

**Former Tenant Arrears Management Policy**

1***. Introduction***

1.1 Highland Council’s policy for the management of current rent arrears is designed to maximise the recovery of rent arrears during the course of a tenancy, and to avoid situations where arrears or other tenancy related debt such as court expenses remain at the end of a tenancy.

1.2 However, it is inevitable that there will be instances where arrears and court expenses are not recovered before the end of a tenancy. Any rent arrears which exist on the date the tenancy ends are then called Former Tenant Arrears and this debt is held in a separate account.

1.3 Tenants and non-tenants can rent garages, garage sites and land, and any arrears existing at the end of these tenancies are also held in separate accounts.

1.4 Court expenses remain in a separate account until paid in full and can be owed by both current and former tenants.

1.5 This policy describes how we will manage these debts in order to maximise income and meet our statutory performance indicator targets.

***2. Scope of the Policy***

2.1 This policy describes the activities and responsibilities involved in:

* The pursuit of former tenant arrears, for all secure and temporary tenancies;
* The pursuit of former tenant arrears for garages, garage sites and land from both tenants and non-tenants;
* The pursuit of court expenses;
* Performance management.

***3. Equal Opportunities***

3.1 The Council will act in a manner to encourage equal opportunities and will aim to ensure that information on the policy is accessible to all, and to implement the it in a manner consistent with equal opportunities.

3.2 An Equality Impact Initial Assessment has been carried out on the policy to ensure that no group is disadvantaged by it, and follow up reviews will be carried out every three years.

***4. The Legal & Regulatory Framework***

4.1 The Housing (Scotland) Act 2001 sets out the obligations for all landlords and tenants entering into a Scottish Secure Tenancy agreement or a Short Scottish Secure Tenancy agreement. Our tenancy agreement is a contract between our tenants and us. It clearly states the responsibility of tenants to pay their rent weekly in advance, and states that as a landlord, we will use all legal options open to us to recover rent arrears owed by tenants.

4.2 Our Rent Arrears Policy states that if tenants do not pay rent and deal with any arrears, we will take them to court - they then become liable for any expense this entails.

4.3 We also rent garages, garage sites and land to tenants and non-tenants – people renting these sign leases agreeing to pay rent.

4.4 The Housing (Scotland) Act 2001 makes provision for a single regulatory framework for local authorities and Registered Social Landlords (RSL’s). There are a series of standards which are monitored by the Scottish Housing Regulator. Highland Council will manage former tenant arrears in a way that meets this standard. We are expected to demonstrate that we have “an appropriate and transparent framework for recovering and writing off former tenant arrears.” Since 2006/2007 we have reported regularly on how well we manage former tenant arrears under the following headings:

* The proportion of those tenants giving up their tenancy during the year that were in rent arrears;
* The average debt owed by tenants leaving in arrears, as a proportion of the average weekly rent;
* The proportion of arrears owed by former tenants that was either written off or collected during the year.

***5. Aims and Objectives***

5.1 The aim of this policy is to ensure that all former tenant arrears for residential properties, garages, garage sites and land, along with court expenses, are pursued effectively or written off when appropriate.

***6. Former Tenant Arrears***

6.1 Prior to the tenancy ending

* When a tenant gives notice on their tenancy, a letter will be sent acknowledging this and giving details of arrears and other tenancy related debt still outstanding;
* In cases where notice has been received on a tenancy and where arrears or other tenancy related debt exists, we will make early contact by telephone or visit with all out-going tenants to ensure that they are fully aware of any arrears and other tenancy related debt and the implications of not clearing them prior to the tenancy ending. A forwarding address will be obtained. Former tenants will be clearly informed that failure to repay the outstanding amounts may be taken into account, should they apply for a future tenancy with either Highland Council or one of our partner housing associations through the Highland Housing Register;
* If the outgoing tenant is not able to clear the arrears or other tenancy related debt in full prior to the tenancy end date, they will be sent a reminder letter once the tenancy ends. If the debt is not cleared within 14 days of this letter, the former tenant debt will be passed to the Sheriff Officer for collection as per the Council’s debt recovery process.

6.2 After the tenancy ends

Once the tenancy has ended, the following actions will be taken in pursuit of any tenancy related debt outstanding:

* We will contact the Finance Service and check if any housing benefit payment is due to be posted to the rent account or that any housing benefit overpayment has been dealt with;
* Any overpayment of Discretionary Housing Payment will be identified and refunded to our Finance Service;
* If a tenant is in receipt of the housing element of Universal Credit, it will be their responsibility to inform DWP through their on-line journal of the date their tenancy ended. Any overpayment of Universal Credit Housing Element posted to the rent account due to the tenant not doing so will be refunded on request to DWP;
* Any request for a refund of an overpayment of Third Party Deduction from Benefit by DWP will be processed once received from DWP;
* **These adjustments could ultimately result in an arrears balance some weeks after the tenancy end date. Any arrears balance resulting from such refunds/adjustments will be pursued in the usual way;**
* We will check if there is any other outstanding debt such as court expenses, garage arrears, garage site arrears or land arrears;
* If the individual debt is below £50 or the former tenant has died or has a severe mental health or physical disability then we will consider not pursuing the debt if it is not economically viable and write off approval will be sought at once.
* Where there is a forwarding address, one reminder letter will be sent. If the debt remains outstanding, the debt will be passed to the Sheriff Officer for collection as per the Council’s debt recovery process.

6.3 Where a forwarding address is not known, appropriate enquiries will be made to establish former tenants’ whereabouts. Every reasonable effort will be made to try to trace tenants who have left without providing a forwarding address within 4 weeks of the end of the tenancy. All attempts to trace the former tenant will be recorded on the Housing Information System.

6.4 If contact is not established and no forwarding address obtained, permission to write off the amount within the Housing System will be sought after 12 months.

6.5 Highland Council will not write debts off without taking appropriate steps to recover them. However, there are some circumstances where this will be appropriate:

* Where it is not economical to pursue the debt;
* Where the former tenant is deceased and there is no estate;
* Where no forwarding address has been obtained after 12 months;
* One partner has left the tenancy due to domestic violence – the victim will not be pursued.

***7. Joint tenancies***

7.1 Where a tenancy is a joint tenancy, all joint tenants are equally responsible for any arrears or other debt left at the end of a tenancy, and all joint tenants will be pursued.

7.2 Where a joint tenancy exists and one of the tenants gives up their part of the tenancy, the tenant who leaves will remain equally responsible for any debt up to the date their tenancy ends.

***8. Former tenants with arrears seeking re-housing***

8.1 Highland Council will hold details of all outstanding former tenancy arrears and other tenancy related debt in perpetuity regardless of whether they have been written off. Former tenants with outstanding arrears may apply to be housed by Highland Council or a housing association partner through the Highland Housing Register but their outstanding arrears or any other tenancy related debt will be taken into account.

8.2 Our Allocation Policy states that, in accordance with the Housing (Scotland) Act 2001 the following factors will not be taken into account when an allocation is made:

Any Former Tenant debt which is outstanding where:

* the amount outstanding is not more than 1/12th of the annual amount payable (or which was payable) by the applicant to the landlord in respect of the tenancy; or
* the applicant has agreed arrangements with the landlord for paying the outstanding liability; has made payments in accordance with that arrangement for at least 3 months; and is continuing to make such payments.

***9. Court expenses***

9.1 Court expenses are incurred when we take a tenant to court seeking a decree for payment of arrears, or to seek eviction.

9.2 When the Housing & Property Service is notified about court expenses, an account will be created in the Housing Information System. Staff will raise an invoice to the tenant covering arrears and court expenses, unless any of the exemptions described in this policy apply. This will then be pursued as appropriate by the Finance Service Income and Debt Recovery Team. Any decree relevant to an invoice raised will be passed immediately to the Income and Debt Recovery Team for enforcement action on request.

***10. Staff Training and Development***

10.1 All Highland Council staff involved in the control of former tenant arrears will be adequately trained in the relevant policies and procedures. A procedure note will provide detailed guidance on how the policy should be implemented.

***11. Performance Management***

11.1 Highland Council will monitor its performance in relation to former tenant arrears. Highland Council will monitor;

* The proportion of tenants giving up their tenancy during the year that were in rent arrears;
* The average debt owed by tenants leaving in arrears as a proportion of the average weekly rent;
* The proportion of arrears owed by former tenants that was either written off or collected;
* The proportion of arrears owed by former tenants that was written off;
* The proportion of arrears owed by former tenants that was collected during the period Reports on these performance indicators will be presented to Committee quarterly

***12. Policy Review***

12.1 This policy will be reviewed every three years.

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| Author Shirley Mackenzie, Housing Policy Officer |
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