevent and deal with debt;
- take legal action against tenants only when all other options have been exhausted.

## **4.0 RENT COLLECTION**

- 4.1 Rent is payable monthly in advance on or before the first day of each month. Tenants who wish to pay weekly or at other intervals must obtain our prior approval, and payments must be in advance.
- 4.2 We will offer a choice of payment methods, which not only provides convenience to the tenants but is cost effective for the Association. The payment methods offered are set out in the Rent Arrears procedure.

## **5.0 ARREARS PREVENTION**

### **New Tenants**

- 5.1 New tenants will receive full details of:
  - their responsibility to ensure rent is paid and the implications of not doing so;
  - rent levels and the rent review procedure;
  - payment methods and the date due;
  - what to do if they are having difficulties paying rent.
- 5.2 New tenants who have never previously held a tenancy or who are vulnerable for other reasons will be required to meet with the Welfare Benefits Advice Officer prior to or at the start of their tenancy.  
All new tenants will be made aware of the service and invited to contact the Welfare Benefits Advice Officer whenever necessary.
- 5.3 New tenants will be assisted to complete relevant welfare benefit forms at sign-up and the forms will be sent to the Department of Work and Pensions or City of Edinburgh Council on their behalf. An estimate of their entitlement will be given to them within 5 working days and, if necessary, they will be asked to commence payments pending the outcome of the claim.
- 5.4 All new tenants, except those expected to be in receipt of Full Housing Benefit or the full housing element of Universal Credit, must make a rent payment in advance at the sign-up.
- 5.5 A post-allocation visit will be carried out within 6 weeks when the importance of rent payment will again be stressed and any difficulties over rent payment discussed.

### **Existing Tenants**

- 5.6 We will seek to assist existing tenants to maintain their rent payments and deal with any arrears that arise through the following:
  - Tenants will be advised regularly in person, through our website, newsletters, posters, leaflets, letters, emails and texts etc. to contact Housing Management staff at the earliest possible opportunity, so that help and advice may be given.
  - We will support tenants to log into “My Prospect Account” to monitor their rent account and pay their rent through a portal to our Housing Management IT system.
  - Rent statements will be issued quarterly along with advice about arrears.

- Tenants will be made aware of the Welfare Benefits Advice service and encouraged to make use of it where necessary.
- Information on Universal Credit, Housing Benefit and other benefits will be made available to all tenants on a regular basis.
- Tenants will be given at least 4 weeks written notice of any increase in rent and will be reminded to notify the Council's Finance Department about any change. In addition Prospect will notify City of Edinburgh Council and Department of Work and Pensions directly about rent increases.
- Rent accounts will be monitored closely to allow early identification of missed payments, which result in arrears.

Full details are in the procedures supporting this policy.

## **6.0 ARREARS CONTROL**

### **Missed Payments**

- 6.1 We will develop and regularly review procedures to provide staff with guidance for actions to taken and timescales to be adhered when arrears occurs.

The following basic principles will underpin our procedures:

- The arrears escalation process on our Housing IT system will be run every week.
- Tenants should be informed of their arrears within 2 weeks of a missed payment.
- Every attempt to make contact with a tenant will be made prior to starting legal action. This will include, where appropriate, letter, text, phoning, appointments and cold call home visits.
- Tenants should be continually reminded of their responsibility for the payment of the rent and the action the Association will take if they do not.
- Realistic and sustainable arrangements should be agreed for paying off the arrears.
- Prospect will commence legal action only if all other approaches and offers of assistance have failed to ensure that the tenant has adequately minimised the debt.

### **Management Sanctions**

- 6.2 Although a tenant may be breaching the terms of their tenancy agreement by not paying rent, we will continue to fulfil our legal responsibilities in providing a service to that tenant.

- 6.3 However we will operate, subject to Management discretion, the following sanctions where arrears exist:

- Tenants will not be allowed to undertake a mutual exchange until their rent account is clear;
- Tenants seeking a transfer will be required to keep to a repayment agreement for a minimum of three months before they will be considered for a move, unless the rent arrears amount to less than one month's rent.
- Tenants who have been served a Notice of Proceedings due to their rent arrears or who have a case in court will not be offered property improvements such as a replacement kitchen, bathroom, boiler or shower. We will give notice to those affected by this to give them an opportunity to clear their arrears which would entitle them to the improvements. This "rent first" approach does not include our legal obligations as a landlord to ensure the upkeep of the property as per the tenancy agreement. Any tenant affected may appeal the decision which will be considered by the Housing Manager.

Exceptions to the above may be made at the discretion of the Housing Manager.

## **Bankruptcy and Trust Deeds**

- 6.4 We will not be able to recover any rent arrears that are part of a Bankruptcy action or Trust Deed. However these debts can still be used in an eviction action against the tenant.
- 6.5 Each case will be looked at by the Housing Manager on its own merits. However, the normal practice will be only to transfer the debt out of the rent account and into our balance sheet when no legal action (including Notice of Proceedings) has started against the tenant.
- 6.6 Even where the decision has been taken to remove an arrears balance from the rent account, this can still be included in a future eviction action if new arrears accrue on the account.

## **7.0 LEGAL ACTION**

- 7.1 The Housing (Scotland) Act requires that landlords show that any action for recovery is 'reasonable'. We will ensure therefore that:

- we develop and regularly review clear procedures covering the action, including legal action, which staff will follow when tenants fail to co-operate in the reduction of arrears;
- staff adhere to this policy and the associated procedures in dealing with rent arrears;
- staff ensure that they keep detailed and accurate records.

- 7.2 Legal action will commence with the issue of a Notice of Proceedings (NOP). Prior to serving an NOP, we will ensure that we comply with the Pre-action Requirements as set out in the Housing (Scotland) Act 2010.

Our procedures are designed to ensure that we will have complied with all the pre-action requirements within two months of the tenant falling into arrears. If a tenant is not keeping to an arrangement to clear their debt, we will normally serve an NOP when the balance outstanding is over two months.

- 7.3 Once an NOP is valid, court action will commence if the tenant either makes no arrangement to reduce their arrears, or if any arrangement that is made is broken. Further action will depend on the tenant's response and is detailed in the associated procedures.

- 7.4 When we are seeking a decree in court, we will always ask for expenses to be awarded. We will normally ask for expenses where a case is being dismissed, unless it is an old action and the tenant has not been advised that legal expenses will be sought.

- 7.5 There will be occasions where we will refuse to enter into a repayment arrangement and insist on asking for an eviction decree in court. This will depend on the circumstances, but will usually only be considered when the case has previously been in court and the tenant has not kept to the agreed arrangement, or there has been a previous dismissed action against the tenant.

- 7.6 Following the granting of a decree by the Sheriff Court, the Housing Manager will approve all evictions before they are arranged. If the Housing Manager is not available, the Director will approve the eviction.

- 7.7 Following the introduction in the Housing (Scotland) Act 2010 of time limited decrees, the following arrangements will apply:

- Normally, we will expect a tenant to clear their rent arrears and legal costs in full to prevent an eviction going ahead. However, in exceptional circumstances we may agree that the rent arrears and legal costs can be cleared within the time period specified on the decree which is expected to be six months (less the period required to set an eviction), as long as this is done by regular payments and not by a lump sum at the end of the period.

This will have to be approved by the Housing Manager (failing whom by the Director).

- If a tenant clears their rent arrears and legal costs in full, and subsequently accrues further rent arrears before the decree has expired, we may still proceed with an eviction. Whilst our normal position in these circumstances will be to evict, this will be looked at on a case by case basis, taking into account the previous history of the tenant.

Any decision in this situation will be taken by the Housing Manager (failing whom by the Director).

## **8.0 FORMER TENANT ARREARS**

- 8.1 We will pursue former tenant debts taking into account the financial circumstances of the former tenant and likelihood of recovery.
- 8.2 We will where necessary utilise the services of appropriately qualified and experienced debt collectors, to maximise the recovery of former tenant debt.
- 8.3 In the cases of abandonment or where the tenant has given no forwarding address, we will attempt to trace the tenant and arrange repayment.
- 8.4 A write off paper for former tenant arrears will be presented to the Management Committee in February each year. This will list the cases where attempts to recover the debt have not been successful and it is recommended that the debt be written off.

## **9.0 MONITORING**

- 9.1 To ensure the effective operation of this policy and the associated procedures, the following monitoring and reported will be carried out:
  - Housing Management staff will discuss action on arrears cases on at least a monthly basis.
  - Arrears statistics will be circulated to the Management Team and to Housing Management staff at the start of each month.
  - A report covering arrears performance will be presented to the Management Committee quarterly as part of the Key Performance Indicator Report. The format and content of this report will be reviewed on a regular basis.
  - We will report on our arrears performance to the Scottish Housing Regulator annually via the Annual Report on the Charter and share this information with our tenants via our Annual Prospect's Performance Report.

## **10.0 IMPLEMENTATION AND REVIEW**

- 10.1 The Housing Manager is responsible for ensuring that this policy and the associated procedures are implemented.
- 10.2 The Housing Manager will ensure that the performance targets for arrears managements are reviewed annually, and that this policy is reviewed at least every three years by the Management Committee.

Reviewed by the Management Committee on 31 January 2018

Next review due by January 2021.

## PROSPECT EQUALITY IMPACT ASSESSMENT RECORD

<b>Title of policy/ practice/ strategy</b>	Rent Arrears Prevention & Control Policy	
<b>Department</b>	Housing Management	
<b>Who is involved in the EQIA?</b>	Catherine Louch	
<b>Type of policy/ practice/ strategy</b>	New <input type="checkbox"/>	Existing <input checked="" type="checkbox"/>
<b>Date completed</b>	24/01/18	

### Stage 1: Screening Record

#### ***What is the main purpose of the policy?***

This policy guides us on how we set out rents and service charges annually and the aspects taken into account when carrying out this process.

The below Scottish Social Housing Charter Outcomes have a direct influence on this policy:

- 14: Rent and service charges,
- 11: Tenancy Sustainment

#### ***Who will the policy benefit and how?***

All our tenants are affected by this policy as all our tenants are affected by our approach to rent arrears prevention and control.

#### ***For each equality group, does or could the policy have a negative impact?***

Protected characteristic	Negative	Positive/no impact	Don't know
Age	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Disability	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gender reassignment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marriage & civil partnership	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Pregnancy & maternity	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Race	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Religion or belief (including no belief)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sex	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sexual orientation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

If you answered negative or don't know to the above question you should consider doing a full EQIA.

#### ***Are there any potential barriers to implementing the policy?***

This policy is only achieved through effective arrears management.

	Yes	No
<b>Is a full EQIA required?</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

#### ***If you answered no to the above question explain why a full EQIA is not required:***

No impact on equalities identified:	<input type="checkbox"/>
Other:	

## Stage 2: Data and evidence gathering, involvement and consultation

Include here the results of your evidence gathering, including qualitative and quantitative data and the source of that information, whether national statistics, surveys or consultations with relevant equality groups.

Source	Qualitative evidence provided	Quantitative evidence provided	Which protected characteristics are covered?	Gaps identified/ action taken
Management information data		Annual staff and committee equalities data	Age, disability, gender, ethnicity. In some cases other protected characteristics	Membership data not collected. Implementation of Cx may assist with data collection.
Tenant satisfaction survey		Survey carried out in 2016	Age, disability, gender, ethnicity. In some cases other protected characteristics	Data becoming out of date. Implementation of Cx may assist with data collection.
Committee, Equalities Working Group and Tenants Forum minutes	Equality related issues identified and discussed		Various	
Review of complaints received	Tenant/service user experience	Statistical data on types of complaint	All protected characteristics	Implementation of Cx may assist with data collection and analysis of protected characteristics
Observations/conversations (anecdotal)	Staff/committee/tenant/service user levels of understanding, inclusive practice		All protected characteristics	
Edinburgh Census 2011		Statistical data	Age, disability, gender, ethnicity, marital status, religion or belief.	Data becoming out of date.
EdIndex data		Statistical data provided for individuals on the housing waiting list	Age, disability, gender, ethnicity. In some cases other protected characteristics.	Data becoming out of date.
SHR Annual Return on Charter data		Statistical data on staff, committee and tenant profile for RSLs	Disability, ethnicity.	

### Stage 3: Assessing the impacts

**How might the policy impact on people who share protected characteristics?** Include both positive and negative impacts.

Protected Characteristic	Description of Impact
Age	By monitoring arrears trends we can identify if a disproportionate number of individuals from the monitored protected characteristic are in arrears and amend our approach accordingly. We take a personal approach to arrears management so can use the approach which works best for each tenant.
Disability	A person's disability may impact on their earning options and thus income. We take a personal approach to arrears management which is sensitive to individual circumstances.
Gender reassignment	We do not currently collect data on gender reassignment, however we take a personal approach to arrears management so can use the approach which works best for each tenant.
Marriage & civil partnership	By monitoring arrears trends we can identify if a disproportionate number of individuals from the monitored protected characteristic are in arrears and amend our approach accordingly. We take a personal approach to arrears management so can use the approach which works best for each tenant.
Pregnancy & maternity	We do not currently collect data on pregnancy and maternity, however we take a personal approach to arrears management so can use the approach which works best for each tenant.
Race	By monitoring arrears trends we can identify if a disproportionate number of individuals from the monitored protected characteristic are in arrears and amend our approach accordingly. We take a personal approach to arrears management so can use the approach which works best for each tenant.
Religion or belief (including no belief)	As above.
Sex	As above.
Sexual orientation	We do not currently collect data on sexual orientation, however we take a personal approach to arrears management so can use the approach which works best for each tenant.

### How does the policy promote equality of opportunity?

Our personal approach to arrears management means we can adapt our approach according to individual needs.

We recognise many of our tenants are on low incomes and are either in receipt of benefits or in low paid, unstable work. This policy recognises this and aims to mitigate these circumstances in the following ways:

- Regular updates on rent account – i.e. quarterly statements, via rent arrears letters and via tenant portal.
- Personal approach to discussions about rent account at the tenants' home or our office or over telephone, text, email depending on preference.
- Welfare Benefits service
- Proactive approach towards management of rent account
- Variety of payment options to suit.
- Personal repayment plans

- Regular information issued to explain the impact of non-payment of rent, including potential for delay in receiving planned property upgrades.
- Adherence to Pre Notice of Proceedings Requirements which protect tenant rights and ensure relevant processes are completed before a Notice is served.

### ***How does the policy promote good relations?***

Our approach to arrears controls is easily explained and information is provided in a format that is understandable and accessible. We develop this with tenant input.

### **Stage 4: Decision making and monitoring**

#### ***Identifying and establishing any required mitigating action***

If, following the impact analysis, you think you have identified any unlawful discrimination – direct or indirect - you must consider and set out what action will be undertaken to mitigate the negative impact.

Does the assessment show a potential for differential impact on any group(s)?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is there potential for unlawful direct or indirect discrimination?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

#### ***What arrangements could be implemented to reduce or mitigate any potential adverse or negative impacts identified?***

Any tenants who have a property upgrade improvement delayed due to a Notice of Proceedings will have the opportunity to appeal the decision. Any decision taken to delay an upgrade will take the tenants' circumstances into account and reflect a willingness to engage.

#### ***Describing how Equality Impact analysis has shaped the policy making process***

No changes have been made to the policy as a result of this assessment.

Ongoing review of those in arrears helps to identify if there is overrepresentation in any one equality group. If any of the groups are over represented we will review the arrears approach to find a more effective form of arrears control for this group.

There is no impact on the budget or costs as a result of this EQIA.

#### ***Monitoring and Review***

Housing Management staff will discuss action on arrears cases on at least a monthly basis.

Arrears statistics will be circulated to the Management Team and to Housing Management staff at the start of each month.

A report covering arrears performance will be presented to the Management Committee quarterly as part of the Key Performance Indicator Report. The format and content of this report will be reviewed on a regular basis.

We will report on our arrears performance to the Scottish Housing Regulator annually via the Annual Report on the Charter and share this information with our tenants via our Annual Prospect's Performance Report.

The Housing Manager will ensure that the performance targets for arrears managements are reviewed annually, and that this policy is reviewed at least every three years by the Management Committee.

## **Stage 5 - Authorisation of EQIA**

Please confirm that:

- ◆ This Equality Impact Assessment has informed the development of this policy:

Yes  No

- ◆ Opportunities to promote equality in respect of age, disability, sex, pregnancy and maternity, gender reassignment, sexual orientation, race and religion or belief have been considered, i.e.:
  - Eliminating unlawful discrimination, harassment, victimisation;
  - Removing or minimising any barriers and/or disadvantages;
  - Taking steps which assist with promoting equality and meeting people's different needs;
  - Encouraging participation (e.g. in public life)
  - Fostering good relations, tackling prejudice and promoting understanding.

Yes  No

### **Declaration**

**I am satisfied with the equality impact assessment that has been undertaken for Rent Arrears Prevention & Control policy.**

**Name: Catherine Louch**

**Position: Housing Manager**

**Authorisation date: 24/01/18**