



# Rural Stirling

## Housing Association

### **RENT ARREARS PREVENTION and RECOVERY POLICY**

<b>Rural Stirling Housing Association, Stirling Road, Doune, FK16 6AA.</b> <b>Registered as a Scottish Charity No. SC037849</b>	
<b>Policy Name</b>	Rent Arrears Prevention and Recovery Policy
<b>Policy Category</b>	Housing Services
<b>Board Approval date</b>	November 2018
<b>Review Period</b>	Three years
<b>Review Due</b>	2021

## 1. Introduction

Preventing and managing rent arrears is crucial to maximise the resources available to Rural Stirling Housing Association (RSHA) to provide services and maintain and improve its housing stock. The prevention, management and recovery of rent arrears are key elements in the Association's overall financial viability.

This policy sets out RSHA's approach to rent arrears prevention and management, including legal action for recovery of debt or possession and its systems for monitoring and reviewing policy outcomes and good procedural practice.

The main objective is to maximise rent collection through an effective policy framework and a supportive, sensitive and consistent approach.

## 2. Policy Statement

The following principles govern RSHA's approach to rent arrears prevention and recovery:

RSHA will comply with all relevant legislation and statutory requirements. Relevant statutes include:

- **The Housing (Scotland) Act 2001** – introduced Scottish Secure Tenancies and arrangements for the repossession of a tenancy.
- **The Homelessness (Scotland) Act 2003** – introduced the requirement for landlords to inform local authorities of households at risk of eviction (when Notice of Proceedings served).
- **The Housing (Scotland) Act 2010** – introduced pre-action requirements, prior to the service of a Notice of Proceedings.

Regulatory framework:

The Scottish Social Housing Charter, introduced by the Housing (Scotland) Act 2010, sets out the standards and outcomes which tenants, and others that use their services, can expect from social landlords. The Scottish Housing Regulator monitors all social landlords' performance in meeting these standards. The standards relevant to this policy are

Charter outcome 1: Equalities

Charter outcome 2 Participation

Charter outcome 11 Tenancy Sustainment

Charter outcome 13 Value for money

- RSHA will aim to follow good practice guidance
- RSHA will operate rent arrears prevention and recovery with transparency
- RSHA's advice to tenants will be impartial, factual, clear and comprehensive
- RSHA will devise procedures for compliance with this policy

### **3. Scope**

The Policy relates to rent arrears prevention and recovery including:

- Approach to rent collection
- Arrears prevention
- Range of payment methods
- First month's rent flexibilities
- Arrears monitoring & recovery
- Legal action & debt recovery
- Former tenant and shared ownership arrears
- Confidentiality and data protection

### **4. Policy Objectives**

#### Approach to Rent Collection

- Arrears prevention and recovery should be carried out consistently, firmly and fairly with sensitivity and responsiveness to individual tenants' circumstances.
- Arrears management must be prioritised, and all arrears tackled promptly with an emphasis on early intervention, personal contact and the prevention of escalation of arrears.
- Support and guidance should be provided to those in financial difficulty to reduce and clear arrears and recognise the priority of housing debt.
- Tenants should be encouraged to contact their Housing Officer as soon as possible if experiencing financial difficulty, promoting discussion and resolution to rent arrears by coming to a suitable payment agreement.
- The Association wishes to prevent homelessness where ever possible and sees recovery of possession as the last resort. Before seeking to evict the Association will satisfy itself that all other reasonable methods of dealing with arrears have been explored.

#### Arrears Prevention

- Comprehensive advice and information will be provided at the sign-up stage to ensure all new tenants understand the importance of paying rent on time, how to pay rent and the consequences of none payment of rent.
- Income maximisation support & guidance should be provided to all prospective tenants who require it and all new tenants within one week of sign up. This includes ensuring all tenants are aware of external agencies that can provide support with debt and income maximisation.
- Assistance will be provided to complete and submit claims for help with housing costs (Housing Benefit and Universal Credit) at the sign-up stage.
- Payment arrangements, for those not seeking help with housing costs, will be confirmed at the sign-up stage.
- Settling in visits will be carried out within six weeks of the tenancy start date to address any issues or problems with rent payments.

## Range of Payment Methods

- A range of payment options are in place to make it easy for tenants to pay their rent. Direct debit will be the preferred payment method and efforts will be made to encourage this.

Information about payment options will be provided in:

- the new tenant's information pack
- the tenant's handbook
- Rural Matters
- annual rent increase letters
- RSHA's website

## First Month's Rent Flexibilities

- New tenants not entitled to financial assistance with their housing costs will be expected to pay a month's rent in advance, when signing up for their tenancy.

New tenants who are entitled to financial help with housing costs should be encouraged to pay as much as possible of their first month's rent in advance. Where this is not possible an arrangement should be made to pay an affordable amount in addition to rent, once help with housing costs is received, to ensure their account does not fall into arrears at the beginning of each month.

## Arrears Monitoring and Recovery

- RSHA will develop clear procedural guidance to ensure prompt action is taken to identify arrears within one week and prompt action taken to prevent arrears from escalating.
- A variety of techniques will be utilised to engage with tenants who have fallen into arrears. This may include telephone calls, texts, emails, home visits or office interviews, with an emphasis on making personal contact.
- Where possible arrears debt should be cleared in full. Where this is not possible an affordable repayment agreement should be made and confirmed in writing.
- Arrears recovery action will be progressed and preparation for court action initiated when tenants default on payment or a payment agreement is broken on two occasions.
- Every effort will be made to establish the reason for rent arrears and support provided where appropriate. Referrals should be made to the Income Maximisation Officer when a tenant is experiencing financial hardship and in all cases prior to court action being initiated.
- Tenants will be given information about their rights, entitlement to financial assistance, and sources of information, support, legal advice and advocacy. Information will also be provided about the consequences of failing to maintain the required rent payments or agreements i.e. impact on transfer or rehousing applications and the impact of court action.
- Staff should initiate and maintain contact with other agencies involved e.g. housing benefit department, DWP, the courts and debt recovery agencies.
- Staff will use regulations to secure voluntary or compulsory direct deductions from tenant's DWP benefits towards arrears.

- Where appropriate vulnerable tenants, or their dependents, in need of support should be referred to the relevant agencies.
- Comprehensive records must be kept of all contact/attempted contact and action taken.

#### Enforcing action for the recovery of debt:

- Legal action must only be taken as a last resort. It will only be considered where tenants fail to comply with payment agreements to reduce their arrears or engage with staff and all reasonable arrears recovery arrangements have been exhausted.
- A Notice of Proceedings (NOP) should only be issued where there is a clear intention to proceed with legal action and Pre-Action Requirements (PARS) have been met.
- Following service of a NOP, a final chance must be offered to the tenant to address the situation prior to court action being initiated.
- Legal action for debt or conjoined action for recovery of possession of the property and debt, including legal expenses, will be pursued when all other attempts at recovery have failed.
- Where a decree for recovery of possession is granted, this will be enforced by staff at the earliest opportunity, unless the following occurs:
  - The tenant is granted a minute of recall, allowing the case to be reviewed by the court.  
Or
  - The outstanding arrear and any outstanding legal expenses are paid in full.  
Or
  - No alternative approach to the management of the debt can be achieved which would ensure repayment of the debt and legal expenses in full prior to the termination date of the decree.
- On receipt of extract decree for possession, staff will deal with tenants in a sensitive manner with continued support and advice offered. RSHA will notify Stirling Council homelessness team in all cases and social services if the tenant is vulnerable or where there are dependents.

#### Former Tenant Arrears

- Suitable termination procedures will be in place to minimise former tenants' arrears. All tenants when terminating their tenancy, are encouraged to pay outstanding rent arrears and advised of the implications of having former tenant debt. If the debt can not be paid in full, the housing officer must make a payment arrangement prior to the tenancy ending.
- Former tenants' payment arrangements must be monitored monthly. If payment defaults and the former tenant fails to respond to a reminder letter, the debt will be referred to a debt recovery agency where cost effective to do so.
- If the former tenants' whereabouts are known, the Association may take legal action for debt recovery. This action will not be taken for former tenants who are

not in paid employment, however non-judicial recovery may be pursued through the Debt Recovery Agency whilst economical to do so.

- Where it is not possible or cost effective to recover a former tenant arrear, these arrears will be written off with the approval of the Management Board on a bi annual basis. The Board will delegate authority to staff to write off, without the need to report to it, sums of under £100.
- In deciding to recommend write-off, the following criteria should be applied after the former tenants' arrears recovery procedures have been exhausted:
  - the former tenant died or moved into a nursing home
  - the arrears or debt are at a level that is not economic to pursue any further: the guideline figure for this is £100.
  - the arrears or debt are less than £100, have endured for more than a year and there is no repayment arrangement.
  - the former tenant is unlikely to have the funds to repay the debt in a reasonable time scale e.g. is on benefits. However, the debt may nevertheless be passed to a debt collector.
  - there is no readily available forwarding address to pursue debts.
  - the debt was passed to a tracing agent or debt collector, but no monies have been recovered in the last six months.
- Rent accounting records should be adjusted to reflect the write off. However, tenancy records will continue to record the debt, and this will be considered in the case of a former tenant re-applying for housing. Should the opportunity arise to recover a debt that has been written off, the appropriate financial procedures will accommodate receipt of payment.

### Shared Ownership

- The principles and most of the procedures for arrears control in shared ownership properties will mirror those applying to tenanted properties at the earlier stages. The aim is to encourage regular payment, prevent arrears arising and ensure sharing owners have access to the same quality of advice and assistance e.g. in relation to benefits advice. Where arrears do arise, action should be taken to contain these and to prevent homelessness.
- Liaison with mortgage lenders will ensure the most appropriate form of recovery action is taken, which may include negotiated or forced sale of the property.

### Confidentiality

- RSHA will respect the tenant's right to confidentiality and process any personal information provided in accordance with Data Protection laws.
- RSHA may seek permission to share prescribed information with third parties in order to obtain additional support for managing money or debt e.g. Stirling Council, Department of Work & Pensions, social work, and advice organisations.

- RSHA is obliged to serve a Notice of Proceedings on all qualifying occupiers who occupy the property. This legal requirement overrides any right to confidentiality or privacy.  
Where RSHA is obliged to share information in order to pursue an action or to protect a tenant or other members of the household, the tenant will be advised in writing of the intention to do so.

## 5. Monitoring and Control

Delivery of rent arrears prevention and recovery will be the responsibility of:

- The Management Board will ensure this policy complies with legislative and regulatory requirements and meets the Associations Business Plan and budgetary requirements.
- The Management Board will monitor performance quarterly and set annual performance targets.
- The Chief Executive will hold overall responsibility for ensuring this policy is applied to ensure compliance with regulatory and legislative requirements and meets the Association's Business Plan and budgetary requirements.
- The Housing Services Manager is responsible for implementing the policy and developing procedures to support and guide staff and will regularly review a sample of all arrears cases.  
Arrears performance figures and trends for each housing officer's patch will be reviewed monthly.
- All housing services staff play a role in the prevention and management of arrears. The roles and responsibilities of individual team members are detailed in the arrear's management procedures.
- The Housing Services Manager and Chief Executive have delegated authority to raise court action against a tenant, sharing owner or former tenant.
- The Chief Executive will make the final decision on whether a decree for eviction should be enforced.
- RSHA will benchmark its performance against that of selected peer Associations.

The following areas will be subject to monitoring and control by the Association's SMT and internal audit:

- Policy effectiveness
- Policy compliance
- Risk management
- Staff training

This policy complies with RSHA's core values of equality and diversity.