



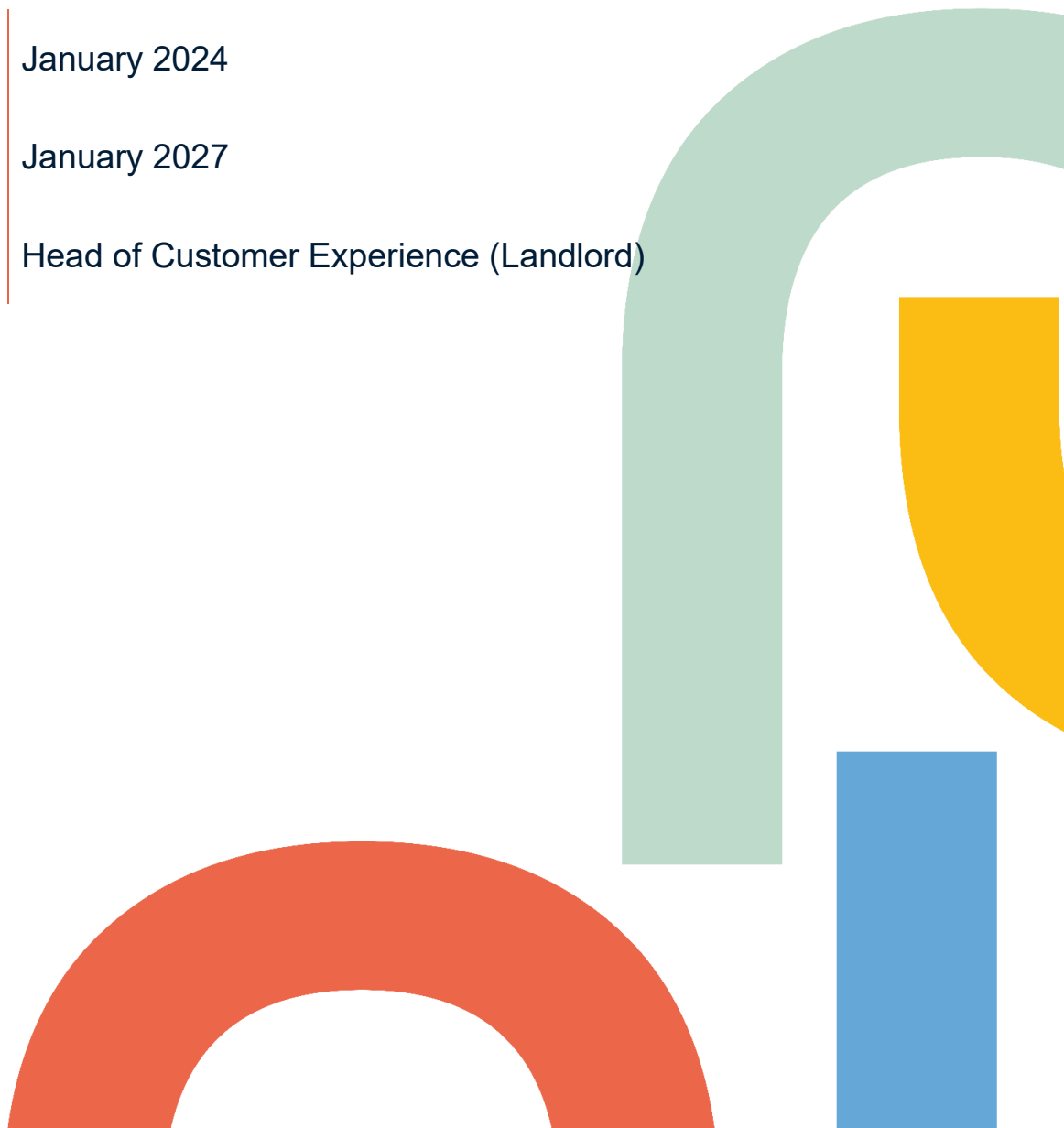
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CS016

Arrears Management

Policy

Last Review	January 2024
Next Review	January 2027
Lead Officer	Head of Customer Experience (Landlord)



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1. Introduction

The Arrears Management Policy is amongst the most critical working documents for the efficient and effective delivery of housing management services within Trust. It has been developed to take account of legislative, regulatory and good practice requirements in minimising arrears.

The Arrears Management Policy aims to ensure that Trust provides an effective housing operations service that complies with its landlord obligations in respect of arrears management.

By effectively managing charges and their collection Trust also seeks to support its tenants to avoid rent arrears and the potential risk of excess debt and tenancy termination via eviction.

This policy sets out how Trust will apply common principles and take a clear and consistent approach to the management of arrears and the collection of income for all services.

1.1. Aims & Objectives

The Arrears Management Policy aims to meet all legislative and regulatory requirements as well as minimising the level of arrears in a sensitive but effective manner.

The specific objectives of the Arrears Management Policy are to achieve the following:

To maximise the rental income received through:

- efficient collection of all rent, service and other charges and the effective management of arrears;
- taking appropriate action in accordance with the level of arrears including the provision of opportunities to make realistic arrangements for the repayment of arrears;
- provide clear and accessible information and communication advice to tenants in order to prevent arrears and legal action occurring, and;
- encouraging a positive payment culture.

Minimise the level of arrears through:

- adopting a firm but fair approach to arrears recovery;
- a pro-active approach to the early identification of rent arrears;
- taking a staged approach in which action is targeted and recorded;
- assisting tenants to manage debt by offering flexible and realistic payment plans; and
- offering income maximisation assistance via our Benefits Advice Service.

1.2. Legislative Framework and Compliance

The legislative requirements include the following:

- Scottish Secure Tenancy and Scottish Short Secure Tenancy – these tenancy agreements contain specific conditions in relation to the payment of rent and other tenancy related charges. Non-payment of these charges represents a breach of the tenancy conditions involved.
- Housing (Scotland) Act 2001 - the policy adheres to the provisions of the Housing (Scotland) Act 2001, including the guidance in relation to the recovery of possession of a tenancy when a tenant has breached the conditions of their tenancy agreement by accruing rent arrears.
- Homelessness (Scotland) Act 2003 - THA will comply with the terms of Section 11 of the Homelessness (Scotland) Act 2003 by giving the local authorities in the areas in which it operates early notice of households at risk of homelessness due to eviction. In compliance with the legislation, notice will be given when raising proceedings for possession or the service of certain other notices as specified in the Act.
- Housing (Scotland) Act 2010 – The policy has been drafted to take account of the arrears and eviction related provisions introduced through Section 14 of the 2010 Act. These include the provision of clear information to tenants on their tenancy and arrears situation; direct provision of advice and assistance; provision of information about other sources of information and advice; agreeing reasonable repayment plans; and revised arrangements for when a Notice of Proceedings can be served.
- The European Convention on Human Rights Act 1998 Has an effect on housing management functions, including Recovery of Possession Proceedings.
- The Bankruptcy and Diligence (Scotland) Act 2007 Sets out the legal framework for recovery of debt, including rent arrears

2. Arrears Prevention

The prevention of rent arrears is fundamental to good rent account management. Promoting good payment practices amongst tenants and helping to stop arrears from accruing is key to Trust's policy aims of maximising rental income and sustaining tenancies.

The following approaches form part of the Policy for prevention:

- Advice to new tenants – At pre-tenancy or tenancy commencement, tenants will be provided with clear and detailed information on rent charges for the property which they have accepted.
- Promote a positive payment culture – By highlighting to tenants the link between rental income and Trust's ability to deliver a high-quality service. By ensuring tenants are aware of the possible consequences of non-payment in relation to their tenancy. The Current Arrears Management Policy is available on request to any tenant who wishes a copy.
- Initial part period payment- by ensuring new tenants pay a part period rent amount to cover the period from their tenancy start date to the end of the billing period increases the likelihood of the tenancy being sustained and minimises the risk of early arrears for Trust.

- Direct Debit – we will promote as our preferred method of payment.
- Housing benefit/Universal Credit – THA has established good working relationships with the housing benefit departments within the Local Authorities where we operate and the Department of Working Pensions. This ensures quick and satisfactory resolution to any difficulties experienced by either a tenant or Trust. Trust will endeavour to establish effective working relationships with all relevant agencies to allow continued support and assistance to tenants.
- Benefits advice – Trust has a Benefits Advice Service which can offer specialist advice and support to ensure benefit entitlement maximisation. This service is available to prospective as well as current tenants.
- Independent financial advice – In addition to the services provided by the Benefits Advice Service, Trust will provide information on local welfare advice agencies. Tenants will be encouraged to contact these agencies as a source of independent financial advice.

3. Arrears Recovery

Arrears recovery will be based on a staged process of escalation of actions, up to and including repossession for non-payment of rent. The separate stages will be based on timescales that are achievable. Emphasis will be placed on intensive management and personal contact whilst arrears are at a relatively low level, to prevent the escalation of arrears. However, procedures will also include clearly defined stages and circumstances at which legal action will be pursued, with a view to minimising the overall timescale required to successfully complete recovery action, if this is necessary.

We will explain concisely the action that we are taking against tenants to recover rent arrears, stressing at all times the serious implications that failing to pay rent may have on the tenancy.

We will provide debt counselling and/or specialist income maximisation advice to our tenants who accrue rent arrears and may also direct them to other agencies who may be able to assist them further, for example where a tenant has multiple debts.

We will arrange and monitor repayment plans closely in accordance with our rent arrears procedure to prevent arrears from increasing. The repayment plan will be formally agreed in writing with the tenant. If the tenant fails to keep to the repayment plan, then we will pursue the tenant for the missing payments. This may take the form of letters, telephone calls, home visits, etc.

4. Legal Action

Legal action is the last stage in the rent arrears process and will be instructed where tenants are not complying with arrangements to reduce their arrears and all reasonable arrears recovery efforts have been exhausted. Full consideration will be given to the background to each individual case before instructing any legal action.

The first stage of the legal process will be to issue an Notice of Proceedings (NOP). Before the issuing of an NOP, staff will make reasonable enquiries to establish, in so

far as is reasonably practical, whether there are any qualifying occupiers in the house. Any qualifying occupiers will also receive a copy of the NOP.

We will take all possible steps to ensure good lines of communication with tenants are maintained, particularly where an Eviction Decree is likely to be obtained and enforced, to ensure tenants are fully aware of the situation. They will also aim to ensure that they continue to explore means of avoiding eviction if this is at all possible, and if this appears impossible, that tenants are prepared for the eviction and can explore any re-housing opportunities which may be available. Trust will also take all steps possible to actively involve other agencies that may be able to assist in this process including local authority Homelessness Services.

In cases where an Eviction Decree is granted Trust will implement the arrears related provisions of the Housing (Scotland) Act 2010, effective 2012. The tenancy will therefore continue and will only be terminated on execution of the warrant for eviction on the date set by the Sheriff Officers.

In order to protect Trust from unnecessary rent loss, authority to approve evictions will be delegated to the Board. Information on approved evictions will be reported to the governing body.

5. Former Tenant Arrears

All tenants, when terminating their tenancy, are encouraged to pay any outstanding arrears of rent and will be advised of the implications involved if arrears are not paid in full. Trust will take all practical steps it can in preventing these arrears. This will include pursuing tenants for outstanding arrears during their period of termination of tenancy; endeavouring to secure information on forwarding addresses in order to facilitate communication with former tenants; and concentrating resources on pursuance particularly in the weeks following a tenancy termination, when the arrear is still relatively 'fresh'.

Where a former tenant arrear has accrued this will be managed through a process of regular monitoring and appropriate action being taken. The former tenants involved will be encouraged to agree a repayment plan that is affordable and sustainable. Trust may employ the services of an external debt recovery agency where our own pursuance activities have proved unsuccessful.

Legal action to recover the arrears will be taken in cases where an assessment of the former tenant's financial circumstances indicates that such action would be appropriate. Where the arrears are in respect of a deceased tenant, action will be limited to contacting the next of kin or executor to claim against the estate.

6. Write Offs

A current tenant arrear will not usually be written off. This can happen where a tenant is sequestered. Arrears prior to sequestration are normally appropriate for write off.

When a tenant enters into a Trust Deed any tenancy debt is affected only if that Trust Deed proceeds to become protected. A communication should be received by a trustee. If protected, arrears prior to that date are not recoverable by the Association and will normally be appropriate for write off.

There may be exceptional circumstances whereby current tenant arrears are to be written off, however this must be authorised by the Head of Customer Experience.

All sums in excess of £2,000 to be written-off should be submitted to the Board for approval. Sums less than £2,000 can be authorised for write-off as detailed in the THA delegated authority schedule. The Board will be notified annually of the value of all current tenant arrears written off via delegated authority.

7. Credit Balances

Credit balances can occur on the rent accounts of both existing and former tenants in particular circumstances. These balances will be managed through a process of regular monitoring with refunds being made to current tenants where requested and to former tenants where possible. However, where there are outstanding recoverable charges (such as charges for repairs, legal fees, etc.), any credit balance will be off set against this before a refund is made. Where there is no prospect of returning the credit balances these will be dealt with as a credit balance write off in accordance with Trust's financial regulations on irrecoverable debt.

8. Performance Monitoring

Trust will monitor performance on arrears and the recovery of charges using both regulatory and local performance indicators as follows:

Social Housing Charter Indicators

- Rent collected as a % of the rent due
- Gross rent arrears as % of the rent due
- % of initiated court actions resulting in eviction

Local Indicators

- The total amount of current tenant arrears and as a % of rent due
- The total amount of former tenant arrears and as a % of rent due
- Number of notices for arrears served
- Number of Court actions for arrears initiated
- Number of tenants evicted due to rent arrears

9. Outcomes & Standards

9.1. Scottish Social Housing Charter Outcomes & Standards

- Outcome 2: Communication
- Outcome 7,8 & 9: Housing Options

- Outcome 11: Tenancy Sustainment
- Outcome 14: Value for Money

9.2. Regulatory Standards of Governance & Financial Management

- Standard 3

10. Data Protection

We will comply with the provisions of the Data Protection Act 2018, which gives individuals the right to see and receive a copy of any personal information that is held about them by the Association and to have any inaccuracies corrected.

11. Anti-Bribery

The Association is committed to the highest standards of ethical conduct and integrity in all its activities and, to ensure compliance with the Bribery Act 2010, it has introduced an Anti-Bribery policy and procedures. These must be adhered to by all employees, Board Members and associated persons or organisations acting for or on behalf of Trust when undertaking any actions referred to in this policy.

12. Statement Equality, Diversity & Inclusion (EDI)

As leaders of EDI, the Association aims to promote equality and diversity and operate equal opportunities policies which inform all aspects of its business. It will ensure that it adheres to the Equality Act 2010 by being committed to equal and fair treatment for all and opposed to any form of unlawful discrimination. As such, in considering this policy, no one will be treated differently or less favourably than others because of any of the protected characteristics as listed in the Equality Act 2010:

- disability;
- sex;
- gender reassignment;
- pregnancy and maternity;
- race;
- sexual orientation;
- religion or belief;
- marriage and civil partnership;
- age;

or because of any other condition or characteristic which could place someone at a disadvantage were it to be taken into account, unless this can be objectively justified in terms of the legislation.

Trust will make reasonable adjustments for disabled people where necessary and possible to do so and will use Happy to Translate tools and procedures to help overcome a language barrier.

13. Policy Review

This policy will be reviewed on a three-yearly basis. The purpose of the review is to assess the policy's effectiveness and adhering to current legislation and good practice and identify any changes which may be required.

14. Document References

In all of the Association's official documents, where references are made to specific job titles, roles, groups or committees, such references shall be deemed to include any changes or amendments to these job titles, roles, groups or committees resulting from any restructuring or organisational changes made within the Association (or, where this policy also applies to another member of the Trust group, made within that group member) between policy reviews.