



# **RENT MANAGEMENT POLICY**

This document can be made available in large print, on tape, in Braille or translated into another language.

Please contact the Association if you wish to discuss this.

Following the partnership with Caledonia Housing Association in April 2014, Cordale Housing Association has agreed a new policy review timetable for reviewing all its policies and introducing new policies that are required.

This policy is due for review in January 2018

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## **1. INTRODUCTION**

Cordale Housing Association considers the prevention, control and recovery of rent arrears as one of the most important aspects of the Housing and Asset Management Service. To provide affordable rented housing it is essential that our income from every source is maximised. By adopting an effective and efficient Rent Management policy and procedure, the Association's costs will be kept down, minimising the need to increase rent charges.

## **2. EQUAL OPPORTUNITIES**

In line with the Association's commitment to equal opportunities, this policy can be made available free of charge in a variety of formats, including large print, translated into another language or on audio tape.

## **3. POLICY OBJECTIVES**

Whilst the Association recognises that some tenants may experience difficulties in meeting rental payments at some stage of their tenancy, it is important that arrear levels are minimised effectively and efficiently and tenants are prevented from slipping into serious debt.

The policy will describe how the Association will attempt to prevent and control rent arrears for tenants and former tenants, with the approach being firm but fair, whilst being a sympathetic and supportive landlord.

## **4. DELEGATED AUTHORITY**

The Management Committee of Cordale Housing Association has delegated the Housing and Asset Management Sub-Committee (HAMSC) authority to monitor the level of rent arrears and take action, including court action, to secure payments of rent. The HAMSC have delegated authority to the Depute Director to take action up to the serving of a Notice of Proceedings and booking a case into Court. Thereafter the HAMSC continue to monitor the case whilst at Court.

No names or addresses are provided at the meeting. Each case has a unique reference number.

This Sub Committee will consider cases where a Sheriff has granted decree and make appropriate recommendations to the Management Committee.

The HAMSC also have delegated authority to set arrears targets annually, as part of the Performance Targets report, presented by the Depute Director in April of each year.

Any changes in policy or material changes in procedures must be approved in advance by the HAMSC and thereafter by the Management Committee.

## **5. PREVENTION**

The main priority is to prevent arrears occurring. To achieve this aim, staff members will follow the following procedures:

- 5.1 All offers of accommodation will clearly state the monthly rent charge, the various methods of payment available and the frequency of payment accepted (i.e. weekly, fortnightly and monthly). The offer will also provide clear guidance on the rent due date.
- 5.2 All new tenants will be advised of the Association's Rent Management policy during the offer stage, signing of tenancy agreement and settling in visit. This will place the emphasis on the need to make regular payments to prevent arrears.
- 5.3 Payment methods will be discussed with the tenant, to suit their individual circumstances.
- 5.4 Housing Benefit uptake will be maximised. A Housing Benefit form will be completed (if applicable) and checked to ensure that supporting information is provided.
- 5.5 The tenant will be encouraged to claim other welfare benefits. An appointment can be made with West Dunbartonshire Council Welfare Rights Officer (with the approval of the tenant).

- 5.6 To avoid arrears escalating, tenants will be encouraged to seek support when they are facing difficulties. An appointment can be made with West Dunbartonshire Council Money Advice Officer (with approval of the tenant).
- 5.7 The Association will develop positive links with the Council's Housing Benefit Department to encourage efficient processing of housing benefit claims.
- 5.8 Clear and concise information regarding rent management issues will be given to tenants, throughout the duration of the tenancy, via newsletters, resident meetings, house visits etc. A minimum of 28 days notice will be provided for any increase in the monthly rent charge. In accordance with 5.6 above, the Council will also receive one month's notice of an increase in rent changes.

## **6. CONTROL OF RENT ARREARS**

### ***Early Actions***

At the heart of any approach to effective rent management is the practice of early verbal contact with the tenant. Written contact should be made with the tenant as soon as it is clear that there is an arrear. The following procedures will be pursued where an arrear is identified: -

- 6.1 Essential to the early identification of non-payment of rent is an effective rent accounting system. The Association is committed to the most efficient use of staff resources and computer technology to monitor rent accounts. Mechanisms will be implemented, which minimise any delay between the date of payment and the credit of individual rent accounts. Similarly, payment methods, which are geared towards increasing accuracy and security, will be utilised.
- 6.2 Rents are due monthly in arrears on the 28<sup>th</sup> day of each month. Following this, rent arrears summary prints will be provided monthly by the Housing Services Officer. (Within 2 working days of the rent reconciliation).

- 6.3 Housing Management staff will use the lists to monitor individual rent accounts. Action to be taken will be influenced by a comparison of rent account balances with previous reports, previous contact and agreements with the tenant and the level of arrear.
- 6.4 As soon as a new arrear has been identified, the Association will contact the tenant either by telephone or home visit informing them that their rent account is in arrears and asking them to pay off the outstanding balance within 7 days. Tenants are also advised that they can contact any member of the Housing Management Staff to discuss the problem. Early contact with the tenant is the key to discovering the cause of the arrear, and making a realistic agreement to help the tenant repay the debt. The main objective of the Association is to assist the tenant in dealing with the problem.

With the consent of the tenant, an appointment will be made with a Welfare Rights Officer and/or Money Advice Worker to discuss Welfare Benefits entitlement and any appropriate money advice.

- 6.5 Written records will be kept of all contact with the tenant, and clear written confirmation of payment plans will be kept.
- 6.6 A written agreement and mutual understanding will be reached where possible as to how to cope with the arrears. This should include:
- i) The level of arrears.
  - ii) The size of instalments, which can realistically be made. This must be no less than the amount deductible by The Benefits Agency under the Rent Arrears Direct payment system.
  - iii) The frequency and starting date of instalments.
  - iv) Monthly rent
  - v) Payment method

Once an arrangement has been made it will be closely monitored by the Housing Management Staff. If a repayment arrangement is kept by the tenant, the Association will undertake no further action.

- 6.7 Where arrears have arisen through a delay or mistake in Housing Benefit payment, a written record of the cause and action taken will be kept. As far as possible, the Association believe in encouraging tenants to take an active part in resolving such arrears.
- 6.8 Where payments of home-loss and/or disturbance are made to tenants, all outstanding rent arrears will be deducted by joint agreement.

## **7. CONTROL OF RENT ARREARS**

### ***Further Action***

If a tenant continually fails to pay their rent, or defaults on a repayment arrangement the Association will take further action:

- 7.1 Where there has been no communication, the Association will continue to attempt to contact the tenant, whether through written correspondence or a house visit by Housing Management Staff. Face-to-face contact is crucial.

The objective remains to find out the cause of the arrears, and to assist the tenant in dealing with it. However, the Association will also underline the serious legal implications if the tenant does not co-operate in dealing with the problem.

- 7.2 Where an existing repayment arrangement breaks down, the tenant will be contacted to explain that they face legal action if they do not come to a new arrangement.
- 7.3 In cases where a tenant is more than four weeks in arrears (accrued over 8 weeks), and in receipt of Income Support or Jobseekers Allowance and full Housing Benefit, the Association may apply to the Department of Working Pensions for Arrears Direct deductions paid directly to the Association.

## 8. LEGAL ACTION

- 8.1 Whilst legal action is seen as a last resort in the control of individual rent arrears, the Association will implement the terms of the Tenancy Agreement with regard to recovery of possession in instances, where it becomes clear that the tenant wilfully refuses to meet their rental obligation or fail to co-operate with the Association to clear outstanding arrears.
- 8.2 Where a tenant is two months in arrears and no satisfactory agreement has been reached, the Housing Services Officer (unless there are extenuating circumstances) will advise the Depute Director that a Notice of Proceedings requires to be issued. The Depute Director will review the case and make a decision. Once a Notice of Proceedings has been issued a tenant has 28 days before the Association can instigate legal Action.
- 8.3 The tenant will be advised at the time of the Notice being served that their case may be referred to West Dunbartonshire Council, Homelessness Prevention Team and/or Social Work Department. This team will only be contacted if the Housing Management Staff are in no doubt that all preventative measures have been taken by the Association.
- 8.4 During the six months duration of a Notice of Proceedings, the Depute Director can instruct Court action if no satisfactory agreement is reached with the tenant or an arrangement is broken. This will take the form of an action to recover the debt and repossess the property. The Association will also seek Court Expenses and Sheriff Officer fees where cases are lodged in Court.
- 8.5 There are a number of different outcomes when a case is heard in court, which are listed with brief descriptions:
- Dismissed . this is when the case has reached a conclusion and does not require any further court intervention e.g. the tenant has cleared their arrears to a satisfactory level to the Association.
  - Continued . this is when the case is continued for a stated period, normally 8 . 12 weeks to monitor payments.

- Sisted . this is when the case is suspended indefinitely. This type of action is used, for example, when the Housing Officer is satisfied that the tenant is adhering to their arrangement, but given the level of the arrears, it will take some time to clear the arrear in full.
- Diet of Proof . this is when the Sheriff requires more in-depth information to make a judgement on the case. A date will be set by the court for both parties to discuss the case at length and for the Sheriff to make their judgement.
- Decree Awarded . This is explained fully in the next section.

8.6 The Association will aim to recover Court Expenses (including Sheriff Officers fees) relating to rent arrears cases from the tenant or former tenant.

## 9. DECREE

When the court awards the Association a Decree for Ejection, the Association has to end that tenant's tenancy by making a decision whether to evict the tenant or proceed with a Technical Eviction. **In all cases where Decree for Ejection is obtained, the tenancy must be ended.**

The only exception to this rule is if the tenant lodges a Minute of recall. This is when the case is recalled (thereby cancelling the award of decree) and a new hearing date is fixed. The tenant then has the opportunity to present their case to the Sheriff and thereafter a decision will be made. This is only possible if the tenant was not previously represented at court during any of the previous hearings.

When a Decree is awarded it takes 28 days before it is live and enforceable. The Housing Services Officer and Depute Director will complete an Eviction Report with recommendations. All names, addresses and any other identifying aspects in this report should be omitted to ensure the tenant remains anonymous to the Committee at all times. The Depute Director will discuss the Eviction Report in detail with either the Housing and Asset Management Sub Committee or the Management Committee meeting (depending on the date of the next available meeting). Even if the report is approved by the HAMSC, full approval must be sought from the

Management Committee. The tenant will be advised of their right to appeal, which must be made at this meeting. If the tenant remains dissatisfied with the decision, they will then be advised that they can contact the Scottish Public Services Ombudsman.

If the rent account and Court expenses are cleared by the tenant the eviction will be cancelled, prior to the eviction, the Director and Depute Director will discuss further with the Chair of the Management Committee and the Chair of the HM & Maintenance Sub Committee, who have discretion to cancel the eviction. Each case will be looked at individually, taking into account the history of the case etc.

Since a decree has ended the tenancy the tenant will require to sign a new tenancy agreement, however this may not be completed, until the full arrear, court expenses and any rechargeable repairs are cleared. In addition a full house inspection will be required to ensure there are no further rechargeable repairs outstanding. If the tenant is issued with a new agreement, they will be entitled to the Modernised Right to Buy, even if there previous entitlement was Preserved.

## **10. EVICTION PROCEDURES**

Once the Eviction Report has been approved and signed by the Committee, the Depute Director will instruct the Housing Services Officer to programme the Eviction with the relevant agencies, within the appropriate timescales.

## **11. COMMITTEE AND STAFF MEMBERS IN ARREARS**

### **11.1 Committee Members**

In line with recommended good practice, a Committee Member in rent arrears must declare an interest where the topic being discussed involves rent arrears. This would cover:

- Presentation and/or discussion of arrears reports
- Discussion of progress against arrears targets
- Setting arrears targets
- Discussion on action taken against tenants in arrears
- Discussion on policy and/or procedural matters

Where a member is finding her/himself regularly declaring an interest, then this member should consider whether they wish to continue serving on the Committee.

Members should also be aware of the exclusion criteria set out in Rule 44.1.5 of the Association's Constitution. This states that a member is ineligible to serve on the Committee if s/he is *involved in any legal proceedings in any Court of Law by or against us*. This means that any member who has had Court proceedings initiated against them.

The exception to the above would be where one of the following applies:

- The arrear is a technical arrear caused, for example, by delays in processing housing benefit. Where this is the case, the Depute Director, once s/he is satisfied that the arrear is definitely technical, can waive the requirement to declare an interest and the Committee member should be able to participate in the discussion unless there is a specific reason why they should not do so.
- The level of the arrear is less than two months full rental income and a repayment arrangement is in place and has been maintained for a minimum of three months/thirteen weeks. If a payment is missed or the arrear rises above the two month level, then the Committee member must declare an interest and leave the room.

## **11.2 Staff Members**

The Code of Conduct for staff members requires all staff members to act in accordance with the Association's policies and procedures at all times. A staff member falling into rent arrears is therefore in breach of the Association's policy on payment of rent and is also outwith the requirements of the Tenancy Agreement.

The procedure for dealing with breaches of the staff Code of Conduct is outlined in the Association's disciplinary procedures. In line with all (potential) disciplinary matters, managers and/or the Management Committee/Staffing Sub-Committee will require to take account of all circumstances surrounding the (potential) breach, including the seriousness

of the breach (in this case, the level of the rent arrears and/or persistent failure to make or maintain repayment arrangements) and the steps being taken to rectify the situation (in this case, the staff member's willingness to make an effective arrangement for repayment of the arrears).

Within the sector, staff in rent arrears is an exceptionally rare occurrence and there is therefore a lack of previous practice on which to draw. Where staff are, or become, tenants of the Association, the need to make regular rent payments will be emphasised and that failure to do this would constitute a breach of the Code of Conduct will be clearly advised.

Where staff members have arrears and these cannot be cleared prior to the next debit date, the Association's Depute Director will discuss the particular circumstances of the case with the Director. Following this, advice will be sought from Employers in Voluntary Housing as to the appropriate next steps taking account of all circumstances surrounding the case.

## **12. FORMER TENANT ARREARS**

- 12.1 The Association will pursue former tenants owing rent. If a forwarding address is known, the former tenant will be contacted, and asked to come to an arrangement to clear the arrears.
- 12.2 Where either the forwarding address is not known, or the former tenant refuses to co-operate the debt will be passed onto the Association's recovery agent for trace and collection.

## **13. APPLICATIONS FOR HOUSING**

- 13.1 The Association will ensure that all former tenants and current tenants are aware of the policy regarding requests for housing, where rent arrears exist. Where a former or current tenant arrear exists, an application for housing may not be accepted onto the Association's housing lists. (See Allocations policy for specific details).

## **14. RENT MANAGEMENT MONITORING**

The Association will report monthly to the HAMSC, providing a Rent Management Report. The Committee will receive the following information:

- i) The total arrears due
- ii) The percentage of current rent arrears as a percentage of the annual collectable rent.
- iii) The percentage of Technical arrears
- iv) Action taken on arrears over £500
- vi) Actual performance against agreed targets.
- vii) Legal action required
- viii) Former Tenant arrears
- ix) Current Tenant and Former Tenant Credits
- x) Narrative Information regarding rent management issues

The Depute Director, in conjunction with the Housing and Asset Management Sub-Committee, will therefore determine performance indicators and targets. These will assist in reviewing the success of the Rent Management Policy.

## **15. BAD DEBT PROVISION AND WRITE OFFS**

The HAMSC will consider a Bad Debt Provision and Write Offs Report in March and October every year, which will require to be approved by the Management Committee.

## **16. RENT MANAGEMENT PROCEDURES**

Comprehensive procedures for all rent management issues, for staff to implement are contained within a separate procedure manual.

## **17. REVIEW OF THE POLICY**

The Association's HAMSC and Management Committee will review the Rent Management Policy and Procedure every 2 years and reserve the right to make any ad hoc decisions or alterations considered necessary.