



RENT MANAGEMENT POLICY (ARREARS)

Policy Classification: Strategic

Status: Approved

Policy Lead:	Director of Housing & Care Services
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REFERENCE PAGE

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Risk Implications:	Choose an item.
Equalities Assessment:	All Eildon policies and key documents are developed with the clear objective of ensuring that they do not discriminate against any person and have negative impacts for equality groups. We will always welcome comments on the impact of a policy on particular groups of people in respect of, but not limited to, age, disability, gender reassignment, race, religion, sex or sexual orientation, being pregnant or on maternity leave and children's rights and wellbeing.
Accessibility:	Accessible electronically/online and in print. All documents can be translated and made available in audio, braille and large print versions upon request.

This Policy is in line with Charter Outcomes: 4, 11, 14 & 15

STANDARD	OUTCOME
<p>4 Social landlords manage their businesses so that:</p> <ul style="list-style-type: none"> <i>Tenants' homes, as a minimum, meet the Scottish Housing Quality Standard (SHQS) by April 2015 and continue to meet it thereafter, and when they are allocated, are always clean, tidy and in a good state of repair.</i> 	<p>This standard describes what landlords should be achieving in all their properties. It covers all properties that social landlords let, unless a particular property does not have to meet part of the standard. Beyond SHQS, landlords should be looking for cost-effective ways of achieving higher energy-efficiency standards for their properties, to provide warmer homes for their tenants and help to meet climate change targets.</p> <p>During this Charter's lifetime, the Scottish Government will consult on higher standards. If adopted, these new standards will form part of the next Charter.</p>
<p>11 Tenancy sustainment Social landlords ensure that:</p> <p><i>Tenants get the information they need on how to obtain support to remain in their home; and ensure suitable support is available, including services provided directly by the landlord and by other organisations.</i></p>	<p>This outcome covers how landlords can help tenants who may need support to maintain their tenancy. This includes tenants who may be at risk of falling into arrears with their rent, and tenants who may need their home adapted to cope with age, disability, or caring responsibilities.</p>
<p>14& 15 Rents and service charges Social landlords set rents and service charges in consultation with their tenants and other customers so that:</p> <ul style="list-style-type: none"> <i>A balance is struck between the level of services provided, the cost of the services, and how far current and prospective tenants and other customers can afford them</i> <i>Tenants get clear information on how rent and other money is spent, including any details of individual items of expenditure above thresholds agreed between landlords and tenants.</i> 	<p>These outcomes reflect a landlord's legal duty to consult tenants about rent setting; the importance of taking account of what current and prospective tenants and other customers are likely to be able to afford; and the importance that many tenants place on being able to find out how their money is spent. Each landlord must decide, in discussion with tenants and other customers, whether to publish information about expenditure above a particular level, and in what for and detail. What matters is that discussions take place and the decisions made reflect the views of tenants and other customers.</p>

INTRODUCTION

This Rent Management Policy has been prepared taking full account of the following:

The context in which the Association operates

- Legislative requirements, including the Housing (Scotland) Act 2001, the Mortgage Rights Protection Act 2001, the Human Rights Act 1998, the Children Scotland Act 1995, the Disability Discrimination Act 1999, the Debtors Scotland Act 1997, the Data Protection Act 1998 and the Housing (Scotland) Act 2010, the Bankruptcy and Diligence, etc [Scotland] Act 2007
- Raising Standards in Housing – Rent Arrears; Prevention, Management and Recovery (February 2002)
- Performance Standards, the relevant standard in relation to rent arrears being Activity Standard 1;8 –
- We act to prevent arrears of rent and service charges building up. *We recover any arrears fairly and effectively.*
- A need to ensure that this Policy clearly interfaces with other key policies including the Association's Rent and Service Charge Setting Policy, Allocations policy etc.

In preparing this Policy, account has also been taken of the following publications:

Evictions in practice by registered social landlords and local authority landlords in Scotland 2001 – 2004 Research from Communities Scotland by DTZ Pineda Consulting.

This Policy is supported by a set of detailed Procedures and a set of letters (contained in the procedure register) to be used at different stages in the procedure.

Procedures and practice also take full account of the 2010 Housing (Scotland) Act which enacted a set of Pre-Action Requirements which must be followed prior to raising an action for eviction due to rent arrears.

OPERATING CONTEXT

Eildon Housing Association owns and manages over 2000 properties spread throughout the Scottish Borders. Shared ownership accounts for approximately 5% of the stock and of the rented provision around 55% has one bedroom. The rent management policy is designed to reflect the following factors.

The wide range of people being housed by the Association, including those whom research shows to be more likely to fall into arrears of rent – single parents, young single people, families and people whose financial circumstances change frequently, people who have not previously held a tenancy.

Increasing rent levels and reducing incomes producing inability to pay, as opposed to unwillingness to pay and continuing difficulties for those whose income is marginally out with benefit entitlement levels.

OBJECTIVES OF THE RENT MANAGEMENT POLICY

- To prevent rent arrears arising – for the purpose of this policy, the procedures and their application, “rent” is used generically to cover rent and service charges, shared ownership occupancy charges and factoring charges.
- To act quickly, fairly, consistently and effectively and both support and inform tenants about their rights, responsibilities and benefits entitlements where arrears do arise.
- To seek to contain arrears, where they do arise, within annual targets as agreed by the Board in its approval of the Association’s Budget and Business Plan.
- To ensure effective monitoring and reporting systems are in place which aid identification, prevention, recovery and trend analysis.
- To continue to explore alternative methods of rent management, including incentive schemes which bring appropriate results for tenants and the Association
- To identify the respective roles and authority of the Board and staff

PREVENTION OF ARREARS

The Association endeavors to prevent tenants falling into arrears. A prevention strategy is underpinned by the following measures

- The Association's rental policy takes account of the Association's business needs, comparability with similar landlords and of affordability in line with the SFHA definition of affordability.
- Applicants for housing are provided with guideline information on Association rent levels. Such information is also available on the Association's web site. Clear information is given on the typical rent and any service charge for the house size and type for which an applicant is being considered, together with advice on housing benefit.
- When a property is advertised, as part of Borders Choice Homes, Common Housing Register; clear information is provided on the rent and service charge within the advertisement.
- When an offer of tenancy is made the rent and service charge are clearly stated in the offer letter. The prospective tenant is assisted to complete a housing benefit application form. Tenants are encouraged to have Housing Benefit paid direct to the Association if appropriate.
- When a new tenant signs the Tenancy Agreement, clear information is provided on rent payment methods. The Housing officer ensures that a housing benefit claim form has been submitted. The Housing Officer will collect payment for the part month at sign-up.
- Based on the information provided, the Housing Officer, will advise the tenant of their likely entitlement to housing benefit and the amount, if any, required to be paid by the tenant, along with payment methods and dates. The payment period for most tenants is monthly, but weekly or fortnightly payments are arranged if monthly payments are difficult for the tenant.

Tenants are also provided with clear information on ensuring they respond timeously to any reviews by the Housing Benefit Department, and to advise the Housing Benefit Department of any change in circumstances.

- Where help with additional benefit claims is needed a referral will be made to the Association's Tenancy Sustainment staff.

- Establishing a payment culture is critical and an information leaflet on what happens in the event of rent not being paid is provided to all new tenants as part of their “Sign-up” pack at the start of a tenancy. Further information is also contained in the Tenants' Handbook, issued to all new tenants. The Tenants' Newsletter is also used to provide information and advice on benefit entitlements and changes and, through a regular “For Your Benefit” page
- In keeping with good customer care practices, all information, letters are in plain language with appropriate alternative formats being provided routinely to meet the particular needs of applicants, tenants and sharing owners. Care is taken to take account of any particular needs, ensuring appropriate supports are offered. Information is clear, concise; easy to understand and free of jargon. The Association will work constructively within the requirements of the Data Protection Act 1998 in partnership with other agencies, including Scottish Borders Council Benefits and Revenue staff, DWP Citizens Advice Bureau, Social Work staff and Scottish Borders Council Homelessness staff, Credit Union and others to ensure relevant information is provided to tenants, to assist them in minimising any arrears.
- Statements of tenants rent accounts, along with a covering letter are sent to all tenants twice a year. All correspondence to tenants about their rent account includes a copy of their rent statement.
- Notices of changes in rent are sent at least 4 weeks before the new rent is due, together with associated administrative up-dates and clear instructions on action required by the tenant to pay the new rent. The Association liaises directly with Scottish Borders Council Housing Benefit staff concerning revised Housing Benefit payments at rent reviews and throughout the year.
- All new tenants will receive, within 8 weeks of the start of their tenancy, a post allocation visit. The visit issued to assist and assess how tenants are settling in, with follow up visits being programmed in as required. Discussion of rent accounts and payment methods is an integral part of such visits. Such visits will be prioritised, as far as possible, to ensure that tenants who are traditionally more likely to experience difficulties in managing finances are visited early on in the life of their tenancy. (This will include people under 25, people with particular needs, single parents and anyone who has previously had such difficulties or who has been homeless, or who has not held a tenancy before)
- Rent accounts are monitored monthly or weekly where the tenant pays weekly and a computerised report is produced of all accounts which show arrears.

- Where notice of termination of tenancy is received, the tenant is immediately advised of the total amount of rent due to the date of termination
- In respect of a shared ownership property, the Association will not sell to an applicant where the occupancy charge and mortgage payment will comprise more than 40 % of net income and they have not been in secure employment or otherwise stable financial circumstances for a minimum of six months.
- Prior to issuing any Notice of Proceedings for Recovery of Possession, the Association will have documented its efforts to refer the tenant to the Association's Financial Inclusion staff to ensure income has been maximised, through appropriate benefits being claimed and taken all action required within the Pre Action Requirements of the Housing (Scotland) Act 2010.

LIAISON AND INFORMATION

All information received in connection with rent arrears is confidential to the Association. This means we can only share or pass on information to other individuals and agencies with the prior written consent of the person providing the information.

Information required by law, to process a benefit claim or to pursue payments of rent due or arrears outstanding may be provided to the following agencies without the express consent of the tenant or former tenant.

Scottish Borders Council Housing Benefit Department
Department of Works and Pensions
Benefits Agency
Mortgage Lenders

Scottish Borders Council Tax Department

The information supplied will be limited to the name, address, rent details, arrears details and occupancy dates related to the enquiry. Housing Management staff, will, with the prior written agreement of the tenant, liaise on the prevention and control of arrears with agencies providing support and assistance to the tenant.

The Association also informs the Council's homeless staff when court action has been initiated; and advises the homeless staff of SBC of any eviction dates, and where there are children as part of the household the Association also liaises with the Councils Social Work staff.

As highlighted above regular information will be provided to all tenants on welfare benefits matters, with targeted information to those in arrears.

TARGETS

As part of its budget setting and Business Plan, the Board, annually approve targets for the following:

- Bad debts as percentage of total rental income
- Gross and net arrears as percentage of total rental income – split between general and sheltered tenancies and very sheltered and other supported tenancies
- Percentage growth in arrears

Performance against targets is reported to the Board, along with exception reports on any areas of non-compliance, on a quarterly basis, within the Key Performance Indicators.

MONITORING AND CONTROL

Current Tenants

In dealing with arrears the Association believes that early action is essential to prevent arrears increasing to a level where it becomes costly to both tenant and the Association to recover the debt. At the same time the Association is aware that for various reasons tenants may experience difficulty in paying rent and aims to have a firm and fair approach based on advice and counselling to control rent arrears.

As action taken by the Association escalates, the signatory to the letter moves from Housing Officer to Assistant/Housing Services Manager, with the latter, signing all correspondence relating to legal action.

Whenever possible and practical, staff seek to establish early direct face to face contact with tenants in arrears. All visits/contact must be recorded in writing and details logged on the housing management system and tenants file.

Identifying Arrears

Rent payments are due on the 1st of each calendar month. A report is generated by the Housing Assistant for each Housing Officers' area of management of all rent accounts in arrears at the end of the accounting period. Once arrears have been identified contact should be initiated with the tenant as soon as possible (normally within 5 working days). Where the tenant is vulnerable a home visit should always be attempted. Detailed procedures underpin the action to be taken and when by staff.

Where an arrangement has been established with the tenant (ie to pay an agreed sum in addition to the monthly charge to make up any arrear owing) the monitoring of the arrangement must be in line with the agreement – eg weekly repayment requires a weekly check.

The Housing Officer has authority to negotiate a realistic and affordable arrangement for the tenant to repay the debt in instalments over time when they are not able to repay the whole debt immediately. To ensure that Housing Officers are consistent in their approach to making arrangements to pay; a form is completed with the tenant which details their income, outgoings and the disposable income available.

All arrangements are assiduously monitored and when not adhered to the cases are immediately passed onto the Housing Officer for further action.

Where a tenant is on Income Support and an acceptable repayment arrangement cannot be negotiated, the Association will contact the Benefits Agency / DWP to arrange Arrears Direct.

Housing benefit notifications are logged onto the computerised system, normally on the day on which they are received. This enables identification of the split between income owed from the local authority in respect of Housing Benefit and any rent owing from the tenant. For tenants in receipt of partial housing benefit, the length of time rent is owing will trigger action rather than the amount owing.

All actions taken by the Housing Officer are logged onto the computerised diary function to enable easy identification of the stage of action and contact.

The management of all cases over £400 is supervised by the Assistant Housing Services Manager to ensure that if legal action is required it is being taken at a stage when it would be most effective in preventing arrears increasing.

SHARING OWNERS

The Association ensures that sharing owners are also provided with clear information at the start of their occupancy concerning payment, action required in the event of having difficulty with payment and the action the Association will take.

Arrears recovery

The policy will be as detailed for current tenants with regard to identification of arrears, written and telephone correspondence, contact and home visits.

Where two month's rent is outstanding and the sharing owner has not come to, or maintained, a voluntary repayment programme, the Assistant Housing Services Manager has authority to instigate legal proceedings for recovery of the debt in the Small Claims Court. If this process does not result in payment then the Association will seek to arrest the wages of the sharing owner. The Housing Manager and/or Director (Housing and Care Services) will have delegated authority to proceed with instructing Sheriff Officers to carry out this action.

The Association will also contact the sharing owner's mortgage lender to establish if there are mortgage arrears and request assistance in terms of the Co-operation Agreement.

Repossession action

Where the sharing owner has a mortgage lender, the Association and the lender must jointly agree action to be taken to recover possession of the property and arrangements for re-sale.

The only action legally available in this circumstance, or where there is no lender but the sharing owner is unwilling to sell on the open market, is for the Association to instigate an Action for Division and Sale. This is a complex, time consuming and costly action which will be pursued on the authority of the Director of Housing and Care Services.

LEGAL ACTION

The decision on whether to start court action rests with the Housing Services Manager and /or the Director of Housing and Care Services. Under the Housing (Scotland) Act 2001 a Notice of Proceedings for Recovery of Possession requires to be sent to the tenant and all qualifying occupiers living at the tenancy. The Notice must be signed by either the Housing Services Manager or the Director of Housing and Care Services. The Notice must specify the ground on which it is seeking Recovery of Possession and in the case of Rent Arrears this will be Ground 1 – *Rent lawfully due from the tenant has not been paid, or any other obligation of the tenancy has been broken*"

The tenant will be advised in writing, that they are liable for the costs of any legal action (the costs charged will be those awarded by the court)

The landlord requires to convince the Sheriff that the ground is established and that it is reasonable to evict.

Four weeks from the serving of the Notice requires to elapse before the Association can seek through its solicitor to have a case enrolled in Court.

During that period if the tenant enters into an agreed repayment arrangement the Association will not instruct its solicitor to take the matter forward. In the event that there is not such an arrangement made then legal action will normally be pursued. Where a case is enrolled in court and a tenant then makes an acceptable agreed repayment arrangement, the Association will ask that the case be sisted. This means that at any point should the tenant break the repayment arrangement the Association will directly take the case back to court and advise the tenant.

It is up to the Sheriff to decide if the ground for recovery is established and whether it is reasonable to evict. The Association will not embark on such a course of action should it not seek to enforce decree. Nonetheless given that eviction is the ultimate sanction, Board approval will be sought, prior to enforcing decree.

Only in exceptional cases will the Housing Services Manager in conjunction with the Director of Housing have authority not to enact decree and to create a new tenancy. Normally this would only be where full settlement of the arrear has been made after decree has been awarded but prior to its enforcement. However, full consideration is given to each individual case and circumstances are checked to determine whether there has been a change in the tenants' circumstances since the Decree was awarded as this may affect the decision.

FORMER TENANTS

The Association's procedures for dealing with properly terminated tenancies are designed to minimise the risk of the Association being left with tenancy related debt at the end of a tenancy. However, tenants with previously accrued arrears may terminate a tenancy before clearing the debt. Occasionally, a property may be abandoned leaving arrears on the tenants rent account. The Association will pursue repayment of former tenant arrears as long as it is administratively cost effective to do so.

Tenants are advised in writing of all rent due to the date of termination of their tenancy and are requested to settle all sums due before returning the keys to the property. Forwarding addresses are sought and retained on the former tenant's file. At the point of a new tenancy being entered into tenants are asked to provide details of their employer (where available) and of their national insurance number

The Association writes within four weeks of the end of the tenancy to any former tenant leaving arrears, requesting settlement of the outstanding sum or if the tenant was in receipt of Housing Benefit when the final payment is received.

Where an arrear is over £100 and no response is received to two letters then the case will be passed to a debt collection agency approved by the Board. Small claims action will be considered in cases where a former tenant owes more than £250.00.

Bad debts will, on the authority of the Board be written off on a quarterly basis, with a target being agreed as part of the Budget setting process and exception reports being presented to the Board where a write off exceeds target. Debts over six months are written off, unless recovery of the debt can reasonably be anticipated or where the amount outstanding is less than £25.00 and has been outstanding for more than two months. The Director of Housing and Care Services may agree to the writing off of arrears under £100 and the CEO those between £100 and £250.

ROLE OF THE BOARD

The Board monitors performance against targets agreed annually as part of the Association's Budget and Business Plan.

As part of a Legal Actions report the Board is asked to approve implementing decree for ejection, with scope out with Board meetings for delegated approval to be obtained and then homologated by the Board in order to ensure there are no delays

Contextual information is also provided to the Board as follows:

- The performance against the Association's target for rental income
- Number of evictions carried out by grounds, and amount of debt at time of eviction
- An annual profile is provided on the evictions carried out

Annually an overview of performance against target and compared with the previous financial year will also be provided along with any available benchmark information.

RELATED POLICIES

A tenant's request to alter or improve his/her home, or transfer to alternative accommodation will not normally be approved where the tenant's rent account is in arrears. However the Housing Services Manager will have the discretion to waive this policy in the case of urgent health or social needs.

A small number of the Associations tenants have a Preserved Right to Buy. Legislation allows for an application for the Right to Buy to be refused where a tenant has rent arrears or has not paid any other charge lawfully due to the landlord under that or any other tenancy" or has arrears of council tax or water and sewerage charges

In respect of allocations the Association cannot take account, when deciding on the allocation of a property, of:

- Any rent arrears or other tenancy related liability no longer outstanding
- Any rent arrears where the amount is not more than one twelfth of the annual rent or where the applicant has an arrangement for paying the arrears, has been keeping to the arrangement for at least three months and is continuing to make such payments
- Any outstanding debts, such as council tax arrears which are not directly attributable to the tenancy of the house

Review

This policy should be reviewed within three years unless required earlier due to changes in the law, regulation, best practice or requirements of the Association.