

1. The Principles and Objectives of the Rent Arrears Policy

1.1 *Principles*

1.1.1 The Council's Rent Arrears Policy is influenced by the following principles which will underpin the Council's approach to the management of rent arrears:

1.1.2 **Consistency** - the Council will apply the Rent Arrears Policy in a fair and consistent manner so that tenants in arrears are treated in a similar manner to achieve similar outcomes across Highland;

1.1.3 **Openness** - the Council will provide explanatory leaflets on the Rent Arrears Policy and information on the operation of the Rent Arrears Policy (whilst maintaining individual confidentiality);

1.1.4 **Legality** - the Council will ensure that its Rent Arrears Policy reflects the legal framework and best practice;

1.1.5 **Responsiveness** - the Council seeks to have a policy which is capable of responding to a wide range of complex individual needs and circumstances;

1.1.6 **Equal Opportunities** -

- The Council will act in a manner to encourage equal opportunities and will aim to ensure that information on the Rent Arrears Policy is accessible to all, and to implement the Rent Arrears Policy in a manner consistent with equal opportunities
- An Equality Impact Assessment will be carried out on this policy to ensure that no group is disadvantaged by it, and follow up reviews will be carried out every two years.

1.2 *Objectives*

1.2.1 To maximise rental income by minimising the level of arrears and the number of tenants in arrears, whilst still being sympathetic to the individual needs of tenants. We will work with the Finance Service and the Department of Work and Pensions to maximise benefit up-take throughout Highland.

1.2.2 To ensure all new tenants are given information about their rent at the start of their tenancy, including the amount, the importance of making regular payments or claiming Housing Benefit if appropriate, and what methods they can use to pay their rent;

1.2.3 To ensure **all** tenants remain aware of their responsibility to pay their rent on time and the potential consequences of non payment;

1.2.4 To ensure that early action is taken when arrears accrue, including:

- Sending a first reminder letter after the first missed payment

- Ensuring that all tenants are personally contacted as early as possible after falling into arrears to minimise debt and prevent the possible loss of their home
 - Ensuring that all tenants have access to appropriate welfare benefit advice and debt counselling services;
- 1.2.5 To ensure that we use all legal options open to us in the recovery of arrears, up to and including eviction.
- 1.2.6 To ensure we use all appropriate methods of communication open to us when contacting tenants in arrears, including personal visits, letters, telephone calls and appropriate use of e-mail and text messages.

2. The Arrears Policy

2.1 *Prevention of Arrears*

- 2.1.1 Measures to prevent arrears will be taken from the very start of the tenancy. The establishment of a good relationship between tenant and landlord at this early stage cannot be stressed too strongly. If early action to prevent and contain arrears is not taken, the landlord often has to resort to legal action which results in extra expense to the tenant and the landlord, as well as the potential personal cost to the tenant because of the stress of debt.
- 2.1.2 Preventative measures to be taken will include a pre-tenancy interview with each new tenant to ensure they know how much rent they have to pay, what payment methods they can use and to emphasise the importance of paying rent and establishing any entitlement to benefits. This interview will take place immediately prior to the lease being signed. The interview will also cover other aspects of the tenancy agreement. Where appropriate, the first rent payment will be collected or housing benefit advice will be given and a claim form will be completed for submission. All new tenants will be given information on how to get further advice on benefits as well as information on debt counselling and money advice from appropriate agencies.
- 2.1.3 Wherever possible, and particularly where tenants are considered vulnerable or at risk of arrears, follow up contact will be made to all new tenants within four weeks of the start of their tenancy to ensure any problems with rent payment methods or with housing benefit claims are identified and resolved. This contact may be by personal visit or by telephone.
- 2.1.4 A note will be made of all tenants who may require alternative methods of communication (for instance, elderly tenants, tenants with literacy issues and those whose first language is not English). This will allow communication in an appropriate form should arrears arise later.
- 2.1.5 To ensure that up to date and accurate information on the amount outstanding on the rent account is available to the tenant, a quarterly statement will be issued and

all tenants may request a rent account balance from any Housing Office, Service Point or the Highland Council Service Centre at any time as required.

- 2.1.6 All correspondence regarding arrears will be written in plain English and will draw attention to the availability of advice and housing benefit.
- 2.1.7 The uptake of housing benefit (and other benefits) will be reviewed annually to ensure that all tenants with an entitlement to housing benefit are encouraged to claim. Appropriate action will be taken to improve benefit uptake, e.g. targeted take up campaigns
- 2.1.8 Right to Buy applications will be refused until the arrears have been cleared.

2.2 Management of Arrears

- 2.2.1 Once arrears have arisen prompt action will be taken ensure that the arrears do not increase. Our priority will be to make sure that current rent is paid, and then ensure that the arrears are recovered.
- 2.2.2 A First Reminder letter will be sent out as soon as a payment is missed.
- 2.2.3 If payment is not made to the account, a Second Reminder letter will be sent a week after the first.
- 2.2.4 If no progress is made in recovering arrears or housing staff are unable to establish contact with the tenant, then after the 2nd Reminder letter a “Notice of Proceedings for Recovery of Possession” will be issued. However, every reasonable effort will be made to contact all tenants personally and reach an agreement prior to the Notice being issued - either for full repayment of the debt or repayment by instalment. If full payment is not made at this stage, or there is no response to effort to contact the tenant arrears action must continue and the Notice will be served.
- 2.2.5 When an agreement is reached to repay arrears in instalments, the repayment amount will be a mutually agreed and realistic instalment based on a structured calculation. The repayment amount will be agreed with the tenant and confirmed in writing, with the emphasis on realistic repayment amounts paid regularly over an agreed period. Arrangements will be regularly monitored and if they are broken, contact will be made with the tenant to find out why. Appropriate advice and assistance will again be given and a new arrangement agreed. If arrangements are continually broken, and as a result the arrears are not being reduced, a decision will be made to progress arrears actions up to and including eviction.
- 2.2.6 During this contact, staff will encourage tenants in arrears to seek independent advice and information from appropriate organisations to ensure that they are receiving all their entitlement to housing and other welfare benefits.
- 2.2.7 In accordance with the Housing (Scotland) Act 2001 when we serve a “Notice of Proceedings for Possession”, we will also serve a copy of this on all

'Qualifying Occupiers' in the house and they will have the right to have a part in any court proceedings which follow. Anyone aged 16 or over living in the house is a 'Qualifying Occupier'.

- 2.2.8 Wherever possible, we will make use of "rent direct" payments for tenants in arrears who are in receipt of Income Support.
- 2.2.9 Housing staff will discuss with the tenant the involvement of other agencies and charitable organisations that may be able to assist the tenant and make appropriate referrals where the tenant agrees to this.
- 2.2.10 Housing staff will notify Social Work of any cases where it is felt that Social Work involvement is required, and work to the agreed Housing and Social Work Good Practice Guidelines for Actions on Tenancy Matters.
- 2.2.11 If the early action outlined above has not resulted in a reduction of arrears, consideration will be given to the use of other management actions to encourage repayment of arrears. Management actions may include the following as part of the allocations policy:
- Where a tenant is seeking a transfer and has arrears of more than 1/12th of the annual rent due and no reasonable arrangement has been agreed and maintained for three months or if the repayments are not continuing, no allocation will normally be made.
 - Mutual exchange requests may be refused if any party to the exchange is in arrears and no reasonable arrangement has been agreed and maintained for three months or if the repayments are not continuing.
 - Where the tenant also rents a garage or garage site, consideration will be given to terminating the garage or garage site let.
- 2.2.12 Legal action will be undertaken when these steps have not resulted in a reduction in arrears, including cases where arrangements to pay arrears in instalments are frequently broken. Where a case has been referred to Social Work under the terms of the Housing and Social Work Good Practice Guidelines for Actions on Tenancy Matters, feedback will be obtained from them before the decision to proceed with legal action is made.
- 2.2.13 After the "Notice" has been issued there is a period of 28 days before it becomes effective. It is then effective for 6 months during which time the authority can raise an action in the Sheriff Court for either repayment of the debt or repossession of the property. In general an action for recovery of possession and/or repayment of arrears will be sought, with a decree for payment by weekly or fortnightly instalments being the preferred outcome. However, as soon as an instalment arrangement imposed by a decree is broken, and the decree includes recovery of possession, repossession will be sought immediately. Tenants will be notified by letter as soon as the decision is made to raise an action. Information on the implications to the tenant, such as cost of court expenses, and the possible loss of their home will be included in this letter.

- 2.2.14 We will use all legal options open to us in the collection of arrears, such as arrestment of wages or bank accounts.
- 2.2.15 However, no case will proceed to Court without every reasonable effort being made to interview the tenant(s). This will include one letter asking the tenant for a Pre-court Interview and one visit to the house where the tenant knows in advance when the visit will be made. At this interview housing staff will ensure that the following areas have been addressed:
- The tenant's income has been checked
 - Every attempt has been made to maximise the tenant's income by referring them, if agreeable, to the Council's Finance Team or another appropriate agency such as the Citizens Advice Bureau for a Benefits Check.
 - If the tenant has multiple debts and issues around money management, referral to Money Advice or another appropriate agency.
 - The tenant is aware of all the implications of a decision to evict, including court expenses and the potential loss of their home.
 - The tenant is made aware of external agencies such as the Citizens Advice Bureau who can give further independent advice and information regarding the legal process about to be pursued.
 - The tenant has been made aware of the potential implications of eviction relating to homelessness.
 - Any relevant information regarding vulnerability or possible support needs has been identified with the tenant.
 - If it is felt that the tenant requires support (or improved support where it already exists) to maintain their tenancy, especially around financial or benefit issues, appropriate liaison is made with the Supporting People team.
 - Where there is current Social Work involvement or this appears necessary at this stage, no further action will be taken without consultation with Social Work as per the Housing and Social Work Good Practice Guidelines for Actions on Tenancy Matters. This may include a Children's Act assessment if appropriate.
- 2.2.16 It is accepted that in rare cases it will not be possible to interview the tenant. In these cases, the attempts made and the cause of the failure to interview will be fully documented.
- 2.2.17 Prior to court action, staff will liaise with Legal Services and agree which type of decree they are applying for in Court
- 2.2.18 Even after legal action has started housing staff will continue to monitor all arrears cases, taking steps as appropriate to ensure recovery of the arrears. An arrangement may, in some circumstances, be accepted at any time and court action "sisted" while the repayment is monitored. Sisting a case in effect suspends the case while the repayments are made. If the repayments cease, court action will be continued immediately. Even once a decree which includes repossession is obtained, full or a substantial payment will be accepted in

preference to proceeding with an eviction - except in very exceptional circumstances, such as persistent cases where payment is repeatedly made at the last minute prior to repossession.

2.2.19 A Pre-Eviction interview will take place with all tenants prior to the final decision on eviction being taken. At this interview housing staff will again make clear all the implications of a decision to evict and obtain any new relevant information from the tenant regarding their household and any vulnerability or possible support needs. It is accepted that in rare cases it will not be possible to interview the tenant, the attempts made and the cause of the failure to interview will be fully documented. Where Social Work involvement is declared or is apparently necessary at this stage, and was not previously identified, no further action will be taken without consultation with Social Work Services under the terms of the Housing and Social Work Good Practice Guidelines for Actions on Tenancy Matters. However, the timetable set by the eviction process must be adhered to. The implications of eviction and detail about the homelessness legislation will be again be highlighted at this interview.

2.2.20 An eviction will only take place with the prior agreement of the Service Director who will consider information regarding the history of the arrears and the action taken, including any feedback from Social Work or any other appropriate agency where the case was referred to them at the earlier stage. Once the decision has been taken to proceed with eviction this will be notified to the tenant, the appropriate officers dealing with homelessness, Social Work and ward members.

3. Persistent Arrears

3.1 A "Fast Track" process will be applied to tenants who fall into arrears of rent within 12 months of earlier court action. Instead of receiving a first and second reminder, the tenants will be immediately issued with a Notice. As soon as the Notice becomes effective, the case will – unless the tenants have paid or made arrangements to pay – be referred to Legal Services for court action to commence. Tenants who pay their arrears in full as a result of court action, or who make a mutually agreeable arrangement will be notified of their "Fast Track" status as soon as legal action is cancelled. If they maintain a clear rent account for 12 months, they will revert to the standard arrears policy.

4. Other Issues

4.1 All housing staff involved in the control of arrears will be adequately trained in the relevant Highland Council policies and will receive appropriate training, whether formal or informal, on interview skills, recognising the causes of debt, legal requirements and responsibilities of the landlord and knowledge of housing and other welfare benefits. Detailed procedures will provide guidance on how the policy should be implemented. Staff will be given basic training in recognising potentially vulnerable tenants, tenants with possible support needs and tenants with serious multiple debts and will encourage tenants to seek professional advice if required.

5. Performance Monitoring

- 5.1 The Council will monitor its performance in relation to statutory performance indicators for rent arrears which are:
- arrears as a % of net rent due
 - The % of current tenants with arrears of over £250 and more than 13 weeks.
- 5.2 In addition cash targets will be set annually based on the arrears as a % of net rent for the previous year. The standards set for these are:
- the value of arrears and
 - The average value of arrears per tenant in arrears.
- 5.3 Reports on these performance indicators will be presented publicly to the Council's Housing and Social Work Committee quarterly.

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