

## CLYDESDALE HOUSING ASSOCIATION LIMITED

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| <b>Policy:</b>               | <b>Rent Arrears Policy</b>    |
| <b>Date:</b>                 | <b>31 August 2022</b>         |
| <b>Lead Officer:</b>         | <b>Depute Chief Executive</b> |
| <b>Review Date:</b>          | <b>26/04/2025</b>             |
| <b>Regulatory Standards:</b> | <b>Standard 1</b>             |

The governing body leads and directs the RSL to achieve good outcomes for its tenants and other service users.

### **Guidance**

- 1.1 The governing body sets the RSL's strategic direction. It agrees and oversees the organisation's business plan to achieve its purpose and intended outcomes for its tenants and other service users.
- 1.2 The RSL's governance policies and arrangements set out the respective roles, responsibilities and accountabilities of governing body members and senior officers, and the governing body exercises overall responsibility and control of the strategic leadership of the RSL.
- 1.3 The governing body ensures the RSL complies with its constitution and its legal obligations. Its constitution adheres to these Standards and the constitutional requirements set out below.
- 1.4 All governing body members accept collective responsibility for their decisions.
- 1.5 All governing body members and senior officers understand their respective roles, and working relationships are constructive, professional and effective.
- 1.6 Each governing body member always acts in the best interests of the RSL and its tenants and service users and does not place any personal or other interest ahead of their primary duty to the RSL.
- 1.7 The RSL maintains its independence by conducting its affairs without control, undue reference to or influence by any other body (unless it is constituted as the subsidiary of another body).

## **The Scottish Social Housing Charter**

### **11: Tenancy sustainment**

Social landlords ensure that:

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.

13: Value for money Social landlords manage all aspects of their businesses so that:

- tenants, owners and other customers receive services that provide continually improving value for the rent and other charges they pay.

**Clydesdale Housing Association will provide this policy on request at no cost, in large print, in Braille, in audio or other non-written format, and in a variety of languages.**

## Contents

|  |    |
|--|----|
| INTRODUCTION.....                                    | 3  |
| RISK MANAGEMENT .....                                | 3  |
| LEGAL REQUIREMENTS AND MINIMUM STANDARDS .....       | 3  |
| AIMS AND OBJECTIVES OF THE RENT ARREARS POLICY ..... | 4  |
| POLICY OUTCOMES .....                                | 5  |
| RESPONSIBILITY .....                                 | 5  |
| PREVENTING RENT ARREARS .....                        | 5  |
| Prevention .....                                     | 6  |
| Control .....  | 7  |
| Management.....                                      | 9  |
| EQUAL OPPORTUNITIES.....                             | 9  |
| POLICY MONITORING AND REVIEW .....                   | 10 |

## INTRODUCTION

- 1.1** The Association's principal source of income for day to day operational purposes is the rent received from or on behalf of its tenants. This Policy deals with tenant and sharing owners rent/occupancy charge arrears.
- 1.2** In an ideal world, all tenants would pay the correct amount due when required to do so. Unfortunately, it is recognised that for a variety of reasons, there are those who because of their personal circumstances are unable to pay the correct amount when due. There are however some tenants who choose not to pay.
- 1.3** It is necessary to have a policy clearly stating the Association's approach to the control and management of arrears, which is underpinned by effective procedures, designed to prevent and minimise arrears and maximise the recovery of money due.
- 1.4** The Aims and Objectives of this Policy, and related practices and procedures will be subject to ongoing and continuous review to ensure they are efficient and effective.

## RISK MANAGEMENT

- 2.1** The purpose of having a written detailed Rent Arrears Policy is to ensure that a consistent and professional approach is adopted which is compliant with legislation and best practice.
- 2.2** A consistent and professional approach to rent arrears recovery will reduce the risk of rent arrears escalating which jeopardises the Association's financial viability.
- 2.3** It is accepted that many tenants have multiple debts however high rent arrears could result in a tenant losing their home. It is therefore important to work with tenants to reduce arrears and sustain them in their tenancy. The costs associated with tenants being evicted are very high and it is important to keep these costs to a minimum through the execution of this Policy and its associated procedures.

## LEGAL REQUIREMENTS AND MINIMUM STANDARDS

- 3.1** The current legal context for the recovery of possession for rent arrears is contained in the Housing (Scotland) Act 2001 and the Housing (Scotland) Act 2010 (the 2010 Act).
- 3.2** It is also important to make sure that any rent arrears recovery takes account of the following other legislation:
  - Data Protection Act 2018
  - Equality Act 2010
  - Children Scotland Act 199
  - Debtors Scotland Act 1987
  - Human Rights Act 1998

- Homelessness etc (Scotland) Act 2003
- 3.3** The Scottish Social Housing Charter outcomes which relate to tenancy sustainment and value for money are:
- Outcome 11 – 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.
- Outcome 13 - tenants, owners and other customers receive services that provide continually improving value for the rent and other charges they pay.
- 3.4** The Scottish Housing Regulator’s Regulatory Standards for Governance and Financial Management (under review).

## AIMS AND OBJECTIVES OF THE RENT ARREARS POLICY

- 4.1** It is the aim of this Policy to prevent rent arrears building up. Our approach to rent arrears recovery is to be proactive, fair but firm.
- 4.2** Maximise rental income to protect long term viability and rent affordability for the benefit of current and future tenants.
- 4.3** Minimise increases in current tenant non-technical rent arrear levels through a proactive and preventative approach that facilitates early identification of non-payment and the signposting of tenants to appropriate support agencies.
- 4.4** Ensure non-technical arrears are carefully managed and that the overall rate at which arrears increase is consistently reduced.
- 4.5** Improve communication with tenants in order to:
- ensure early awareness of non-payment
  - promote a culture of responsibility for payment of rent
  - encourage and engender confidence in seeking assistance and discussing payment difficulties
  - ensure they are aware of the arrears and fully understand the implications and consequences of non-payment, both for themselves and the Association
  - encourage the maximisation of benefit uptake
  - signpost them to the various agencies providing welfare advice and debt counselling services
  - ensure they are fully aware of their obligations and rights.
- 4.6** Maximise recovery of former tenant debts and other charges.
- 4.7** Sustain tenants in their homes for as long as possible, thereby alleviating the pressure on South Lanarkshire Council to provide homeless accommodation.

- 4.8** Ensure Management Committee are kept informed and have the opportunity to assess performance by the regular presentation of reports in appropriate formats and containing adequate and relevant information which accurately demonstrates the level of arrears and actions taken.
- 4.9** Develop and revise operational procedures to ensure they continue to be lawful, effective, reflect good practice and make efficient use of ITC.

## POLICY OUTCOMES

- 5.1** The success or otherwise in achieving the stated aims and objectives of this policy will be assessed on outcomes based on the key indicators agreed annually by the Management Committee and reported on through the relevant Balanced Scorecard.
- 5.2** Achievable but challenging targets will be established for the key performance indicators and benchmarked against peer group Associations. These targets will be reviewed and revised annually to ensure they continue to be challenging and provide a stimulus to staff to attain a standard of performance that places the Association within the upper quartile of peer group Association performance.

## RESPONSIBILITY

- 6.1** Operational responsibility for arrears monitoring and control is delegated to the Housing Management Team. Individual Housing Officers have responsibility for all rent arrears in their “own patch”. The Depute Chief Executive retains overall control and responsibility for decision making.
- 6.2** The Management Committee has delegated authority to the Chief Executive Officer to approve evictions. The Depute Chief Executive is responsible for providing an evictions report annually to the Management Committee.
- 6.3** The Management Committee is responsible for ensuring the adoption and implementation of a formal policy for the prevention and control of arrears and through the production of regular management reports to review its effectiveness.

## PREVENTING RENT ARREARS

- 7.1** Adopted procedures and working practices will take account of established and developing good practice, make efficient use of ITC systems to underpin a firm, but fair and consistent proactive approach to:
- **PREVENTION**
  - **CONTROL**
  - **MANAGEMENT**

with the greatest emphasis focussing on **PREVENTION**.

- 7.2** It is recognised that eviction is a sanction of last resort and a failure to secure a defaulting tenant's co-operation to comply with tenancy obligations.
- 7.3** The Association will liaise and work with other agencies to sustain tenants' in their home.

#### Prevention

- 7.4** Tenancy references will be sought for all housing applicants who are currently tenants with or were previously tenants of the Association or other landlords. References which indicate an applicant has outstanding arrears will be deemed unsatisfactory and in the absence of mitigating factors, the application will be suspended in accordance with the Housing List Suspension Policy.
- 7.5** At the tenancy sign up stage, all new tenants will be:
- informed of their obligation to pay the due rent, the importance of making rent payments on time and the implications and consequences of their failure to do so both for them and the Association
  - informed of the different payment options available
  - provided with information and advice on housing benefit entitlement, offered a quick housing benefit calculation and where appropriate encouraged to complete and submit an application without delay
  - requested to make an initial advance payment of rent, net of any housing benefit to which they may be entitled except where to do so would cause undue hardship
  - signposted to various debt and welfare advice services and advised to make early contact if they encounter or anticipate difficulties in making payment of the correct amount on the due date
  - asked to sign a mandate authorising the Association to refer them to an appropriate agency if they should fall into arrears.
- 7.6** Following the annual rent review, letters detailing revised applicable rents will be issued as soon as possible to allow tenants ample time to adjust their budgets and payments accordingly. Where appropriate, standing order mandates will be enclosed with the Rent Review letter which will remind tenants of, and emphasise the need to instruct their bank to update their monthly payment.
- 7.7** Rent Review schedules will be forwarded to South Lanarkshire Council well in advance of the implementation of the revised applicable rent to ensure timeous updating of tenant's housing benefit entitlement.
- 7.8** The Association will liaise and co-operate with South Lanarkshire Council in encouraging tenants to respond to housing benefit reviews. This will include referring to housing benefit reviews in the Tenant Newsletters in addition to specific letters and home visits to individual tenants.
- 7.9** Housing benefit notifications will be processed and the housing benefit file

updated as quickly as possible in line with established procedures to allow early and accurate identification of technical and non-technical arrears due by individual tenants.

- 7.10** Tenants awarded housing benefit will be informed of their liability for the rent net of housing benefit receivable and /or for rent accruing for any period not covered by the award.
- 7.11** Through the quarterly Newsletter, tenants meetings and any other medium considered appropriate, the Association will inform all tenants of major changes in the benefit regulations that may impact on their entitlement to housing benefit.
- 7.12** To minimise risk exposure to housing benefit overpayments, Housing Management staff will immediately inform South Lanarkshire Council where it becomes evident a tenant in receipt of housing benefit has died, has experienced a change in circumstances likely to affect their entitlement, or has abandoned or terminated their tenancy.

#### Control

- 7.13** Operational procedures for the recovery of rent arrears will follow an escalation path within agreed timescale assigned to each critical stage.
- 7.14** Rent accounts will be regularly monitored in order to identify late or non-payment or noncompliance with agreed payment arrangements and contact made with defaulters at the earliest practicable date. Tenants in arrears will be signposted and encouraged to sign mandates authorising the Association to make referrals on their behalf to debt and welfare advice services.
- 7.15** Tenants will be afforded reasonable opportunities to make an arrangement to pay any outstanding balance by agreed instalments over a period of time. The agreed arrangement must be of sufficient magnitude to pay the current rent when due and contribute to a consistent reduction in the outstanding arrears. Generally, such arrangements will be based on the tenant's net disposable income calculated by reference to applicable housing benefit amounts.
- 7.16** It will be a condition of any such arrangement that where a tenant defaults in payment but wishes to continue with a payment arrangement, they must either bring their account up to-date by making good missed payments or shortfall, or alternatively accept a revised arrangement whereby the debt will be cleared within the same timescale it would have been had the tenant adhered to the previously agreed arrangement.
- 7.17** More often than not, tenants in arrears are either on low incomes or have other financial difficulties. Legal fees therefore are an unwanted and unbudgeted expense and increase a tenant's overall financial liability. For that reason court proceeding will only be instructed as a last resort where a tenant is not co-operating in bringing their rent up to-date or by adhering to an agreed arrangement.

However, in those cases where legal proceedings cannot be avoided, it is unreasonable for the burden of the costs incurred to fall on other conscientious rent paying tenants. Consequently, having been afforded opportunities to rectify matters, once proceedings are instructed reimbursement of the expenses incurred will be sought from the tenants concerned, either by voluntarily payment or by requesting decree through the court. The Housing Manager is authorised to waive such charges where their imposition would cause undue hardship.

**7.18** Dependent on the level of payment required and debt outstanding, legal action will be instructed provided the Pre-Action Requirements have been satisfied which are:

- Give clear information about the tenancy agreement and the unpaid rent or other financial obligations
- Make reasonable efforts to give help and advice on eligibility for housing benefit and other types of financial assistance
- Give information about sources of help and advice with the management of debt
- Make reasonable efforts to agree with the tenant a reasonable plan for future payments
- Consider the likely result of any application for housing benefit that has not yet been decided
- Consider other steps the tenant is taking which are likely to result in payment within a reasonable time
- Consider whether the tenant is complying with the terms of an agreed plan for future payments
- Encourage the tenant to contact their local authority

**7.19** The Association is committed to the principle of sustaining tenants in their homes. In the case of tenants with rent arrears, eviction is very much perceived as a sanction of last resort, but ultimately the extent to which it can be prevented is dependent on the willingness of the tenants concerned to co-operate in fulfilling their contractual responsibilities.

Where eviction is considered the only alternative, the Depute Chief Executive will seek the approval of the Chief Executive Officer to raise court action.

**7.20** Protocols will be established and maintained with relevant welfare support and advice agencies in relation to case referrals and information exchange with regard to specific individuals.

**7.21** South Lanarkshire Council's Social Works Resources (Duty Officer) will be informed in writing in every case where it is necessary to issue to a tenant in arrears with a statutory Notice of Intention to Raise Proceedings for Possession.

**7.22** Every reasonable effort will be made to maximise the recovery of former tenant arrears and other charges and minimise the write-off of irrecoverable



bad debts. Former tenants bad debts will only be recommended for write-off in cases where there is very little prospect of recovery. Action to recover payment of written-off debts will be taken on receipt of new information as to a former tenant's whereabouts or personal circumstances. Where appropriate and necessary debts will be forwarded to reputable debt agencies for tracing and collection.

## Management

- 7.23** Key Performance Indicators with challenging targets benchmarked against peer group Associations will be maintained. These targets will be reviewed and revised annually to ensure they continue to be challenging and provide a stimulus to staff to attain a standard of performance which places the Association within the upper quartile of peer group Association performances.
- 7.24** Performance will be closely monitored and Key Performance Indicator outcomes measured against benchmarked targets will be assessed and reported to Management Committee.
- 7.25** Existing ITC and Rent Accounting systems will be developed and enhanced to optimise their efficiency and effectiveness in accurately recording and updating details of rent due and payments received.
- 7.26** The Depute Chief Executive will ensure all staff involved in the recovery of arrears are fully aware of the Aims and Objectives of this Policy, and that they are provided with the necessary training and instruction on performance targets, procedures (existing, new or revised as the case maybe), information technology and rent accounting systems to ensure optimum use of available resources in arrears management.


## EQUAL OPPORTUNITIES

- 8.1** We will seek to promote and to achieve equality of treatment and opportunity for all groups in society without discrimination or prejudice on any grounds. The Equality Act 2010 introduces the term "protected characteristics" to describe groups against whom any sort of discrimination is unlawful. Section 4 of the Act specifies nine protected characteristics:

- Age
- Disability
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Gender (referred to as "sex" in the Act)
- Gender reassignment
- Sexual orientation

## POLICY MONITORING AND REVIEW

- 9.1** The Depute Chief Executive will regularly monitor the implementation of this policy and will ensure it is applied fairly and consistently in a non-discriminatory manner; and will present appropriate reports to Management Committee demonstrating the outcomes relative to the stated objectives.
- 9.2** This policy will be subject to periodic review, not less than once every three years, and more frequently as and when necessary to take account of further legislative change or developing good practice.

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| Approved by the Committee of Management on: 31 August 2022 |   |
| Signed:<br><br>Secretary/Chairperson                       | Signed:<br><br><br>Director/Senior Staff Member |