



Policy Reference and title	<b>HM/POL 3: Rent Arrears Policy</b>
Policy Date	<b>August 2014</b>
Date to Housing Management/Maintenance Sub-Committee (HMMSC)	<b>9 December 2014</b>
Date approved by HMMSC	<b>9 December 2014</b>
Date of next review	<b>August 2017</b>

This policy was reviewed in conjunction with a Focus Group and our local Tenants and Residents Group. We would like to thank them for their input to the process.

## **1. Aims and Objectives**

The aims and objectives of the arrears policy will be:

- To maximise rent and arrears collected
- To minimise rent arrears
- To enable staff to effectively manage and recover rent arrears
- To allow tenants to sustain their tenancy, prevent homelessness wherever possible and assist them in this by providing direct or indirect support via assessment
- To be fair in the operation of the policy
- To be non-discriminatory as laid out in the nine characteristics of the disability & equality act 2010 - Age, Disability, Gender Reassignment, Marriage & Civil Partnerships, Pregnancy & Maternity, Race, Religion & Belief, Sex, Sexual Orientation. Unless the law permits this.
- To continually improve our service to tenants
- To meet all statutory and regulatory requirements, Scottish Government Guidance and other good practice guides that may be published.
- To take account of Government legislation such as Welfare reform changes and ensure, as far as possible, that associated arrears issues can be addressed.
- The policy was reviewed in conjunction with a Focus Group and also with our local tenants and residents group.

## **2. Equal Opportunities**

- This Policy takes account of the 2010 Equalities Act and no discrimination is exercised at any point in respect of any of the categories mentioned in the act as outlined in section 1 above. The policy also complies with Clydebank Housing Association's Equal Opportunities policy.
- All tenants and former tenants with rent arrears will be dealt with sensitively and fairly.

- Rent arrears will not be a barrier to rehousing someone requiring housing due to harassment under our equal opportunities grounds.
- Rent arrears will not be a barrier to rehousing someone who is the victim of domestic abuse.
- Rent arrears will not be a barrier to rehousing a statutory homeless referral from the Council.
- We will in all cases give information and advice that should help tenants to keep their tenancy. Eviction will always be seen as a last resort.
- Information will be provided in a different format to those who need this service.
- To ensure the above an Equalities Impact Assessment was carried out in conjunction with our focus group, which can be found at Appendix 2 at the end of this policy. The assessment showed no negative impact by this policy on any group.

### **3. Maximisation of rent and arrears collected**

Being able to maximise the rent and arrears we collect is important for minimising the risk of bad debts to the Association, and subsequently any negative knock on effect to rent setting and rent increases.

We will encourage a payment culture at all times and will emphasise this at both at the start of a tenancy and throughout the duration of the tenancy.

#### **3.1 Tenancy sign up**

On contacting the tenant to confirm a sign up date the tenant should be instructed how much their first rent payment is, and to bring the payment with them to the sign up where possible. Rent obligations and payment culture will also be made clear at the sign up interview. The standard monthly rent and the full amount due for the first period should be made clear to the tenant at sign up as should the fact that the rent is due one month in advance. Payment of the first rent due should be asked for and taken at sign up if available. The tenant should also be aware that they should contact their Housing Assistant at the early stages of non-payment. Tenants should be aware that the first rent payment should reach us within one week of the entry date if not paid at sign up.

The tenant should also be made aware of support and help services available, and that early intervention will alleviate the need for legal action so long as the tenant co-operates and the matter is resolved.

A Housing Benefit form should be filled in with the tenant where it looks like the tenant will qualify for housing benefit. It should be made clear that HB will only be payable from the date a tenant moves in to the property. The tenant should be advised that they need to provide proof of income for everyone at the address at an early date. The form should be verified as far as possible and sent to the Council's HB department on behalf of the tenant. In all cases agreement should be sought from the tenant to have the HB paid directly to CHA and the benefits of doing this explained.

In cases where it is clear that a tenant will not qualify for full housing benefit but may qualify for part benefit, we will make a provisional assessment of benefit based on the information available. The tenant will be advised in writing of the provisional amount payable until their claim has been fully assessed. The first payment will be due within one week of the date of entry. Tenants who choose not to make use of this service will be responsible for their full rent payment until their Housing Benefit claim is assessed.

If the new tenant is currently a tenant of another property they should sign a request for overlap of housing benefit to be paid from their date of entry. A maximum of 4 weeks overlap will be allowed by the Council and this is discretionary.

The tenant should be made aware that if they fail to pay rent as agreed they are putting their tenancy at risk as we will take legal action if necessary. The tenancy sign up should always include details of all rent payment methods offered by us.

The responsibilities of joint tenants in relation to rent obligations should be explained to all joint tenants.

A letter should be sent to the tenant within 48 hours of signing for the property to confirm the rent due and the tenant's obligation to hand in a HB form with proper proof of the household income if appropriate (not already completed at sign up).

#### **4. Minimising Rent Arrears**

Being able to minimise rent arrears is important for reducing the risk of bad debts to the Association. It is also important to manage rent arrears pro-actively and prevention has an important role to play.

We will make a provision for bad debts within the annual budget.

##### **4.1 Prevention**

##### **4.1.1 Affordable Rents**

We will carry out an income survey at least every four years and take account of results in relation to affordability. In the interim years we will take account of

SCORE information in relation to affordability. We will not provide extra services without consultation as services are included in the rent assessment in relation to affordability. We will not charge any more rent than is necessary to run CHA and its services, this will be demonstrated in our rent policy.

#### 4.1.2 Rent Payment Methods

We have a variety of payment methods such as cheque payment at the office or by post, swipe cards which can be used at any post office or Paypoint outlet. Tenants can also pay by Direct Debit or by using their debit card at allpay.net. Tenants on Housing Benefit should be encouraged to sign a mandate to have it paid directly to us. These tenants will be permitted to pay in arrears as per the Council's payment cycle. Tenant's who do not wish to have their HB paid direct to the Association will be due to pay rent one month in advance.

#### 4.1.3 Target Timescales for Rent Posting

We aim to ensure that rents paid through the allpay.net system are posted to the tenant's rent account within 48 hours of payment. Payments made at the end of the month prior to the debit, or during holiday periods may take a few extra days.

Tenants who pay by cheque will have their payment posted to their account within 5 working days.

In the case of Housing Benefit, we aim to post this within 2 working days of both the housing benefit print and payment having arrived in the office. We operate a semi-automated housing benefit posting system to ensure faster postings to the rent account.

#### 4.1.4 New Tenant Visit

All new tenants will be visited between 4 – 8 weeks after their date of entry and any difficulties relating to their rent account will be discussed at this time although letters will have been sent out prior to this in cases where there are rent arrears. Where rent arrears are a factor up to 3 visits will take place at different times if required to get access.

#### 4.1.5 Housing Benefit cancellations/reviews/suspensions

Tenants in receipt of Housing Benefit should be notified within 24 hours of us receiving notification that their Housing Benefit has been cancelled, reviewed or suspended. During review periods (now called interventions); tenants who have not returned their review form or have returned insufficient information should be lettered to do so. Where the letters have no effect, the tenant should be visited to explain the consequences of not dealing with Housing Benefit forms. The visit will also be used to establish any support needs a tenant might have.

#### 4.1.6 Liaison Arrangements

Staff members will liaise with all relevant agencies, particularly Housing Benefit. Tenants who have agreed to have their Housing Benefit paid direct to the Association should sign a mandate permitting the release of information in relation to their housing benefit claim.

Association staff at managerial and/or operational level should have regular meetings with the Housing Benefit staff to discuss strategic and operational issues and, if relevant, individual claims.

The Association will liaise with welfare benefits agencies and will develop arrangements for its tenants to access these agencies.

The Association will liaise with debt counselling agencies and will develop arrangements for its tenants to be referred to them.

#### 4.1.7 Information to Tenants

Tenants will be provided upon request with accurate and up-to-date information about their rent account, usually in the form of a statement.

The Association will send annual rent statements to tenants not on Housing Benefit.

#### 4.1.8 Support services

During any contact regarding arrears we will ask a question regarding support needs. If any support needs are highlighted we undertake, where possible, to provide support or to refer the tenant to an appropriate partner agency. To facilitate this we work in partnership with a number of local agencies, which are listed in appendix 1 at the end of this policy.

### **4.2 Control and Recovery**

#### 4.2.1 Response to arrears and contact with tenants

The Association will respond within 2 weeks to a missed payment.

The Association will monitor all rent accounts at least fortnightly and send letters to tenants in arrears detailing the level of arrears, urging contact, providing telephone numbers of money advice centres, providing telephone number of the Council re Housing Benefit applications, stating homelessness can be avoided.

The Association will attempt to interview all tenants who have a total of two months rent arrears. Up to three visits at different times will take place to a tenant who has had a legal notice served on them to ensure face to face contact has been achieved. Interviews will ascertain income, outgoings, need of support, need for money advice, cycle of wages, payment arrangement. Tenants should be clear that if they continue non payment or partial payment they are at risk of losing their home.

All support issues will be dealt with sensitively and in confidence. Where possible staff will provide direct support at interview, e.g. balancing income and outgoings, assist in completing a Housing Benefit application etc. Where direct support is not possible authorisation will be sought to refer the tenant to the appropriate agency, e.g. Addiction or debt counselling. We have a partnership working agreement with the Clydebank Independent Resource Centre, who offer a specialised welfare rights and income maximisation service which is fully accessible to our tenants via two weekly office surgeries.

All arrangements made will be confirmed in writing stating the amount of arrears, the agreed repayment and the consequences of missing payments. The letter should also confirm addresses of debt counselling agencies. A Notice of Proceedings will normally be served on a tenant where arrears of 2 months or more are due and no payment agreement is in place and/or where an arrangement has been broken. NOP's can be served on arrears less than two months where a payment agreement has been persistently broken or where the tenant, despite efforts, is making no attempt to address their rent arrears.

#### 4.2.2 Payment Arrangements

Realistic repayment arrangements should be made taking into account all factors of the tenant's circumstances which could affect the tenant's ability to repay the debt within a given time. Too high an arrangement is likely to lead to arrears continuing or worsening, too low an arrangement gives the tenant the wrong impression that arrears are acceptable to the Association.

If a tenant is on Income Support, the tenant should be encouraged to sign a Direct Payment mandate which allows weekly deductions from their benefit. Where a tenant refuses to sign this, a direct application can be made by the Housing Association (direct payments are only possible for arrears of greater than 2 months' rent).

Payment arrangements should generally tie in with the tenant's wage or salary cycle until their account is clear. At this stage the tenant should be given the option of paying monthly in advance or fitting in with their wage cycle, as long as they are a minimum of one month in advance as required in their missive.

#### 4.2.3 Recording

Accurate records should be kept on the housing management computer system of letters sent; house visits, arrangements made and HB eligibility to allow staff to monitor each rent account. Records of all house visits and outcomes will also be recorded.

#### 4.2.4 Joint Tenants

Joint tenants should be made aware that they have joint responsibility for rent arrears repayment. They should also be clear that the Association will recover arrears from either tenant if one is not complying with payment.

#### 4.2.5 Liaison Arrangements

Association staff should not only liaise with the Council about Housing Benefit but should also be aware of the local agencies who deal with debt management and welfare benefits advice. Staff should be aware of how to refer a tenant to these agencies. Staff should be aware of any delays in the appointment systems of these agencies at the time of referral so that they can advise the tenant.

#### 4.2.6 Benefits

##### 4.2.6.1 Housing Benefit Overpayments

We will agree with the Council and where possible individual tenants the method of paying back overpayments.

##### 4.2.6.2 Maximising uptake of benefits

The Association will develop links with other organisations to promote the availability of benefits to tenants. The Association will use its newsletters as a forum for providing information. Referral will also be made to our partners at the Clydebank Independent Resource Centre who can offer specialised money advice, income maximisation and welfare rights services. We also hold two weekly surgeries in our own office for this purpose.

##### 4.2.7 Broken Arrangements / Frequent Non Payment

In cases where the Association has served a Notice of Proceedings on the tenant and the tenant still does not pay or breaks the arrangement, the Association should ask the tenant for voluntary wage deductions. Not all employers will agree to this due to the extra administration involved. The tenant should be aware that this could allow them to avoid court action dependant on how quickly payments can be received. The amount should include the full rent and an agreed amount towards the arrear. This should fit



in with the tenant's wages cycle. The first payment should be capable of being received at this office within 4 weeks of approaching the employer. The employer should be approached within 48 hours of completing the arrears agreement interview.

## **5. Legal Action**

Legal action should always be seen as a last resort. We will at all times attempt to ensure that a tenant can maintain their tenancy and not be made homeless. Other forms of action such as lowering payment arrangements, Direct Payments from benefits and wage arrestment should be pursued before a decision to seek decree for possession is made. Maximum use of referral agencies should also be used.

There may be occasions when all attempts to get a tenant to pay fail. In these instances we will seek and enforce a decree for eviction.

Committee will make decisions on whether to seek decree and on whether to suspend legal action.

Payments made by tenants against whom decree has been granted (known as violent profits) shall not be recognised as rent payments, and will be kept separate from the rent account so as to avoid invalidating the decree. If a decision is made by committee not to use a decree that has been granted, then a condition of the tenant remaining in their home is that they sign a new Scottish Secure Tenancy agreement. This should happen quickly, again to avoid bringing the validity of the decree into question. In effect this brings the original tenancy to an end, and any associated arrears will be pursued as former tenant arrears.

### **5.1 Notice of proceedings (NOP)**

The first stage in legal action will be the service of a Notice of Proceedings. We will adhere to the legal principles in serving an NOP, in particular the criteria listed in law as pre action requirements. These relate to:

- 1) The tenancy agreement
- 2) Information on Housing Benefit and financial assistance
- 3) Information on Debt advice
- 4) Payment agreement opportunities
- 5) Housing Benefit confirmed as due
- 6) Steps taken to pay the arrears
- 7) Sticking to a payment agreement
- 8) Contacting the local authority re housing situation

Where service of an NOP is required, the notice will only be served where all pre action requirements have been assessed and where service of the notice is absolutely necessary. There is no prescribed level of arrears where an NOP can be served, however, as a general rule, NOP's will only be served on

tenants where arrears are increasing and/or a payment agreement has been broken on at least one occasion. Full details of the pre action requirements can be requested from our office.

NOP's will be served on all persons living in the house aged 16 and over.

We will not serve an NOP where:

- An application for Housing Benefit has been lodged and we have indication from West Dunbartonshire Council that HB will be granted or is likely to be granted.
- The tenants state benefit has been cancelled but their HB has not yet been cancelled, i.e. any arrears would be static

A Notice of Proceedings remains valid for a period of 6 months. We may issue a new notice before expiry if the arrears have not been addressed. The new notice would invalidate and replace the original notice. If after 6 months the arrears have not been addressed we may serve a new notice.

## **6. Delegated responsibility**

Staff will deal with rent arrears cases on a day to day basis. Staff will have responsibility for ensuring that appropriate action is taken up to recommending decree for eviction is sought. Committee will make decisions on when decree should be pursued and enforced. To facilitate this, a legal issues report will be presented at each bi-monthly Housing Management & Maintenance Sub-committee (HMMSM). The report will contain a background on the case along with a recommended action from the Housing Manager. Where a case calls in between HMMSM meetings, a telephone poll will be conducted by the Housing Manager who will contact 3 HMMSM members. The telephone poll and outcome will retrospectively be included in the next available legal issues report and presented at the next available meeting. Alternatively the case may be presented at another sub-committee meeting or a full Committee meeting as required.

## **7. Notification to others**

West Dunbartonshire Council Homeless Section will be notified where we are pursuing a decree for eviction in keeping with the Housing (Scotland) Act 2010 section 11 requirements. In some cases it may be appropriate to refer the tenant to WDC at the stage where a legal notice is served, however most tenants will be referred at the stage where we ask for the tenant to be booked into court.

Where court action is instigated against a household with any children (under 18 years old) the Council's Social Services Department will be notified of the action and its potential consequences.

As these actions may prevent homelessness no authorisation mandates are required from tenants.

## **8. Performance Indicators**

We will put in place systems to measure:

- the level of technical and non-technical (current) arrears
- the level of former tenant arrears
- the level of gross arrears (current plus former)
- rent arrears as a percentage of rent receivable
- trends in arrears
- the number of legal notices served
- action taken on tenants with 3 months arrears or more
- the number of court cases suspended
- the number of tenants evicted

## **9. Performance Monitoring**

We will put in place systems to monitor whether we are meeting our targets and consider appropriate action if we are not. A bi-monthly arrears report will be presented to the HMMSC containing the performance indicators as at point 8 above.

## **10. Continuous improvement**

We are committed to continuously improving our performance in relation to rent arrears.

We will benchmark against other organisation's performance.

We will provide staff with training that allows them to carry out their functions.

We will develop a customer focused service by working in partnership with other organisations which can benefit our tenants, for example debt counselling services, WDC Housing Benefit Section, WDC Support Team.

We will issue customer satisfaction questionnaires after any payment agreement interview.

## **11. Confidentiality**

Information contained in reports to Committee will be presented anonymously so that tenant's confidentiality is protected at all times.

## **12. Former Tenant Arrears**

### **12.1 Prevention**

The main way to prevent former tenant arrears from arising is to have effective policies and procedures in relation to current tenant's rent arrears.

We will also ensure that appropriate partnership agreements and liaison arrangements are in place.

We will also ensure that we have in place a suitable Housing Management software system allowing all aspects of the rent account to be monitored by

staff, which provides accurate and up to date information, and which allows streamlined and efficient methods of working and actioning arrears for staff.

We will offer a third party welfare rights, debt counselling and income maximisation service through our partners at the Clydebank Independent Resource Centre.

## 12.2 Recovery

We will attempt to recover former tenant arrears by some or all of the following:

- Writing to the tenant prior to the tenancy end giving the amount due
- By writing to the tenant, or in the case of deceased tenants their executor after the tenancy has ended – within 4 weeks of the end of tenancy date
- Following up with another letter if the first has no effect – within 6 weeks
- Possibly writing to Sheriff Officers to issue a legal letter if no response – within 8 weeks of the end of tenancy date and where the cost is justified.
- Possibly initiate a small claim action if likely to succeed, cost is justified and/or if no response to legal letter – within 10 weeks of the end of tenancy date
- Tracing the tenant – within 8 weeks of leaving property (allows FT to establish themselves at another address). Sheriff Officers will also attempt to get address of employer if requested and cost is justified.
- Wage arrestment possibility – within 4 weeks of final letter if no response (a decree is required to facilitate this)
- We will monitor all active former tenant arrears accounts on at least a two weekly basis.

## 12.3. Monitoring

We will monitor the effectiveness of former tenant debt recovery methods. Committee will receive at least two monthly reports on the level of former tenant arrears outstanding, the likelihood of recovery in each case, and action taken in each case. Legal issues reports will also be made to ensure required approval from committee is received prior to cases calling at court.

#### 12.4. Writing off Debts

Former tenant arrears which are deemed to be irrecoverable will be written off at the end of each financial year. If a former tenant did make an arrangement to repay after they have been written off, this could be recovered as “bad debt recovered”. Although ‘written off’ where information is received that could mean recovering some or all of the debt pursuance will take place for the ‘bad debt’

Arrears will only ever be written off where all reasonable routes of pursuance have been taken. Reasons for write off may include, but are not limited to:

- The debt is uneconomical to collect; i.e. the cost of collection is greater than the value of the debt
- The debt is time barred, where the statute of limitation applies. Generally, this means that if a period of six years has elapsed since the debt was last demanded the debt cannot be enforced by legal action.
- The debtor cannot be found or communicated with despite all reasonable attempts to trace the debtor.
- The debtor is deceased and there is no likely settlement from the estate or next of kin.
- Hardship, where permitted, on the grounds that recovery of the debt is likely to cause the debtor serious financial difficulty.
- Insolvency where the organisation or person has gone into bankruptcy and there are no assets to claim against.

#### 13. Complaints Procedure

Any applicant who has a complaint about the way they have been dealt with can ask for a copy of the Association’s Complaints procedure which will explain the steps they should take.

#### 14. Policy Review

The arrears policy will be reviewed every 3 years or sooner if linked legislation or guidance changes.

## **Appendix 1 – Support Services**

Clydebank Independent Resource Centre – for welfare rights and income maximisation

West Dunbartonshire Council Social Work Department – family and social support services

DAKKA – Alcohol and drug addiction services

West Dunbartonshire Council Money Advice service – financial advice

Citizens Advice Bureau – wide ranging legal and advice services

Y-Sort It – support to young persons on maintaining their home

West Dunbartonshire Council Homeless Services – tenancy sustainment support and advice

**Appendix 2 – Equalities Impact Assessment**

**Clydebank Housing Association  
Equality Impact Assessment Tool**



Name of the <b>policy / proposal</b> to be assessed	Arrears Policy	Is this a <b>new policy / proposal or a revision?</b>	Revision
Person(s) responsible for the assessment	Joe Farrell (Housing Manager)		
1. Briefly describe the <b>aims, objectives and purpose</b> of the policy / proposal	To outline how we manage arrears for current and former tenants. To offer appropriate preventative support for tenants and positively impact tenancy sustainment. To manage debt and bad debts and reduce the impact on any future rent increase and budget. To promote a payment culture.		
2. <b>Who is intended to benefit</b> from the policy / proposal? (e.g. applicants, tenants, staff, contractors)	Tenants		
3. What <b>outcomes</b> are <b>wanted</b> from this policy / proposal ? (e.g. the benefits to customers)	Tenants in arrears – rent accounts will be managed in a uniform and fair manner. Support services to enable tenancy sustainment are available with mechanisms for tenants to tap into. A clear guide as to what can happen should rent not be paid on time.		

4. Which **protected characteristics** could be **affected** by the proposal? (*tick all that apply*)

- Minority Ethnic   
  Gender   
  Disability   
  Sexual Orientation   
  Age   
  Religion   
  Transgender /Transsexual   
  Marriage /Civil Partnership   
  Pregnancy /Maternity

5. If the policy / proposal is not relevant to any of the **protected characteristics** listed in part 4, state why and end the process here.

All tenants in arrears will be dealt with the same way. The policy ethos is one of prevention through support to all.

	Positive impact(s)	Negative impact(s)
6. Describe the <b>likely positive or negative impact(s)</b> the policy / proposal could have on the groups identified in part 4	None	None
7. What <b>actions</b> are <b>required</b> to address the impacts arising from this assessment? ( <i>This might include; collecting additional data, putting monitoring in place, specific actions to mitigate negative impacts</i> ).	No actions are required.	

Signed: Joe Farrell

(Job title): Housing Manager

Date the Equality Impact Assessment was completed: 24 October 2014

***Please attach the completed document as an appendix to your policy / proposal report***



## **Bibliography**

Housing (Scotland) Act 2001 (Revised 2010)

Raising Standards in Housing – Rent Arrears:  
Prevention, Management and Recovery

SFHA February 2002

Performance Standards:

SFHA/Scottish Government/COSLA  
November 2001

Housing Management Standards Manual:

CIH Nov 2001

Managing Rent Arrears Getting the balance right:

Accounts Commission  
Scottish Homes June 2000

Dealing with Domestic Abuse Guidance Booklet 10:

SFHA March 1999

Eviction and Rent Arrears:

Jonathan Mitchell 2000

Welfare Reform Bill Guidance Note

SFHA Feb 2011

2010 Disability & Equality Act