

PORT OF LEITH HOUSING ASSOCIATION LIMITED

Policy CM/H 2.07
REVIEWED SEPT 2008

Rent Arrears Policy

Contents

- 1.0 Introduction
- 2.0 Policy Aims
- 3.0 Rent Arrears Prevention
 - 3.1 Targets
- 4.0 Rent Arrears Recovery
- 5.0 Qualifying Occupiers
- 6.0 Legal Action
- 7.0 Eviction Decrees
- 8.0 Former Tenant Arrears
- 9.0 Sharing Owners
- 10.0 Training
- 11.0 Monitoring and Reporting
- 12.0 Equal Opportunities
- 13.0 Complaints
- 14.0 Review

1.0 INTRODUCTION

Port of Leith Housing Association recognises that effective and efficient management of rent arrears is essential for the successful functioning of the Association. Maximising rental income and preventing rent arrears building up will ensure that the Association's commitments are met. In cases where rent arrears do accrue, the Association acknowledges the importance of taking early action so that these are kept to a minimum and recovered through a fair, responsive and firm approach.

2.0 POLICY AIMS

The Association aims:

- to have a performance culture where the prevention and pursuit of rent arrears is given a high priority
- to ensure that clear guidance is given to tenants relating to recovery of arrears and the options open to them, so that rent arrears are cleared and the threat of eviction avoided
- to monitor rent arrears performance by means of regular reports, target setting and benchmarking against other associations

3.0 RENT ARREARS PREVENTION

The Association will encourage a payment culture by motivating tenants to pay their rent on or before the first day of each month and offering a range of rent collection and payment options.

Every new tenant will have their rent payment obligation emphasised at the commencement of tenancy. Tenants will be advised of welfare benefits and Housing Benefit entitlements. They will be assisted to complete Housing Benefit applications which will be processed through the Fast Track system. Tenants will be encouraged to mandate their Housing Benefit to the Association. Where tenants do not qualify for Housing Benefit, they will be encouraged to make payment by standing order **or direct debit** and to make an initial payment on commencement of their tenancy.

The Housing Officer will ensure that in conjunction with the City of Edinburgh Council Housing Benefit Section that Housing Benefit claims commence from the tenancy start dates in all instances. All new tenants will be made aware of the problems of overpayments of Housing Benefit at previous addresses and advised that it is their responsibility to ensure that previous claims are terminated and changes of circumstances communicated to the City of Edinburgh Council.

The Association will attempt to ensure that the Housing Benefit Section calculates and implements claims within the statutory 14 days. Where recoveries of overpaid Housing Benefit are taken from tenants' accounts, the Association will challenge any which appear to have been processed in error by the Housing Benefit Section.

It will be emphasised to all new tenants that they must contact their Housing Officer if a problem with rent payment occurs. This will be reinforced by information given to all tenants in the Tenant Handbook and in regular 'Port Call' newsletters. The Association firmly believes that prevention and tenant contact is the key to rent arrears control. The Association is therefore committed to a 'firm but fair' approach whereby tenants are given every assistance to deal with their rent arrears, but if they fail to co-operate, legal action and if necessary eviction, will be pursued.

3.1 TARGETS

The following targets are set to ensure that prevention and early recovery of rent arrears is maximised. However, it is recognised that the complexity of individual rent arrears cases means that there are many situations that do not always meet the targets set. The targets and levels of responsibility are set out fully in Appendix 1, Timetable and Levels of Authority in Rent Arrears Procedures. Rents are due on 1st of the month unless Housing Benefit is mandated to the Association and paid at the end of the month.

Action	Target Response Within
Rent arrears identified and 1 st rent arrears letter sent	10 working days
2 nd rent arrears letter sent due to no contact / no payment received	further 5 working days
Tenant interview or if no contact issue Notice of Proceedings	further 5 working days

Targets will be set and reviewed regularly within the Internal Management Plan for **current gross**, non technical **and former tenant** rent arrears.

4.0 RENT ARREARS RECOVERY

Rent arrears are identified following the production of a rent arrears report (generally within 3 working days of the 1st of the month). Initial contact will be influenced to some extent by the knowledge the Housing Officer has about the tenant. If the tenant has encountered previous problems or if the tenant is known to be vulnerable through age or infirmity, it may be better to visit than write. The personal knowledge of the Housing Officer and the need for early action are crucial points.

The first letter will contain details noted in Appendix II, Recommended Content for Arrears Letters. The strength and tone of the letters will increase with the extent of the arrear and the nature of the case. If there is no response to the first letter a second stronger letter will be sent which includes a timescale for the tenant making contact with the Housing Officer.

If the Housing Officer has reason to believe that a tenant's failure to make contact is due to having abandoned the property, an Abandonment Notice will be served.

The interviewing of tenants who get into rent arrears is crucial as this ensures that the Housing Officer knows the reasons for the arrear and can offer guidance and counselling, ensure welfare benefit entitlements are maximised and agree on arrangements for repaying the debt outstanding. Every effort will be made to encourage tenants to discuss rent arrears with their Housing Officer. For the purpose of recording all appropriate information, a record of the rent arrears interview will be held in the tenant's file. Account will be taken of situations where tenants are facing exceptional and genuine difficulties due to, for example, non payment of Housing Benefit due to local authority error/failure to pay, illness, disability, divorce or bereavement.

Arrangements agreed for the repayment of arrears will be set at a realistic level having regard to the tenant's ability to pay. The minimum arrangement acceptable will be the ongoing monthly rent plus a payment towards the arrear. It is emphasised to the tenant that any change in circumstances must be notified to the Housing Officer immediately so that the revised arrangements can be agreed upon. The consequence of failing to maintain arrangements made will be emphasised to the tenant. The tenant will be made aware that broken arrangements will lead to legal action which can lead to eviction.

Arrangements made for repayment will establish the reason for the arrear, ascertain the cause of failed arrangements, obtain details of household expenditure which allow a realistic repayment schedule to be agreed, to ensure Housing Benefit and other welfare benefits are claimed. Where appropriate the tenant will be referred to the Citizens Advice Bureau **for specialist advice**. The minimum acceptable payment figure will be agreed and use made of Housing Benefit mandates and arrears direct arrangements from income support.

Immediately following the interview the Housing Officer will write to the tenant confirming the arrangements made, setting out the amount and frequency of payment and clearly spelling out the consequences of failure to maintain the arrangement.

Where the tenant fails to contact the Housing Officer or fails to co-operate with repayments, a Notice of Proceedings (NOP) for Recovery of Possession will be served by Sheriff Officers or Hand Delivered and Witnessed.

Arrears balances will be monitored frequently to identify cases where arrangements have been broken, allowing for prompt follow-up action.

A variety of options and methods for recovery of rent arrears will be employed, including deduction from Income Support, deduction from Housing Benefit to cover overpayments of Housing Benefit, wage arrestment and threat of eviction.

5.0 QUALIFYING OCCUPIERS

Accurate records of household composition will be maintained, in order to identify all qualifying occupiers i.e. any person over the age of 16 years residing in the property with a tenant. In accordance with the 2001 Housing (Scotland) Act, these individuals must be included in any legal action for the repossession of the property and must therefore be served with separate Notices of Proceedings for repossession.

6.0 LEGAL ACTION

Where the tenant has failed to co-operate to resolve the problem the case must then be passed to solicitors for legal action.

Close liaison will be maintained between the Housing Officer and the Association's Solicitor to ensure that any payments or arrangements made are communicated and appropriate decisions made about whether to:

- proceed to Court
- request that the case be continued
- request that the case be sisted (carried forward for monitoring)
- request a decree be granted
- recall the sist and request a decree

7.0 EVICTION DECREES

In cases where a Sheriff awards a decree for eviction the extract decree will normally be forwarded to the Solicitor within 2 weeks of the Court hearing. The Solicitor will advise the Housing Officer in writing of the outcome of the Court case immediately after the hearing and will write to the tenant advising them of the outcome. The Housing Officer will prepare an eviction report for the approval of the **Management Team**. When approval has been awarded the Solicitor will be instructed to pass the extract Decree to Sheriff Officers for enforcement. A date will be provided for the time of eviction. The eviction would normally only be cancelled at this stage if the tenant makes a substantial payment or clears the full debt outstanding including expenses awarded by the Court which the Association is entitled to recover from the tenant.

Any payments made after the decree has been awarded will be applied to arrears and rent receipts must state this. Under no circumstances will current rent be accepted as this has the effect of creating a new tenancy.

If the arrear is paid in full a new tenancy will be offered.

8.0 FORMER TENANT ARREARS

The conjoined Decree also enables the Association to arrest wages. In the cases where the Association has a forwarding address and details of employment, a wage arrestment will be implemented against former tenants with rent arrears.

A debt recovery agency may be used to trace former tenants and legal action for recovery of debt will be taken where this is financially viable.

9.0 SHARING OWNERS

Sharing owners are not tenants but pay an occupancy charge for exclusive occupancy of that part of the property they do not own. Where arrears arise these will be dealt with in the same manner as tenant arrears up to the point where an NOP would be issued. At this stage, the case will be passed to the Association's Solicitor, who will issue a Notice of Default. The sharing owner will be offered advice and assistance to deal with the arrears, but in the event of non-cooperation the Association's Solicitors will be instructed to commence legal action to re-possess the property.

This will require to be arranged with the co-operation of the sharing owners' mortgage provider under the terms of the Co-operation Agreement between the Bank/Building Society and the Association.

10.0 TRAINING

The Association, through Investors in People, is committed to training and developing staff members to their full potential in order to deliver a high quality of service in all areas of its business to tenants and the public. **Training will be provided when required to update knowledge of good practice or changes in legislation relating to rent arrears.**

11.0 MONITORING AND REPORTING

The Association is committed to continuous improvement in service delivery and standards and understands that effective monitoring and reporting is essential in the process of evolving and reviewing its performance.

The Housing Manager is responsible for giving guidance and support to staff dealing with serious rent arrears and eviction cases. All rent arrears are monitored on a monthly basis and serious rent arrears are discussed with the Housing Manager each month, to ensure that the fullest possible investigation and action has been taken to ensure that rent arrears are repaid. **The Housing Manager will report to the Management Team each month on rent arrears performance within the Association's Key Performance Indicators report.**

Bimonthly reports will be submitted to the **Committee of Management** detailing the percentage of rent owed in relation to the Annual Rent Receivable and the Housing Management team's performance against target for recovery of rent arrears. **Details will also be provided on number of Evictions implemented.**

Regular benchmarking of the Association's rent arrears against other similar Associations will be carried out to establish the Association's relative performance.

12.0 EQUAL OPPORTUNITIES

The Association through its Rent Arrears Policy will act to assist tenants and sharing owners who are in arrears, in a manner that encourages equal opportunities and complies with all relevant equal opportunities requirements.

13.0 COMPLAINTS

Any tenant or sharing owner who is dissatisfied with the management of their rent arrears will be advised of the Association's Complaints Policy.

14.0 REVIEW

The rent arrears policy will be reviewed every 3 years unless amendment is required by a change in legislation, or monitoring and reporting reveals that a change in policy is required sooner.

APPENDIX 1TIMESCALE & RESPONSIBILITY IN RENT ARREARS PROCEDURES

	<u>Timescale</u>	<u>Responsibility</u>
Rents due on 1 st of month Computer generated arrears report run and checked for accounts in arrears If no payment received by end of Week 2, first letter sent, unless Housing Benefit mandated to the Association and paid at end of month.	Week 1 Week 2	Housing Assistant Housing Assistant
No response/no payment received. Second warning letter sent advising payment must be made and that the tenant is to contact the Association . Failure to do so will result in legal action. Attempt to arrange home visit	Week 3	Housing Assistant
Interview tenant and reach arrangement for repayment of arrear. Follow up interview with a letter detailing the agreement reached and the consequences of failure to maintain the arrangement.	Week 4	Housing Officer
If no contact issue Notice of Proceedings (NOP).	Week 4	Housing Officer
Arrangement not kept – issue NOP and interview tenant again. Emphasise seriousness of non-cooperation	Week 6	Housing Officer
If no payment is made, issue Solicitors' 7 day warning letter, stating that if no acceptable payment schedule kept the Solicitor will take the case to court.	Week 8	Housing Officer
Instruct Solicitor to raise a conjoined action in the Sheriff Court. Continue to advise tenant to pay	Week 9/10	Housing Officer (Discuss with Housing Manager)
Write to the tenant informing them that the Association has been granted a Court Order against them.	When Court Decree Award	Housing Officer
Approval to evict sought from the Association's Management Team.	Next Available Mgt Team Meeting	Housing Director
Approval to proceed with eviction given. Advise Solicitor and Sheriff Officers to set a date for eviction to take place.		Housing Officer Housing Manager

APPENDIX II

RECOMMENDED CONTENT FOR ARREARS LETTERS

Arrears letters as appropriate will:

- provide a clear and unambiguous message to the tenant
- show the current arrears balance
- emphasise the need for the tenant to establish early contact with the Association
- make clear that Housing Benefit is available to help with housing costs
- encourage the tenant to seek early advice in clearing arrears
- refer individuals to specialist resources such as Citizens Advice Bureau
- state the seriousness of failure to reduce/clear arrears
- clearly set out any arrangements made

MW/S/Committee Papers/Rent Arrears Policy
August 2008