

RENT ARREARS POLICY

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SERVITE HOUSING ASSOCIATION LTD

POLICY STATEMENT: RENT ARREARS

1 INTRODUCTION

Preventing and managing rent arrears is crucial to maximise the resources available to Servite Housing Association to improve and maintain its stock. Servite also seeks to support its tenants to avoid rent arrears and the potential risk of excess debt and tenancy termination.

2 SCOPE OF THE POLICY

- 2.1 This policy describes the activities and responsibilities involved where rent accounts of both current and former tenants are in arrears. The term "rent arrears" applies to all tenancy charges, including rent, service and heating charges.
- 2.2 The Rent Arrears Policy applies to all rented property owned or managed by Housing Services.
- 2.3 The Rent Arrears Policy complies with and supplements Servite's financial regulations.

3 CONTEXT

- 3.1 The Rent Arrears Policy meets with legislative and good practice requirements in minimising rent arrears. This includes the following:

Scottish Secure Tenancy – The Association can exercise direct control over its tenants via the terms of the Scottish Secure Tenancy Agreement. The purpose of this is to protect the interest of its tenants, the wider community and the Association.

Housing (Scotland Act) 2001 - The Rent Arrears Policy adheres to the Housing (Scotland) Act 2001, in particular guidance in relation to the recovery of possession of a tenancy when a tenant has breached the conditions of their tenancy agreement by accruing rent arrears.

Schedule 7, Housing (Scotland) Act 2001 – Gifts or Hospitality – When involved in managing rent arrears, staff and Committee of Management members involved in the process must ensure that there is no conflict of interest. If there is any doubt or a conflict of interest arises, staff will liaise with their line manager and Committee of Management members will liaise with the relevant Chairperson.

Data Protection Act 1998- Within the terms of the Data Protection Act the Association will ensure that information provided by an applicant and/or tenant, or sought by the Association is relevant only to the payment of rent, managing of rent arrears and that all such information received is treated in the strictest confidence.

Under the provisions of the Data Protection Act, individuals have the right to see and receive a copy of any personal information (for which a small fee may be charged) that is held about them by the Association and to have any inaccuracies corrected.

Matrimonial Homes (Family Protection) (Scotland) Act 1981 – The Association will comply with the terms of the Matrimonial Homes (Family Protection) (Scotland)

Act 1981 when providing advice on the occupancy rights to people whose home is at risk due to eviction.

Section 11 of the Homelessness etc (Scotland) Act 2003 - The Association will comply with the terms of Section 11 of the Homelessness etc (Scotland) Act 2003 by giving the local authorities in the areas in which it operates early notice of households at risk of homelessness due to eviction. In compliance with the legislation, notice will be given when raising proceedings for possession or the service of certain other notices as specified in the Act.

3.2 The Rent Arrears Policy complies with the guidelines set by The Scottish Government in its Performance Standards for Social Landlords. In terms of the management of rent arrears, Standard AS1.8 states that every social landlord must:

Arrears – act to prevent arrears of rent and service charges building up, recovering any arrears fairly and effectively.

3.2 The Scottish Federation of Housing Associations (SFHA) has also developed guidelines for the management of rent arrears. This policy complies with SFHA guidance that:

“RSL governing bodies should be concerned with ensuring that the corporate responsibility to prevent, manage and recover arrears is translated into effective policy and practice.”

3.3 This policy supports the strategic requirements of the Association’s Business and Strategic Development Plans; Standing Orders and the Association Strategies, Policies and Procedures including our Tenant Participation Strategy, Equal Opportunities Policy and Risk Management Strategy.

3.4 This policy is supported by a Rent Arrears Procedure, which includes processes for the effective monitoring and recovery of arrears

3.5 The Association will ensure that all staff and Management Committee Members receive appropriate training and support to meet the requirements of this policy and related procedures.

4 POLICY AIMS

4.1 The overall aim of the Rent Arrears Policy is to minimise the level of rent arrears in a sensitive but effective manner.

4.2 The specific objectives of the Rent Arrears Policy are:

- To adopt a firm but sensitive approach to arrears recovery
- To offer appropriate professional support and guidance to tenants to increase their ability to pay, to manage debt and to reduce arrears
- To monitor levels of arrears and have early intervention mechanisms in place which prevent arrears arising or increasing
- To aim for personal contact with every tenant as soon as arrears arise
- To take appropriate action in accordance with the level of arrears
- To prevent homelessness arising by making use of all available remedies to collect rent due using eviction only as a last resort
- To provide clear and accessible information and advice to customers in order to prevent rent arrears and legal action occurring.

4.3 To achieve the above objectives the Association will:

- Prevent tenants from falling into arrears through early intervention
- Inform tenants accurately of how much rent and service charges they must pay
- Respond promptly to enquiries about rent and other payments
- Ensure that rent payment options are accessible and convenient for people to use, and promote the use of direct debit and rent payment cards as payment methods
- Provide tenants with detailed and accurate information on their rent accounts in plain English when requested or with correspondence
- Encourage tenants to pay their rent regularly and avoid getting into arrears
- Ensure maximum take up of benefits to help tenants pay their rent
- Make basic Housing Benefits advice available and develop referral procedures with welfare rights and other agencies where entitlement to other benefits is identified
- Have a firm but sensitive and non-threatening approach when dealing with rent arrears
- Have procedures and agreed practices that are applied uniformly across the service
- Provide training to ensure that staff are equipped to carry out the roles expected of them
- Take a staged approach where arrears action is targeted in relation to the size of the arrears and the period of debt
- Inform tenants of the consequences of not clearing their arrears or keeping to an agreement and make every effort to contact them before taking further action
- Negotiate with tenants an agreement to reduce the arrears in realistic and affordable instalments if they cannot clear the arrears with one payment
- Record any action taken at each stage in the recovery process
- Make use of all available options for arrears recovery
- Aim, wherever possible, to secure repayment without obtaining possession of the property and use eviction only as a last resort
- Work with other agencies to support vulnerable tenants at each stage of the recovery process

5 AREAS OF RESPONSIBILITY

5.1 The Management Committee - has responsibility for ensuring that this policy complies with Regulatory and Legislative requirements and in meeting the Association's Business Plan and budget.

5.2 The Chief Executive – has responsibility for ensuring that this policy is applied to ensure compliance with Regulatory and Legislative requirements and in meeting the Association's Business Plan and budget.

5.3 The Housing Services Director – has responsibility for ensuring that appropriate Housing Services support and timely advice is provided to the Management Committee, Management Team and relevant staff to ensure compliance with Regulatory and Legislative requirements and in meeting the Association's Business Plan and budget.

5.4 The Finance Director – has responsibility for ensuring that appropriate financial

support and advice is provided to the Management Committee, Management Team and relevant staff to ensure compliance with Regulatory and Legislative requirements and in meeting the Association's Business Plan and budget.

6 EQUAL OPPORTUNITIES IMPLICATIONS

6.1 The Association will ensure the promotion of equal opportunities by publishing information and documentation in different languages and other formats such as large print, tape and Braille, as required.

6.2 The Association will ensure that no individual is discriminated against on grounds of sex or marital status, on racial grounds, or on grounds of disability, age, sexual orientation, language or social origin, or other personal attributes, including beliefs, or opinions, such as religious beliefs or political opinions.

7 SUSTAINABILITY IMPLICATIONS

7.1 The approach outlined in this Policy, working in tandem with our policies on Void Properties, Anti Social Behaviour, Estate Management and Allocations, ensures that the Association is striving to make positive contributions towards the sustainability of our communities.

7.2 The Association acknowledges the negative impact that excessive debt and the potential for empty homes caused by eviction can have on the community and aims to ensure that these are kept to a minimum. Our Rent Arrears Policy and procedures emphasise prevention and early intervention, a customer centred approach and early involvement of appropriate external agencies. The overall aim being to maintain the long term sustainability of our tenancies and full occupancy of our dwellings.

8 RISK MANAGEMENT

8.1 The Management Committee will consider the Risk Management factors of Rent Arrears recovery including:-

- Financial risk through potential failure to ensure that enough income is collected to cover operating costs
- Non compliance with Communities Scotland Performance Standards
- The setting of charges that are not affordable resulting in increased arrears

9 TENANT CONSULTATION STRATEGY

9.1 The Association will also consult with Tenants and Registered Tenants Organisations on the Rent Arrears Policy as part of its Tenant Participation Strategy.

10 PREVENTION OF RENT ARREARS

10.1 At the start of a new tenancy, the Association will write to the new tenant to inform them of all costs associated with their tenancy.

10.2 All new tenants will have a sign up interview with their Housing Officer when the obligations of the tenancy agreement will be explained. The interview will provide an opportunity to ensure that the tenant is aware of the rent due, their obligation to maintain prompt payments and the repayment methods available. Advice and assistance will be offered to complete application forms for Housing Benefit.

- 10.3 The sign up interview will be followed by a new tenant home visit by the Housing Officer no more than 56 days after the commencement of tenancy. This will provide further opportunity to ensure that rental payments have commenced, to resolve any queries that the tenant may have or to obtain information to assist in the processing of claims for Housing Benefit.
- 10.4 Tenants will be offered help and advice on money management and welfare benefits, including referrals to appropriate agencies for assessment of their entitlement to Housing Benefit, Income Support or other Benefits.
- 10.5 Where tenants experience difficulty with the completion of a benefits application form, assistance will be provided by housing staff, or a referral to the Housing Benefits or Welfare Benefit sections of the local Council will be arranged.
- 10.6 The Association will consult with tenants regarding any change to the rent payable and will give tenants 28 days written notice of any increase in rent.

11 RENT ARREARS RECOVERY

- 11.1 Rent arrears recovery will be based on a staged escalation process, up to and including repossession for non-payment of rent.
- 11.2 The process will be based on a preventative approach that seeks to maximise tenants' entitlement to benefits and secure regular payments. Emphasis will be placed on intensive management and personal contact by the Housing Officer whilst arrears are at a relatively low level, in order to prevent the escalation of arrears.
- 11.3 The Association will consider Legal action to recover rent arrears where management actions prove ineffective.

12 EARLY ACTION

- 12.1 The Association will ensure that there is early intervention in rent arrears before a debt becomes unmanageable.
- 12.2 Housing staff will monitor rent accounts in accordance with the procedures for rent control and recovery action.
- 12.3 Arrears control and recovery action will be activated at the close of the monthly debit period and for every rent account indicating arrears.
- 12.4 Detailed procedures for rent control and arrears action ensure that each case is regularly monitored and the necessary checks made at each stage of the control and recovery action. Tenants who regularly go into arrears will be contacted directly.
- 12.5 The Association will maintain a comprehensive record of all action taken and contact with a tenant in arrears.
- 12.6 The Association will provide tenants in arrears with clearly written arrears letters which detail the current balance on an account, what action they need to take with appropriate phone numbers to get assistance.

12.7 The Association will provide tenants in arrears with a financial assessment of their circumstances with a view to making realistic and sustainable arrangements to pay off the arrears.

12.8 The Association will: -

- Give priority to establishing personal contact with tenants and members of their family over 16 years of age throughout the debt recovery process
- Enable an appropriate assessment of their needs and circumstances to inform the delivery of support if required
- Enable money management advice and assistance
- Provide effective controls on the recovery of debts, with legal action being taken only when all other means of recovery of rent arrears have been exhausted
- Encourage tenants to advise the Association of a change in their circumstances that may affect their ability to pay rent.

13 SERIOUS/PERSISTENT ARREARS ACTION

13.1 Serious arrears action will commence when arrears continue to rise, or direct contact with the tenant has failed. This may include initial stages of raising legal proceedings against the tenancy.

13.2 The Association will write and inform the tenant that if the payment of rent and arrears are not made on a regular basis, that a Notice of Proceedings for Recovery of Possession will be served and that legal action may be taken.

13.3 Emphasis will continue on personal contact and ensuring that family members where appropriate are involved.

14 REPAYMENT ARRANGEMENTS

14.1 In cases where the tenant cannot clear the arrears in a single payment, the Association will agree an affordable payment to reduce the arrears in realistic and sustained instalments over a specific period of time. Any repayment agreement will be based upon a detailed assessment of the tenant's ability to pay.

14.2 A written agreement will be made with the tenant on how to manage and reduce their rent arrears. This agreement will include the level of current arrears, the tenant's ability to pay, the size and frequency of arrears repayments, the repayment dates and the method of making future rent payments.

14.3 Once the tenant has made an agreement to repay arrears, the rent account of the tenant will continue to be monitored. If payments continue to be missed, further action will be taken.

15 LEGAL ACTION

15.1 Legal action is the last stage in the rent arrears process. The decision to request that an action for recovery of possession of the property and payment of arrears of rent be raised will only be taken when all other means of recovery of rent arrears

have been exhausted. The court may make either (or both) an order for recovery of possession or an order for repayment. An award of court expenses will be sought.

15.2 The Association must serve the tenant with a Notice of Proceedings for Recovery of Possession at least 28 days before court proceedings will commence. The Association must also provide a Section 11 notice of possession proceedings to the relevant office within the Local Authority notifying them of the potential homelessness of the tenant.

15.3 Before serving a Notice of Proceedings for Recovery of Possession the Association will make reasonable inquiries to establish, so far as is reasonably practical, whether there are any qualifying occupiers in the house.

The Notice of Proceedings for Recovery of Possession must also be served on all qualifying occupiers of the house.

A qualifying occupier is a person who occupies the house as his/her only or principal home and who is:

- A member of the tenant's family aged at least 16
- A person to whom the tenant has, with the landlord's consent, assigned, sublet or otherwise given up possession of the house
- A person who is a lodger and the landlord has given consent

15.4 Tenants in rent arrears will be informed that any qualifying occupiers will be notified of the rent arrears and may at the tenant's discretion be invited to contribute to the financial risk assessment process.

15.5 Tenants will be kept informed and fully involved of the legal process involved in all stages of legal action. Legal action may include a payment decree or ejection decree. In all cases, the Association will seek recovery of expenses. Expenses may be awarded where the arrears have been repaid. Where appropriate, the Association will refer the tenant to suitable agencies to provide advice or assist in representation at Court hearings.

15.6 Where the Court orders the repayment of arrears, it may order an open decree for repayment, which the Association can enforce for full payment of the debt, or it may make an instalment decree requiring the tenant to clear the arrears at an agreed rate.

15.7 Specific procedures will be developed to guide staff where evictions are authorised. These procedures will ensure that evictions will only be considered as a last resort where all other alternatives have failed.

15.8 In order to protect the Association from unnecessary rent loss, authority to approve evictions will be delegated to the Housing Services Director. The Housing Service Director will report details of all evictions to the Committee of Management.

16 FORMER TENANT ARREARS

16.1 Former tenants are tenants who have terminated a tenancy and have outstanding rent arrears related to the property vacated.

16.2 All tenants, when terminating their tenancy, are encouraged to pay any outstanding arrears of rent and will be advised of the implications involved if rent arrears are not paid in full.

- 16.3 Arrears control and recovery action will be activated when the status of the tenancy changes to former tenant.
- 16.4 Former tenants in arrears will be encouraged to agree a repayment plan that is affordable and sustainable.
- 16.5 Detailed procedures for arrears recovery ensure that each case will be regularly monitored and appropriate action taken, this may include referral to an appropriate debt recovery agency.
- 16.6 Legal action to recover the arrears will be taken in cases where, an assessment of the former tenant's financial circumstances, indicate that such action would be appropriate.
- 16.7 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.
- 16.8 Where a debt is uneconomic to pursue, or attempts to recover arrears by letter or debt recovery agency have failed, or the former tenant's whereabouts are unknown, or there is no prospect of recovery, the debt will be written off in accordance with the Association's financial regulations on irrecoverable debt.

17 COMPLAINTS PROCEDURE

- 17.1 Any tenant may submit a Complaint, using the Association's complaints procedure if it is felt that the Association has failed to correctly apply this Rent Arrears Policy.

18 PERFORMANCE MONITORING

- 18.1 The Association will monitor performance on rent arrears using both statutory and local performance indicators as follows:

Statutory Performance Indicators

- Current tenant arrears as a percentage of the net rent due in the financial year
- Former tenant arrears as a percentage of the net rent due in the financial year.
- Total tenant arrears as a percentage of the net rent due in the financial year.
- The percentage of current tenants owing more than 13 weeks rent excluding those owing less than £250

Local Indicators

- The total amount of current tenant arrears
 - The total amount of former tenant arrears
 - Number of tenants evicted due to rent arrears
 - Number of notices for possession served
- 18.2 The Housing Services Director will have delegated authority to annually agree targets for current and former tenant arrears as a percentage of the net rent due in the financial year.
- 18.3 The statutory performance indicators will be reported monthly to the Management Team and bi-monthly to the Committee of Management.

19 POLICY REVIEW

- 19.1 The Association will review the Rent Arrears Policy in 2012. Amendments will be made as required after consultation with service users and other agencies.