

MID MARKET TENANCIES – RENT ARREARS POLICY

Classification: Strategic

Status: Approved

Policy Lead:	Director of Community Services
Last Review Date:	November 2024
Review Due Date:	November 2027
Review Period:	3 years unless required earlier due to changes in the law, regulation, best practice or requirement of the Association

REFERENCE PAGE

Document Title:	Private Residential Tenancy Agreements Rent Arrears Policy
Aim:	The Policy seeks to minimize rent loss to Eildon through rent debt, and to ensure we provide early intervention and personalized support to tenants to avoid rent arrears accruing, ensuring we support tenants in a fair but effective manner and following the pre-action requirements published by the Scottish Government to protect tenants within the Private Rented Sector maintain tenancies.
Objective:	1 The Eildon Group will ensure that the highest standards of governance and partnership working are adhered to, including compliance with our regulatory frameworks
Scope of Policy:	Customers
Lead Officer	Director Community Services
Nominated Officer:	Private Rented Tenancies Officer
Approval Source:	Executive Team
Legal & Regulatory References:	This policy is based on the requirements of the following legislation: Private Housing (Tenancies) (Scotland) Act 2011, 2014 & 2016.
Procedural References:	This policy has been considered alongside other Eildon policies and procedures including: <ul style="list-style-type: none"> • MMR Rent Arrears Procedures • MMR Allocations Policy • Rechargeable Repairs Policy • PStanding Orders
Consultation Completed:	Yes - Staff
Risk Implications:	3- New policy

Equalities Assessment:	<p>All Eildon policies and key documents are developed with the clear objective of ensuring that they do not discriminate against</p> <p>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.</p>
Accessibility:	<p>Accessible electronically/online and in print. All documents can be translated and made available in audio, braille and large print versions upon request.</p>
Publish on Website:	Yes

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1. PRINCIPLES

This policy relates to all Private Rented Sector (PRS) properties owned by Eildon. This includes Mid-Market Rent (MMR) and tenancies managed by Eildon let on Short Assured (SAT) and Private Residential Tenancy Agreements (PRT).

- 1.1 All PRS tenancies are charged a rent. This policy covers all charges associated with a PRS tenancy with the term “rent” used to cover all charges.
- 1.2 When referring to rent arrears, we mean overdue rent payments by tenants who have a current tenancy with Eildon, and former tenants who are in rent arrears for an Eildon tenancy which has ended.
- 1.3 Tenant debt relating to rechargeable repairs will be managed in accordance with our Rechargeable Repairs Policy. Separate rent arrears policies are in place for Eildon’s social rented housing and factoring services. These policies can be found on our website www.eildon.org.uk
- 1.4 Rent charges are our largest source of income and therefore it is essential we ensure rent is paid timeously for the financial wellbeing of Eildon and our current and future customers. We will maintain an effective and efficient rent management system which will include a range of arrears monitoring and control processes to ensure we identify early signs of non-payment of rent.
- 1.5 We recognise that most tenants get into rent arrears because of an inability to pay their rent rather than an unwillingness to pay. Our staff will take a sympathetic but firm approach to managing rent arrears. Throughout the duration of a tenancy, we will use a range of early intervention and arrears prevention strategies, including welfare benefits advice, to minimise the risk of tenants falling into arrears and to support tenants to sustain their tenancy. This includes signposting to specialist external support services.
- 1.6 Where tenants fail to maintain a satisfactory arrangement to reduce their rent arrears and we have exhausted all other means of debt recovery, we will seek an eviction order from the First-Tier Tribunal to end the tenancy.
- 1.7 The overall control of this policy rests with the Eildon Enterprise (EEL) Board who monitor rent arrears levels through a range of targets, reported quarterly through our performance management reporting, as well as overseeing decisions to whether to enforce eviction.

2. PREVENTION OF ARREARS

- 2.1 We will seek to prevent tenants falling into arrears by providing information, advice, and support to help tenants to maximise their incomes and improve their ability to pay rent.

2.2 Rent payments are due on the 1st of each calendar month and are paid in advance. We offer a range of flexible and convenient methods for tenants to pay their rent, however our preference is for tenants to pay by direct debit.

2.3 In seeking to support tenants to prevent them getting into arrears we will undertake the following actions:

2.3.1 New Tenants

Applicants applying for a PRS property will have access to clear and detailed information on charges relating to the property at key stages of the application process up to signing the tenancy agreement.

When an applicant has viewed a property and been made a provisional offer, we will seek a full tenancy reference using the services provided by the Scottish Association of Landlords. This may include references from current and/or former landlord and employers. If an unacceptable reference is received, the offer of tenancy will be withdrawn. A rent affordability check is also carried out .

At tenancy sign up, new tenants are required to pay the first month's rent and a month's rent deposit prior to signing the tenancy and getting the keys. This must be cleared funds or keys will not be given.

We aim to promote and reinforce a positive payment culture when we communicate with tenants. Throughout this process we will clearly state the responsibility for tenants to pay rent due and confirm our proactive approach to tackling arrears.

We will carry out a settling in visit within 3 months of the tenancy commencing during which discussion will take place on any potential rent payment problems.

2.3.2 Existing Tenants

We have in place effective monitoring procedures whereby our staff review rent accounts on a weekly basis. Any discrepancy within the rent account will be followed up with the tenant as part of the weekly review of rent accounts.

We will seek to establish early contact with tenants in arrears, however each case will be dealt with individually. A variety of communication approaches will be used based on the tenant's communication preferences.

Tenants will be regularly reminded to make early contact with us where they have concerns about their ability to pay rent or queries on income maximisation including welfare benefits.

We also encourage and support tenants to access our customer portal, 'My Eildon', to log into their rent account to monitor their rent account, view a rent statement, pay their rent or change their method of payment.

2.4 Notice of changes in rent are sent at least 3 months before the new rent is due,

providing clear instructions on action required by the tenant to pay the new rent. 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.

2.5 Welfare Benefits

We have established good working relationships with Scottish Borders Council's Revenues Team and the Department of Work and Pensions. We liaise directly with both organisations concerning increased charges and their impact on benefit entitlements and will assist them to obtain information required in order to process a claim. This will also be done where we are notified that a claim has been made to ensure quick and satisfactory resolution to any difficulties experienced by either a tenant or Eildon.

Tenants in the PRS can get external advice and support on rent arrears from Shelter Scotland (https://scotland.shelter.org.uk/about_us/contact_us) and your local Citizens Advice Bureaux (CAB) (<https://www.citizensadvice.org.uk/scotland/>). CAB can also help with council tax, other bills and benefits advice.

Safe Deposits Scotland has also launched a resolution service, which can be used to help resolve disputes over rent arrears and agree a payment plan to sustain the tenancy. It is free and can be instigated by either the tenant or the landlord. For further details please see go to www.sdsresolve.com.

3. ARREARS MONITORING AND RECOVERY

- 3.1 In dealing with arrears we believe early action is essential to prevent arrears increasing to a level where it becomes costly to both the tenant and Eildon to recover the debt. At the same time, we are aware that for various reasons tenants may experience difficulty in paying rent or may be experiencing personal issues which impacting on their ability to pay rent such as relationship difficulties or health issues. We will seek to work with tenants to understand the reasons for arrears developing and at the same time have a firm and fair approach based on advice and counselling to control rent arrears.
- 3.2 We will seek to establish early contact with tenants in arrears to negotiate a realistic and affordable repayment arrangement for debt to be paid in instalments (including direct payments to Eildon of welfare benefits).
- 3.3 All arrangements are regularly monitored and when not adhered to the cases are immediately escalated for further action. The repayment arrangement will be formally agreed in writing with the tenant. If the tenant fails to keep to the arrangement, then we will pursue the tenant for the missing payments. This may take the form of letters, text messaging, telephone calls, home visits, etc.
- 3.4 We will provide general debt advice 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.

- 3.5 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, our procedures include clearly defined stages and circumstances at which eviction will be pursued.
- 3.6 At each contact point with tenants 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.

4. INSOLVENCY, SEQUESTRATION AND TRUST DEEDS

- 4.1 We will not be able to pursue rent arrears directly from tenants who are insolvent and which form part of a Bankruptcy Action or Protected Trust Deed. In these cases we can still seek decree for eviction where arrears have accrued but not for a decree for the payment of debt protected by insolvency action. However, we will consider action on a case per case basis, and where required we will seek advice from our solicitors.
- 4.2 Rent arrears covered by insolvency action will be removed from the tenant's rent account. However, we will seek to pursue the debt through the tenant's Trustee

5. EVICTION PROCESS & LEGAL PROCESS

- 5.1 Eviction is the last stage in the rent arrears process and will be instructed where tenants are not complying with repayment 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 sending the Notice to Quit or Notice to Leave.
- 5.2 If the tenant does not move out by the date in the notice, we will apply to the First-tier Tribunal for Scotland Housing and Property Chamber for an eviction order. The Tribunal will decide whether to issue an eviction order.
- 5.3 If the Tribunal issues an eviction order, Sheriff Officers will not be able to carry out the eviction while the pause is in force, except in a few certain cases. The maximum delay for enforcement of an eviction order is 6 months after the eviction order is issued, even if the pause is still in force
- 5.4 The decision on whether to send the Notice to Quit or Notice to Leave rests with the Tenancy Services Coordinator or Housing Services Manager. Escalation to seek eviction from the Tribunal will be recommended by the Director of Community Services for consideration and approved by the EEL Board on a case by case basis.
- 5.5 We will take all possible steps to ensure good lines of communication with tenants are maintained, particularly where an eviction is likely to be enforced to ensure tenants are fully aware of the situation. We will also seek to ensure tenants continue to explore all means of avoiding eviction including actively involving other agencies who may be able to assist

6 FORMER TENANT ARREARS

- 6.1 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 by Eildon.
- 6.2 Former tenants with arrears after the keys have been returned are made aware of the outstanding tenancy debt and encouraged to either clear the balance in full or enter into a repayment agreement. The deposit will be used to cover rent arrears at the end of tenancy
- 6.3 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.
- 6.4 Where attempts to recover arrears by a variety of contact methods have failed, we will refer the debt to our debt recovery agency to write to the former tenant to make contact with us, if no communication is made, we will commence legal proceedings for recovery of the outstanding debt.

7 CREDIT BALANCES

- 7.1 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, given the administrative costs to Eildon, we will not typically refund credits below £25 unless on request.
- 7.2 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.
- 7.3 Where there is no prospect of returning the credit balances these will be dealt with as a credit balance write off in accordance with Eildon's financial regulations on irrecoverable debt.

8 WRITE OFF AND BAD DEBTS

- 8.1 We will write off former tenant debt or former tenant credits on a quarterly basis in accordance with Eildon's financial regulations. All write off cases will be reported to Eildon's EEL Board each quarter, who will also approve recommended tenancy write off cases over £250.
- 8.2 The criteria used to write off former tenant rent arrears or credits is as follows:
 - Balances under £25 when the tenancy ended and it is considered not economic to pursue.
 - Cases over £25 where we have exhausted all internal recovery processes, and it is not cost effective to refer to our debt recovery agency.

- Cases referred to our debt recovery agency where both parties agree it is not economic to pursue through the Simple Procedure action.
- Amounts owed by former tenants who have died with no estate.
- Amounts confirmed in an insolvency case such as trust deed, sequestration or similar.

9 CONFIDENTIALITY

- 9.1 All information provided by tenants in relation to this Policy will be treated as strictly confidential and will not be discussed with third parties without their permission. We will always have regard to the Data Protection Act 2018 and the General Data Protection Regulations.

10 COMPLAINTS

- 10.1 Complaints relating to this policy will be dealt with in accordance with our Complaint Handling Procedure. A customer guide to complaints is widely promoted and accessible on our website.

11 TRAINING

- 11.1 We will ensure that all relevant staff receive appropriate training and information on the application of this policy.

12 MONITORING & REVIEW

- 12.1 The Housing Services Manager is responsible for ensuring that this policy and the associated procedures are implemented.
- 12.2 The Director of Community Services will ensure overall compliance with the policy and that the performance targets for arrears management are reviewed annually.
- 12.3 This policy will be reviewed every three years unless required earlier due to changes in the law, regulation, best practice, or requirements of Eildon.