



# **Ferguslie Park** Housing Association

## **Rent Arrears Policy**

## **Introduction**

This Policy describes the activities and responsibilities involved where rent accounts of current tenants are in arrears.

There are National Outcomes, Business Plan objectives and Scottish Social Housing Charter Outcomes that this policy should comply with. These are:

Scottish Government National Outcomes which is also a recognised outcome of our Business Plan:

*“We have strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others”*

One of five strategic objectives in our Business Plan is:

*“To safeguard our assets, sound financial position, long-term affordability and sustainability”*

## **The Scottish Social Housing Charter**

The Charter set the standards and outcomes that all social landlords should aim to achieve when performing their housing activities. Our services and any action taken against tenants in rent arrears must have regard to the following Charter outcomes:

- **Outcome 1:** 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.
- **Outcome 9:** People at risk of losing their home get advice on preventing homelessness
- **Outcome 11:** 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 13:** Tenants, owners and other customers receive services that provide continually improving value for the rent and other charges they pay.

## **Legal and Regulatory Framework**

The Association will ensure that this policy complies with the law and with regulatory and good practice requirements in minimising rent arrears and evictions. This includes the following:

Debtors (Scotland) Act 1987

Data Protection Act 1998

Human Rights Act 1998

The Children (Scotland) Act 1995

Housing (Scotland) Act 2001

Debt Arrangement and Attachment (Scotland) Act 2002

Homelessness etc. (Scotland) Act 2003

The Bankruptcy and Diligence etc (Scotland) Act 2007

Housing (Scotland) Act 2010 (Pre-action Requirements)

Equalities Act 2010  
Housing (Scotland) Act 2014  
The General Data Protection Regulation (GDPR) 2016

### **Policy Aim**

The Association will actively recover all monies due from tenants in a fair and reasonable way. Wherever possible, the Association will seek to recover rent arrears with the voluntary co-operation of the tenant. We will provide confidential, sensitive and person-centred advice and assistance to tenants in arrears and make referrals to our in-house Welfare Rights team and/or Renfrewshire Council's specialist Debt Advice Team when required. Where tenants are identified as vulnerable we will provide additional support where we can and will make referrals to other partner agencies that can help our tenants with their particular needs.

We will make early personal contact with tenants who fall into arrears. However, whilst every effort will be made to provide support, if the tenant is unwilling to pay their rent and agree and maintain an arrears repayment plan we will pursue legal action for eviction as a last resort.

### **Rent Arrears Procedure**

To support this policy detailed arrears prevention and control procedures have been developed for staff.

### **Policy Objectives**

The objectives of this policy have been grouped as follows:

1. Prevention of Rent Arrears
2. Early Intervention
3. Promoting a Payment Culture
4. Effective Case Management
5. Performance Management
6. Complying with the Law
7. Fairness and Equally

#### **1. Prevention of Rent Arrears**

We aim to prevent arrears from occurring by:

- Providing pre-tenancy advice informing prospective tenants about their responsibilities to pay rent and ensure that they know what to do if they get into difficulties with payments
- Identifying people who may be at a higher risk of falling into arrears, for example, young people taking up their first tenancy, people who have experienced homelessness, people with addiction or mental health issues and people with existing or former tenant rent arrears debt. Where a higher risk prospective tenant is identified we will make sure that we allocate more time and support to such cases

- Ensuring, where possible, that a member of our Welfare Rights team attends sign up interviews and new tenant visits
- Assisting new tenants at sign up interview with making a claim for Universal Credit, Housing Benefit or Discretionary Housing Payment if required and checking that their income is maximised
- Making sure that new tenants end any existing tenancy or temporary accommodation agreement as quickly as possible to minimise or eliminate their liability for rent on two homes
- Rent is due in advance on the date of the rent debit. We will ask new tenants to pay 4 weeks rent in advance at the start of their tenancy. Where the tenant is most likely to be entitled to full or partial benefit to pay their rent and this is being mandated directly to the Association, we will negotiate an agreement with the tenant for the amount they need to pay in advance taking account of the household's individual circumstances
- Providing a customer-focussed drop-in service for Welfare Rights and introducing the new tenant to a member of the team at sign up means that the new tenant is familiar with the service we provide to our tenants
- Providing a variety of payment methods that are convenient and easily accessible to tenants

## **2. Early Intervention**

We ensure early intervention by:

- Monitoring all rent accounts closely and contact the tenant as soon as possible if a payment is missed
- Making early personal contact with tenants using a variety of contact methods including letter, home visit, office appointment, phone call, text message and email as soon as rent arrears appears on their rent account
- Providing a customer-focussed, drop-in services for tenants with rent arrears. We strive for every tenant in rent arrears to be seen by a Housing Officer if they come into the office for assistance

### **3. Promoting a Payment Culture**

We promote a payment culture by:

- Regularly providing tenants with information relating to their rent charge and payment due dates. For example, at sign up, contained within their annual rent rise letter and within our standard rent arrears letters.
- Publicising our payment methods through leaflets, standard rent arrears letters, our website, social media, newsletters and face to face when interviewing tenants in arrears.
- Publicising our rent arrears escalation process and explaining what happens at the different stages of escalation
- Issuing a repayment arrangement letter to tenants confirming the repayment arrangement agreed with them within 5 working days of making the arrangement
- Tenants be able to view transactions and rent statement online through My Home, paper copy of rent statement provided to tenants when requested.
- Issuing a mini rent statement with each rent arrears letter (unless they are paper free tenants and access their account through 'My Home' online)
- Running various rent payment campaigns from time to time
- Where appropriate, making use of all available ways for receiving rent and arrears payments directly from tenants' benefits, including Housing Benefit, Universal Credit Managed Payments, Discretionary Housing Payments and Arrears Direct

### **4. Effective Case Management**

We manage cases by:

- Being approachable and non-judgemental to tenants at all times
- Making sure that rent accounts are monitored regularly and that cases are escalated timeously in line with recovery process contained in this policy
- Referring tenants to our Welfare Rights Service as required
- Referring tenants to Renfrewshire Council's specialised Debt Advice Team where three or more debts are identified and the tenant agrees to being referred
- Making referrals to partner agencies for support where vulnerabilities become apparent. For example for mental health or addiction issues which are impacting on a tenant's ability to pay their rent.

- Establishing the underlying reasons for the arrears by asking relevant questions in a non-confrontational, supportive way which allows tenants to feel comfortable when discussing any personal or family difficulties they may need to work on in order to address their rent arrears effectively
- Arranging multi-agency case meetings with partners such as Social Work, Home Link and NHS where there are other agencies working with an individual or a family at risk of losing their home
- Making realistic, affordable, sustainable arrears repayment arrangements
- Making use of all available remedies and only using eviction as a last resort
- Building relationships with colleagues in Renfrewshire Council's Housing Benefit Service and Department of Work and Pensions including attending meetings with these partners where these are available to us

## **5. Performance Management**

We manage our performance in Rent Arrears by:

- Setting a challenging but realistic Rent Arrears target for the Association
- Monitoring each staff member's performance against the target set
- Reporting rent arrears performance and trends regularly to the Board of Management
- Ensuring that the Housing Services Manager supports Housing Services Officers to meet the targets by holding regular one to one performance management meetings as well as coaching and leading by example where required
- Providing staff with regular training on the Rent Arrears Policy and Procedure, customer care and interviewing techniques, welfare benefits and welfare reform roll outs, legislative changes, good practice and IT skills
- Addressing staff performance issues if staff are not meeting their rent arrears targets

## **6. Complying with the Law**

We comply with the law by:

- Meeting all Pre-Action Requirements (PARs) before legal action is started by amply covering these in our pre-Notice standard letters and at early intervention face to face interviews
- Returning to the 2<sup>nd</sup> Reminder Letter in the escalation process if legal action is dismissed or has lapsed to make sure that PARs are covered each time a new legal action is raised

- Ensuring that tenants are made aware of their legal rights as well as their responsibilities in relation to paying rent and the eviction process
- Advising tenants about their statutory right to receive advice and assistance for the local authority in relation to being threatened with homelessness because we are taking eviction action
- Making tenants aware of their statutory rights under the homeless legislation and advising them to make a homeless presentation to the local authority if they are evicted from their home.
- Notifying the local authority of legal action being taken against the tenant as and when we are required to do so under Section 11 of the Homelessness etc (Scotland) Act 2003
- Providing contact details for sources of free legal advice to tenants such as Shelter Scotland and Citizens' Advice Bureau
- Employing a Solicitor to pursue legal action against our tenants and to represent our interests at Court
- Contacting our solicitor for guidance when required to make sure we follow due legal process at all times

## **7. Fairness and Equality**

We will be fair and equitable by:

- Ensuring that tenants receive fair and equal treatment regardless of disability, marital status, gender, age, race, ethnic or national origin, religious belief or sexual orientation
- Issuing standard escalation letters which are jargon-free and written in a plain English style
- Applying this policy in the same way to all our tenants as far as is reasonably possible
- Making information available in other languages and other formats e.g. large print or Braille, if required
- Providing an interpreting service at interviews as required or when requested

## **Escalation and Recovery Process**

Attached in Appendix 1

### **Responsibility**

The **Management Board** is responsible for

- Approving a draft policy that then must go out for tenant consultation as a legal requirement. Once any amendments have been made to the policy taking account of the consultation feedback, the Management Board is responsible for approving the Policy document and any subsequent reviews of the Policy.
- Authorising evictions where an anonymised report is presented to the Board
- Setting realistic but challenging annual rent arrears targets for the Association
- Monitoring the overall performance of the Association throughout the year against the targets set

The **Head of Operations** is responsible for:

- The overall responsibility for this policy
- Authorising a request to the court for an eviction decree.

The **Housing Services Manager** is responsible for:

- Setting an annual rent arrears target for the Housing Services Officers, derived from the overall target which has been set by the Board
- Performance managing of the Housing Services Officers
- Carrying out and recording staff one to ones timeously
- Interviewing tenants at a serious stage in the escalation process as required
- Preparing and presenting eviction requests to the Management Board as and when required

The **Housing Services Officers** are responsible for:

- The proper implementation of this Rent Arrears Policy and the Rent Arrears Procedures. The success of the policy depends, to a large extent, on the knowledge, tenacity and diligence of the Housing Services Officer.
- Highlighting any concerning cases with the Housing Services Manager and seeking advice and assistance from the Housing Services Manager if required



## **Monitoring and Reporting**

Arrears performance will be monitored and recorded at the end of each Debit Period.

Quarterly Performance Reports on Rent Arrears will be submitted to the Management Board.

Overall rent arrears performance will be recorded in band levels, both by monetary value and by number of cases.

Graphs tracking rent arrears at the end of each debit period will be presented to the Board regularly to show trends and progress in arrears performance

One to ones between the Housing Services Manager and the Housing Officer will be carried out every 4 weeks.

An Annual Performance Report on Rent Arrears including number of evictions carried out in the year will be submitted to the Management Board

The Scottish Housing Regulator monitors all Register Social Landlords' (RSLs) and Local Authorities' rent arrears performance via the Annual Return on the Charter (ARC). The ARC Indicators that measure Rent Arrears are:

- Charter Indicator 26 – Rent collected as a percentage of total rent due in the reporting year
- Charter Indicator 27 - Gross rent arrears (all tenants) as at 31 March each year as a percentage of rent due for the reporting period

Performance information on rent arrears will be provided to tenants via our Annual Report. This information will also be available on the Association's website and social media accounts. Our published performance will be benchmarked against other Housing Associations of a similar size and nature and other FLAIR Housing Associations.

## **Consultation and Review of the Policy**

The Association will review this policy every 3 years or when any future legislative changes or new and significant good practice becomes available. This Policy and any future reviews of this Policy require tenant consultation to be undertaken.

The Association will be open to feedback from tenants in the form of any complaints or compliments received or feedback obtained via questionnaires or focus groups and from staff through one to ones and team meetings.

The policy will be monitored for its efficiency, value for money and equity.

## **Associated Documents**

The main document associated with the policy is the Rent Arrears Procedure.

## **Appendix 1**

### **Current Tenant Arrears Escalation Policy**

There is a minimum of one week and a maximum of two weeks between each stage of escalation unless there are other timescales stipulated for legal reasons. Where tenants are paper free, the letters are sent to their 'My Home' account and not posted.

- Stage 1      **First Reminder Letter** is posted to tenant where the tenant has missed one rent payment or has failed to pay the full rent due. This could be a weekly, fortnightly, 4 weekly or monthly payment. Rent is due in advance so this letter should be sent immediately if any payment is missed or short and the rent account is not clear or in credit. Payment or an arrangement to pay stops the move to the next stage.
- Stage 2      **Second Reminder (Office Appointment) Letter** is hand delivered by the Housing Services Officer and is the first attempt at face to face contact with the tenant. Payment or an arrangement to pay stops the move to the next stage.
- Stage 3      **Pre-Notice of Proceedings Letter** is hand delivered by the Housing Services Officer. This letter asks tenant to confirm who is living in their home. We have a duty to take reasonable steps to identify all members of a household aged 16 years or over before we start legal action. Payment or an arrangement to pay stops the move to the next stage.
- Stage 4      **Notice of Proceedings for Recovery of Possession** is hand delivered, this is the start of formal legal notification to end a tenancy. The Notice of Proceedings (NOP) outlines the reason for taking action and gives advice to the tenant on how to prevent further action being taken. This notice will become effective 28 days after it is served (unless changed by Scottish Government) and remains active for 6 months. NOPs are served on each member of the household we know about aged 16 years or over, referred to as Qualifying Occupiers. Payment or an arrangement to pay stops the move to the next stage.
- Stage 5      **NOP Office Appointment Letter** is hand delivered after the NOP has been served but before it becomes live. Payment or an arrangement to pay stops the move to the next stage.
- Stage 6      **Court Action Instructed.** Once the NOP is live the Housing Services Officer prepares the case and passes this to the Association's solicitor to request a hearing at the Sheriff Court to consider a request to end the tenancy. The tenant is notified of this action a hand delivered **Court Action Instructed Letter**. Renfrewshire Council is notified at this stage as required by Section 11 of the Homelessness etc (Scotland) Act 2003.

It could be 6 weeks before a court date is issued. In the interim period the Housing Services Officer will continue to try to establish contact with the tenant to make an arrangement. The case will move to Stage 7 even if an arrangement is made or the arrears are cleared.

Stage 7 **Court Date Issued Letter** is hand delivered to the tenant on receipt of the court date. The tenant will also be notified of the court date by a Court citation.

Payment or an arrangement to pay stops the pursuit of an eviction decree however the case cannot be stopped going to court once the date has been requested.

Stage 8 **Court Hearing.** The Sheriff Court hearing takes place and this will result in one of the following outcomes:

- Decree granted (allows the Association to evict the tenant and recover the money due)
- Proof Hearing (the tenant is defending the case and another date is arranged to allow detailed evidence to be presented at court)
- Case dismissed with or without expenses (arrears cleared)
- Case continued (tenant receives a chance to pay. This arrangement can be made either by the Court or by the Association)
- Case sisted (tenant is paying by instalments and has sustained the arrangement made)

Cases may stay in the court system for some time while the tenant is given chances to pay by the Association or by the Court.

Stage 9 **Decree Granted.** Decree to end the tenancy is granted. It takes 28 days for the decree to become live. **Decree Granted Office Appointment Letter** will be hand delivered inviting the tenant to meet with the Housing Services Manager.

Stage 10 **Report presented to the Management Board requesting permission to evict the tenant**

Stage 11 **Eviction Scheduled** If the Board authorise the eviction of the tenant, the eviction date is scheduled and Renfrewshire Council are advised. The eviction will only be cancelled if the tenant pays the full balance of rent due

Stage 12 **Eviction** A Sheriff Officer is present to enforce the eviction. The eviction takes place on the arranged date and the tenancy ends. Renfrewshire Council is advised.