

Bridgewater Housing Association Ltd Policy

Approved committee on	by	5 August 1998 31 March 1999 26 April 2000 25 September 2002 30 November 2005 17 December 2008 19 December 2012
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Arrears		

1.0 Introduction

1.1 The prevention and effective management of rent arrears is crucial in terms of maximising the resources available to the Association to maintain our houses and provide services to our customers. The Scottish Social Housing Charter requires us to ensure that:

- People at risk of losing their homes get advice on preventing homelessness. (Section 5 – Outcome 9: Housing Options)
- 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. (Section 5 – Outcome 11: Tenancy Sustainment)
- Tenants, owners and other customers receive services that provide continually improving value for the rent and other charges they pay. (Section 6 – Outcome 13: Value for Money)

It is the Association's policy to minimise the loss of rental income through prompt, effective recovery and control of rent arrears.

Collection of rental income is central to the efficient operation of the Association, therefore best practice will be adopted with prevention and personal contact as the key methods of control.

1.2 Under the terms of the Tenancy Agreement, the tenant is due to make rent payments monthly in advance, on or before the first day of each rental period. Wherever possible, the Association will seek to recover any rent arrears with the voluntary co-operation of the tenant concerned. The Association will,

however, be prepared to take legal action to recover arrears, or to evict a tenant for failure to pay the rent, where all other methods of recovery have been tried and failed and where the arrear is serious.

2.0 Legislation

2.1 The Association requires to comply with all relevant legislation. The main pieces of legislation which affect the payment of rent and subsequent recovery of outstanding arrears include:

- The Housing (Scotland) Act 2001 – this Act introduced the Scottish Secure Tenancy (SST) and details grounds for repossession in Schedule 2.
- The Disability Discrimination Act 1999 – this places a duty on us to ensure that our services are accessible, for example, having a variety of alternative payment methods.
- The Data Protection Act 1998 – this has implications for the gathering and sharing of information about tenants.
- The Human Rights Act 1998 – this may have an impact on the way we approach recovery of possession proceedings.
- The Children (Scotland) Act 1995 – this places a duty on us to consider the implications of the Act before embarking on recovery of possession action.
- Debtors (Scotland) Act 1987 – this enables us to seek wage arrestment from a debtor.
- Debt Arrangement and Attachment (Scotland) Act 2002 – this allows anyone with a multiple debt problem to apply for a debt payment plan.
- The Homelessness etc. (Scotland) Act 2003 - places a duty on all RSLs to notify the local authority of any repossession proceedings.
- The Bankruptcy and Diligence etc. (Scotland) Act 2007 – introduced new procedures for all evictions carried out by Housing Associations.
- The Housing (Scotland) Act 2010 – introduced pre-action requirements that landlords must satisfy in all rent arrears cases before serving a notice on a tenant.

2.2 Where grounds 1-7 in the Housing (Scotland) Act 2001 are being used, the Association must not only show that the ground is proved, but the Sheriff must also be satisfied that it is reasonable to grant possession, ie whether dispossessing someone from their home is a proportional response to the behaviour that prompted us to bring proceedings.

3.0 Arrears Prevention

Prevention is the cornerstone of the Association's Arrears Policy and as such staff will take steps at the earliest possible stage to prevent arrears from accruing.

3.1 Pre-tenancy Advice and Assistance

The Association recognises the importance of communicating effectively with housing applicants and prospective new tenants, offering pre-tenancy advice and assistance about managing their rent accounts. It is appreciated that young people and people with housing support needs, in particular, may require additional help. Pre-tenancy advice and assistance include:

Housing Applicants

- At the point of application, all young applicants will be provided with a 'young persons information pack'
- Referrals will be made to an appropriate support agency, with the applicant's consent, so that he/she may receive support and guidance.
- Where an applicant has a high priority for housing and has housing support needs, contact will be made with the applicant and his/her support provider to ensure that the conditions of the tenancy will be met, for example, meeting rent payments.
- Information and advice will be provided to prospective new tenants with a current or former tenancy arrear.

Prospective New Tenants

Where an applicant has been selected for housing, a pre allocation visit will normally be carried out. Part of the purpose of the visit will be to discuss tenancy responsibilities, including rent, and to determine the applicant's likely eligibility for Housing Benefit.

Signing Up Interview

Where an applicant has accepted an offer of housing, a signing up interview will take place in the Association's office. At the interview:

- The terms of the tenancy will be explained in detail
- Joint tenants will be advised that they are responsible individually as well as jointly
- The tenant will be advised of rent payment methods available, currently – cash, cheque, Standing Order, Allpay, Switch, VISA and Direct Debit. The most suitable method for the tenant will be explored, however it will be the Association's policy to encourage the use of Direct Debit.
- Where the tenant is likely to qualify for Housing Benefit, an 'intention to claim HB form' will be completed with the applicant and faxed to Renfrewshire Council. The tenant will be given assistance, if required, to complete a Housing Benefit Form which he/she should then submit to the Council, confirming the date that he/she moved into the property.
- Where the tenant will qualify for partial or no Housing Benefit, a pro-forma is completed. This sets out the requirement for the tenant to have an interview with the Housing Officer if rent cannot be paid within 2 days.

3.2 New Tenancy Visit

The Housing Officer will visit the new tenant within six weeks of the start of the tenancy. The conduct of the rent account will be one of the topics discussed. The Housing Officer will reiterate the advice given at the signing up interview and if required, will supply details of Advice Works and any other relevant organisations who may be able to assist the tenant with his/her finances if required.

The new tenant will be visited earlier if a rent payment has been missed.

4.0 Homelessness

4.1 The Association is committed to the prevention of homelessness and will work in partnership with the local authority and other agencies to assist tenants and their families to receive all available advice and assistance, to enable them to continue living in their home when they experience financial difficulties. The Association will aim to ensure that its Arrears Policy and Procedures link with, and do not prejudice, the Local Authority's Homelessness Strategy.

4.2 A Statement of Best Practice/Protocol is in place with Renfrewshire Council which sets out arrangements for the implementation of Section 11 of the Homelessness etc. (Scotland) Act 2003. The aim of the protocol is to ensure that all tenants have access to services which can provide advice and assistance in preventing homelessness occurring as a result of eviction.

4.3 The Housing Officer will notify the Homeless Prevention Team that s/he is considering commencing court proceedings. The referral will be made no sooner than 15 working days prior to passing the case to our solicitor to book into court. Contact will be maintained, confirming subsequent court dates and if a decree is to be enforced.

5.0 Arrears Control

Managing arrears effectively requires the Association to:

- Adopt a firm but sensitive and nonthreatening approach to arrears recovery
- Take early action where arrears accrue
- Aim for personal contact with the tenant at an early stage
- Respond promptly to missed payments
- Maintain continuous personal contact with tenants throughout the arrears recovery process
- Take a staged approach in managing the debt
- Take account of individual needs and circumstances and make realistic repayment agreements based on ability to pay
- Take account of the particular needs of vulnerable tenants

- Develop good liaison with our partners such as the Private Sector Benefits Team, Money Advice and Social Work Department
- Refer tenants to agencies which can offer advice and support
- Make use of all available remedies
- Use eviction as a last resort.

5.1 Arrears Procedure

The arrears procedure details the steps to be followed by designated staff to ensure prompt responsive action when arrears arise. Grounds for Repossession are included in the procedure.

Details of all contact with tenants will be noted on the computer based diary system, copies of which together with manual records will be required for submission to the Court if legal action is pursued.

In all cases, arrears control will be based on realistic repayment arrangements with the tenant, reflecting the household's circumstances and the financial commitments disclosed by the tenant.

5.2 Arrears Interviews and Visits

The Association's approach to interviews and visits will be as follows:

- All interviews will be conducted in private – in the Association's office or in the tenant's home
- Where a tenant is known to be vulnerable, arrangements will be made for his/her advocate to be present
- Where a tenant requires an interpreter or signer, arrangements will be made to have one present
- We will establish the reason for non-payment and make realistic arrangements for the tenant to pay off the debt, within a reasonable time-scale.
- We will refer the tenant to debt counselling service such as Advice Works. This will be achieved by the Housing Officer arranging the appointment or passing on the tenant's contact details, with the tenant's consent.
- We will use a standard pro-forma for all interviews and visits.
- We will assist tenants to complete Housing Benefit Forms and/or refer tenants to Private Sector Benefits where they may qualify for Housing Benefit or their circumstances change.
- We will refer tenants to the Welfare Rights Officer where they may be eligible for other benefits.
- We will write to the tenant following the interview to confirm what was agreed.

5.3 Arrears Letters

We will ensure that our letters are:

- Clear, concise and jargon free

- Set out the stage in the process that the arrear has reached and what action will be taken next
- Not inappropriate – legal action will not be threatened if we have no intention of instructing it
- Helpful in directing tenants to other organisations who can provide help, for example, Citizens Advice Bureau and Advice Works.

6.0 Vulnerable Tenants

6.1 A tenant’s vulnerability may not be obvious or disclosed or even exist at the time of the pre-tenancy visit or signing up interview. Visits to tenants may reveal issues such as multiple debts, illness or relationship breakdown. Where a tenant is considered to be vulnerable, links will be established with organisations which may be able to help, and formal referrals made to Social Work Department if there are children or other vulnerable household members. Information shared will be compliant with the Data Protection Act 1998. Where complex cases arise, for example, where a tenant by reason of mental health problems is incapable of managing his/her own affairs, advice will be sought from the Association’s solicitor.

7.0 Information Technology

The Association recognises the importance of having an efficient and effective IT system to assist with the arrears recovery process. This will ensure that:

- staff have up-to-date accurate information about tenants’ balances
- all contact with the tenant and action taken can be recorded in a diary
- all contact with external agencies can be recorded
- accurate rent account information can be supplied to the tenant
- methods of payment can be recorded
- standard letters can be system generated
- performance monitoring information can be compiled.

8.0 Housing Benefit

8.1 Housing Benefit Administration

Housing Benefit accounts for a significant percentage of the Association’s income, and consequently the administration process has a direct impact on the Association’s income stream and its ability to recover rent arrears. We recognise the importance of close liaison with Renfrewshire Council at all levels to ensure that our customers receive the best possible service and that the opportunity for arrears to arise or increase is minimised.

The Association will encourage liaison and participate with the Council at the following levels:

- Strategic level biannual liaison meetings at Director level

- Managerial level quarterly liaison meetings at Manager level
- Operation level weekly liaison between Housing Officer and Benefits Officers
- Exchange visits ad hoc between operational staff

Housing Officers will take a pro-active approach in dealing with Housing Benefit cases. This will include:

- assisting tenants to complete Housing Benefit forms
- pursuing updates from the Council on the processing of individual claims
- pursuing outstanding information from tenants
- assisting the Council with interventions
- referring cases to the Welfare Rights Officer where tenants require assistance with appeals.

8.2 Service Level Agreement

The Association has a Service Level Agreement with Renfrewshire Council. The purpose of the Agreement is to provide a framework for the service levels and standards that are to be achieved by both parties in the processing and administration of the Housing Benefit Scheme for the Association's tenants. The Agreement will be reviewed annually.

8.3 Training

The Association recognises the benefit of joint training with the Council on Housing Benefit and other Welfare Benefits and will seek out training opportunities to assist front line staff.

8.4 4 Weekly Payment Cycle

Housing Benefit payments are currently made on a 4 weekly payment cycle. This means that HB payments do not correspond with the Association's debit period. Where arrears accrue solely as a result of the payment cycle, they will be classed as technical arrears and will not be pursued with the tenant.

8.5 Tenant's Negligence

Where rent accounts are in arrears as a result of delayed Housing Benefit payments, the Housing Officer will liaise closely with the Rent Allowance Section and the tenant to expedite payment. If payment of Housing Benefit is delayed unnecessarily as a result of tenant negligence, legal proceedings may be instigated for the repossession of the tenancy.

9.0 External Agencies

- 9.1 In addition to the preventative measures noted at 3.0 above, it is the Association's Policy to request a case conference with representatives from Social Work Department, and any other relevant agencies, to discuss individual cases where children or other vulnerable household members are

at risk. This is to ensure that measures are put in place to assist the tenant and his/her family either to prevent homelessness, or to provide direct assistance where a decree is granted and homelessness results. The tenant will be notified that a case conference has been requested and it is acknowledged that any level of success can only be achieved with the voluntary co-operation of the tenant.

9.2 Renfrewshire Council Social Work Department and Housing Advice & Homeless Services will be formally notified prior to any court proceedings where decree is being requested, and at any scheduled eviction.

10.0 Qualifying Occupiers

10.1 Under the terms of the Housing (Scotland) Act 2001 anyone staying in the tenant's house, either as a member of the family or someone whom the Association gave permission to stay in the house, must be given the opportunity to be included in the court proceedings and to be notified of further action.

10.2 The Association has a statutory responsibility to make reasonable enquiries to establish, as far as is reasonably practicable, whether there are any qualifying occupiers in the house. A qualifying occupier is someone who occupies the house as their only or principal home and is:

- ◆ a member of the tenant's family aged 16 or over;
- ◆ a person to whom the tenant has assigned, sublet or otherwise given up the possession of the house or any part of it; or
- ◆ a person whom the tenant has taken in as a lodger.

10.3 In order to establish if a qualifying occupier is living in the house, the Housing Officer will check the following:

- the census form
- the household composition disclosed by the tenant at previous arrears interviews
- any lodger or sub-let application
- any household information noted in the file from ad hoc/routine visits to the tenant's home
- any change of household composition disclosed by the tenant.

11.0 Recovery of Housing Benefit Overpayments

11.1 The Income Related Benefits and Job Seekers Allowance (Miscellaneous Amendments) Regulations 1997 SI No.65 provide that any housing benefit paid to a landlord which is subsequently recovered because it has been overpaid does not discharge the tenant's liability to pay rent. This means that where Renfrewshire Council issues a notification and recovers an

overpayment from the Association , we can remove the credit for that sum from the tenant's rent account. If this places the tenant in rent arrears, the overpayment can be recovered as rent arrears in the usual way.

12.0 Housing Applications

- 12.1 A housing application may be suspended where an applicant has outstanding liability such as rent arrears or service charge arrears, which relates to the tenancy and the amount outstanding is more than one twelfth of the annual rent owing. Applicants will not be suspended where they have made an arrangement to pay off the debt and they have been keeping to that arrangement for three months or more.
- 12.2 When a suspension is being considered we will ensure that, as far as practicable, all relevant circumstances are taken into account, including the consequences of suspension on the applicant. Suspensions will be for no longer than 12 months.
- 12.3 Where an application is suspended, the applicant will be notified in writing. S/he will be advised of the timescale for suspension as well as the action s/he can take to end the suspension.

13.0 The Role of the Association's Board

- 13.1 The Board are responsible for determining the Association's Arrears Policy, and any subsequent review, and approving all evictions. In addition the Board will monitor and review the implementation of the Policy and will approve the annual arrears target. Board Members will not be provided with personal details relating to individual tenants in arrears, and will not be involved in the operational aspects of arrears recovery, other than to set the policy context.
- 13.2 In order to facilitate the control and monitoring of arrears, the Audit and Scrutiny Committee will be provided with quarterly reports.

14.0 Board Members with Arrears

- 14.1 The rules of the Association are based upon SFHA Model Charitable Rules (Scotland) 2003. Rule 44 covers 'eligibility for the committee' and sets out the circumstances under which someone cannot become or remain or be re-elected as a Committee Member. Rule 44.1.5 states 'you are a party to any legal proceedings in any Court of Law by or against us'.
- 14.2 Where legal action is being taken against a Board Member for non

payment of rent, the Housing Services Manager will notify the Director so that he/she may take the appropriate steps to have the member removed from the Board.

15.0 Performance Monitoring

15.1 The Audit and Scrutiny Committee will be provided with a range of information to enable members to set targets, review performance on arrears control, and identify trends. In the main, this will be provided through:

- key performance indicator reports
- high arrears reports
- former tenancy write-off requests for arrears over £2,000
- eviction requests.

16.0 Arrears Targets

16.1 Arrears targets will be reviewed on an annual basis and these will be based on gross and net rental income. Targets will be challenging, but realistic, to achieve continuous improvement.

17.0 Benchmarking

17.1 The Association recognises the benefits of benchmarking with other providers. We will benchmark our performance alongside peer groups, such as the Millennium Benchmarking Group, partners in the Federation of Local Associations in Renfrewshire (FLAIR), and with other partners as appropriate.

18.0 Delegated Authority to Staff

18.1 The Housing Services Department will have responsibility for the day-to-day operation of the Arrears Policy. Close liaison will take place with the Finance Department over payments made to accounts by Housing Benefit and so on.

18.2 The Housing Officers will have delegated authority to progress all arrears cases to eviction stage, subject to the prior authority of the Board. The Housing Services Manager will have responsibility for monitoring arrears recovery and ensuring that recovery procedures are fully administered.

18.3 The Housing Services Manager has authority to cancel any legal proceedings where substantial payment and/or reviewed arrangements have been made with the tenant.

19.0 Wider Action

19.1 The Association recognises the benefits that its wider role can deliver in terms of maximising support to tenants who are on low incomes and who may be in financial difficulties. Consequently, the Association will continue to pursue opportunities to secure welfare rights advice and tenancy support services to assist tenants sustain their tenancies.

20.0 Right to Buy

20.1 The Association has a discretionary power under the Housing (Scotland) Act 2001 to refuse an application to exercise the right to buy from tenants or joint purchasers who have either rent or council tax arrears. This applies to current and former addresses. Where a tenant's rent account is in arrears, the applicant will be notified in writing that the application has been refused, and the application will be returned to the tenant.

21.0 Former Tenancy Arrears

21.1 The Association recognises the difficulties associated with the recovery of former tenancy debts. The Housing Services Manager will set a realistic annual provision for bad debts.

21.2 In order to minimise former tenancy debts, the Housing Officer/Housing Assistant will take steps at the pre-tenancy termination stage to ensure that, where practicable, tenancies are ended without arrears. These steps will include:

- Informing the tenant of any rent arrears and other housing debts
- Visiting/telephoning/writing to the tenant to discuss the arrears and reach an agreement for repayment
- Aiming to recover the arrears or confirm repayment arrangements in writing before the tenancy ends
- Obtaining a forwarding address

21.3 Post-termination, regular contact will be maintained with former tenants whose rent accounts are in arrears. Such accounts will be monitored as part of the usual arrears routine.

21.4 Where tenants move without supplying a forwarding address, every attempt should be made to locate the tenant and to make arrangements for the repayment of the debt. Small debt actions may be raised if the former tenant is known to be in employment. Alternatively a debt recovery agency may be appointed if the former tenant fails to reduce or clear the debt after three months.

21.5 Targets will be set and reviewed annually for the recovery of former tenancy

arrears.

- 21.6 The Housing Officers will recommend cases to the Housing Services Manager for write-off where it has been established that the debt is irrecoverable, and these cases will be written off in accordance with the Association's write off procedures.

22.0 Garage Arrears

- 22.1 The Housing Assistant is responsible for the day to day recovery of garage arrears, with support from the Housing Officers as required.
- 22.2 The Association has a procedure for the recovery of garage arrears which is separate from the arrears procedure.

23.0 Confidentiality

- 23.1 To ensure confidentiality – in relation to arrears work - the following steps will be taken:
- i) Only staff will have access to arrears files; and
 - ii) Only staff will discuss arrears with tenants and former tenants.
- 23.2 Names and addresses of individual tenants in arrears will not be disclosed to Board Members at any time and where consent to evict is being sought, reports to the Board will show numerical codes only.
- 23.3 Individual cases in the Quarterly High Arrears Report will be numbered to enable the Board to monitor progress, while ensuring confidentiality.

24.0 Debt Arrangement Scheme (DAS)

- 24.1 The Debt Arrangement and Attachment (Scotland) Act 2002 makes provision for the setting up of debt arrangement schemes whereby individuals may arrange for their debts to be paid under debt payment schemes.
- 24.2 The process involves the tenant contracting an approved money advisor who will discuss with their client whether a debt arrangement application is the best way to deal with their debt problem. A successful debt payment programme prevents the creditor, for example, Bridgewater Housing Association, from using any legal remedy to recover the monies owed. A debt payment programme allows someone with multiple debt problems to make one single payment to a payment distributor who will then forward money to creditors on an agreed basis - normally pro-rata based on the amount

outstanding. This is a formal legal agreement which will avoid any further court action providing it is maintained.

- 24.3 Where it is clear that a tenant has multiple debts, the Housing Officer will make a referral to Advice Works to determine whether invoking the DAS would be appropriate.
- 24.4 Whilst the assessment process is ongoing, the Housing Officer will continue to follow the Association's Arrears Policy and Procedure. He/she will maintain contact with the referral agency to ascertain the outcome of any DAS application.
- 24.5 Requests for consent to a Debt Payment Programme will be authorised by the Housing Officer.

25.0 Training

- 25.1 The Association appreciates that arrears prevention and recovery are greatly enhanced by skilled staff. Staff require training and re-training to adequately cope with the potential problems and stresses of dealing with customers and their financial difficulties.

Staff will be encouraged to regularly attend training courses on the following:

- Changes in housing benefit regulations
- Welfare Benefit Reform
- IT skills
- Interviewing and counselling skills
- Dealing with confrontation
- Benefit fraud awareness
- Basic benefit calculations.

26.0 Tenant and Community Consultation

- 26.1 As a result of the tenant participation provisions in the Housing (Scotland) Act 2001, we are statutorily obliged to consult with tenants on changes to our housing management policies. This includes changes to our policy on the recovery of rent arrears.
- 26.2 We have compiled an action plan for consulting with tenants and community groups and will include a sample in the review of this policy.

27.0 Equality and Diversity

- 27.1 The Housing (Scotland) Act 2001 places an overarching duty on Registered Social Landlords to exercise the functions conferred on them by the Act in a

manner which encourages equality of opportunity and observes equal opportunity requirements laid down in other legislation and regulations.

27.2 The Association's Equality and Diversity Policy covers a range of issues such as access to housing, disability and age, and has the overarching aim of mainstreaming equality in all that we do. The Arrears Policy should also reflect the principles of the Equality and Diversity Policy.

28.0 Monitoring and Review

This policy will be reviewed at least every three years.