

**TOPIC:** Rent Arrears Policy

**DATE:** August 2015

**Version:** 10

**Code:** HM04

## **THE PURPOSE**

To set out the guidelines and determine the criteria by which Shettleston Housing Association will maximise the revenue income through rent collection and rent arrears control.

## **1. INTRODUCTION**

Shettleston Housing Association operates in accordance with;

- Statutory Requirements
- The standards set down in the Scottish Social Housing Charter
- The requirements of the Scottish Housing Regulator

In the formulation and implementation of all its policies. SHA seeks to fulfil its Corporate Aims through the development and implementation of its policies and all SHA's policies operate to achieve its Strategic Objectives as set out in its Internal Management Plan.

## **2. EQUALITIES AND DIVERSITY**

SHA is committed to providing equality of opportunity to all persons or groups within its area of operations in every aspect of its activities.

In operating this policy SHA will endeavour to ensure equality of opportunity for all at all times and in all circumstances. The potential impact of this policy either positive or negative on any protected characteristics were considered when developing this policy. The Equality Impact Assessment is attached to the policy line with this commitment to equal opportunities, this policy and any summary or information leaflet can be made available free of charge in a variety of formats including large print, translated into another language or on audio tape.

## **3. ACCESS TO POLICY INFORMATION**

SHA will ensure that its policies are made fully available to all tenants, applicants, members, persons or groups within its areas. Every effort will be made by SHA to support access and promote awareness of its policies, by posting these on its website, developing summaries, guidance and information leaflets as appropriate.

#### **4. TENANT INVOLVEMENT AND CONSULTATION**

SHA is committed to meeting the requirements of the Housing (Scotland) Act 2001 in all of its policies and to meet the requirements of the Scottish Social Housing Charter. SHA will involve tenants in the development of its policies and seek feed back in appropriate circumstances. It will ensure at all times that any material change to services affecting tenants in this and other policies will be the subject of consultation.

#### **5. POLICY MONITORING**

SHA is committed to ensuring that adequate monitoring of the implementation of its policies is undertaken. This will be achieved through regular review by the Management Committee; customer/tenant feed back surveys, and regular consultation with tenant/resident groups.

#### **6. RISK MANAGEMENT AND ASSESSMENT**

SHA has a detailed Risk Management Policy in place and it will assess the risks to the Association in the implementation of each of its policies as part of its risk management strategy.

#### **7. PROCEDURES**

SHA will develop a detailed set of procedures identifying actions, roles and responsibilities in implementing its policies. These procedures will be subject to regular review and audit.

#### **8. TRAINING**

SHA will ensure that its staff are properly trained in terms of their knowledge and understanding of statutory requirements and the requirements of the Scottish Social Housing Charter pertaining to its policies. It will ensure that appropriate staff are kept up to date with all procedures pertaining to the implementation of policies. The Management Committee and Sub-Committees will have access to training to ensure that they can maintain a sufficient overview of the policy and procedures.

#### **9. PURPOSE OF THIS POLICY**

Shettleston Housing Association's rental income is by far the most important source of revenue income for the Association. Accordingly, rent collection along with prevention and management of arrears is essential to the operation of the service.

The Association aims to minimise loss of rental income by prompt and effective recovery of rent arrears. In doing this the Association recognises that arrears arise for different reasons and that therefore recovery procedures should be flexible and responsive to individual circumstances.

In producing this Policy, the Association has consulted with local residents, Operations Sub Committee and the Association's staff, which has ensured that a broad consensus has been achieved about the effectiveness, reporting and monitoring of the rent collection and arrears control management.

There are five key underlying principles, which are contained within this Policy:

1. The importance for both the Association and tenants of preventing arrears arising in the first place.
2. The Association's policy for controlling rent arrears is to provide all tenants with early advice on benefits, inform tenants promptly of changes to their rent charges and make early personal contact with tenants whose accounts go into arrears.
3. The Association will emphasise to tenants in rent arrears that our aim is to assist them to come to sensible and affordable repayment arrangements with the Association but that we will take action against those who persistently or wilfully do not pay.
4. Although our primary objective is to assist tenants to maintain their tenancy we recognise that where all other efforts have failed, and as a last resort, the Association may have to take legal action to repossess the property.
5. The need for the Association to provide as much advice and assistance to tenants as possible in relation to maximising benefit entitlement and debt counselling where appropriate. This will be addressed by the Welfare Rights Officers and Financial Inclusion Officers working closely in conjunction with the Housing Officers.
6. To comply with all pre-action requirements as set out in Section 14(a) of the 2001 Act ("the pre-action requirements").

## **10. LEGAL AND REGULATORY REQUIREMENTS**

This Policy aims to be consistent with all relevant legal and regulatory requirements, including those set out below:

### **10.1 Legal Requirement**

- The Housing (Scotland) Act 2001 & 2010
- Scottish Secure Tenancy Agreement and Short Scottish Secure Tenancy Agreement
- Occupancy Agreement (Sharing Owners)
- Data Protection Act 1998
- Human Rights Act 1998
- The Welfare Reform Act 2012
- Debtors (Scotland) Act 1987
- Homelessness etc. (Scotland) Act 2003

## 10.2 Regulatory Framework

We will comply with the Scottish Social Housing Charter requirements most relevant to this Policy:

**Outcome 2 Communication:** Tenants and other customers find it easy to communicate with their landlord and get the information they need about their Landlord, how and why it makes decisions and the services it provides

**Outcome 11 Tenancy Sustainment:** Tenants get the information they need on how to obtain support to remain in their home, and ensures suitable support is available, including services provided directly by the Landlord and by other organisations.

**Outcome 13 Value for Money:** Tenants, owners and other customers receive services that provide continually improving value for the rent and other charges they pay.

This standard covers the efficient and effective management of services. It includes minimising the time houses are empty, managing arrears and all resources effectively, controlling costs, getting value out of contracts, and giving better value for money by increasing the quality of services with minimum extra costs to tenants, owners and other customers.

### Outcomes 14 & 15: Rent and service charges

Social Landlords set rents and service charges in consultation with their tenants and other customers so that: 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

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

## 10.3 Related Policies/Documents

This Policy is designed in compliance with the following:

- Key Performance Indicators
- Internal Management Plan
- Rent Policy
- Allocations Policy
- Tenancy Sustainment Policy
- Shared Ownership Policy
- Engagement Strategy Policy
- Complaints Procedure
- Equality & Diversity Policy

## **11. PREVENTING ARREARS ARISING**

Shettleston Housing Association will seek to minimise rent arrears by: -

- Completing a financial assessment for applicants prior to an offer of tenancy to ensure affordability.
- Maintaining accurate rent accounting systems to ensure accurate monitoring of rent arrears.
- Advising new tenants of the terms of the tenancy and any outstanding rent and any other outstanding financial obligation to the tenancy.
- Issuing Housing Benefit forms at sign up and advising of actions that may be taken if the tenant goes into arrears.
- Ensuring that there is early intervention in rent arrears before a debt becomes unmanageable
- Making application for Direct Payments from DWP for rent arrears where possible.
- Providing as many options as possible for payment including standing orders, direct debits, payment by cheque and Allpay cards.
- Advising tenants of any changes to the rent payable promptly and in accordance with statutory notice periods.
- Carrying out home visits and financial assessments for all tenants who are in arrears.
- Checking with Housing Benefits Section to see whether there is an outstanding claim.
- Having in place efficient monitoring systems, which enable staff to quickly identify non-payment or reduced payment on a weekly/monthly basis.
- Issuing on an annual basis (and on request) a rent statement to tenants.
- Treating all joint tenants as jointly and severally responsible for rent arrears on the account.
- Making efforts to provide the tenant with advice and assistance on the tenants eligibility to receive housing benefit and any other advice or financial assistance.
- Providing the tenant with information about sources of advice and assistance in relation to the management of debt.
- Making reasonable efforts to agree with the tenant a reasonable plan for future payments to the Association. Such a plan to include proposals in respect of future payments of rent and outstanding rent and other outstanding financial obligations of the tenancy.

- Generally to comply with all pre-action requirements as set out in Section 14(a) of the 2001 Act (“the pre-action requirements”).

### **Welfare Benefit and Financial Advice**

- Maximising benefit entitlement and debt counselling are considered vital in assisting tenants to maintain rent payments. The Associations in-house Welfare Rights and Financial Inclusion services provide support to all potential and existing tenants, working closely with housing officers to increase the tenants ability to pay.
- The Association works closely with local authority Housing Benefit Departments/DWP to ensure that claims for tenants are processed efficiently and accurately.
- Welfare Rights Officers provide support to maximise income for tenants through Personal Independent Payments benefits, Housing & Council Tax Benefits, Discretionary Housing Payments and Universal Credit.
- Financial Inclusion Officers will provide money and debt advice giving tenants support to reach realistic and manageable repayment arrangements with housing officers in the arrears recovery process. This may involve third party organisations eg. Insolvency practitioners.

## **12. ARREARS MANAGEMENT**

Complementary to this Policy is written procedures for all staff involved in arrears control, which is intended to ensure that there is good practice and consistency of approach to the principles contained in this Policy.

Specific issues highlighted within this guidance include:

1. The necessity for accurate and up to date information to be maintained in order to alert housing officers to emerging rent arrears cases.
2. Housing Officers will respond promptly and purposefully to non-payment of rent and personal contact by all appropriate ways, including letters, emails, phone calls, texts and home visits with the tenant will be made and maintained where arrears persist.
3. Housing Officers will closely monitor progress made by individual tenants in arrears and will discuss cases with the Senior Housing Officer during monthly patch meetings.
4. An overall target for arrears will be agreed on an annual basis with Committee. These targets are set each year as part of the Association's Internal Management Plan and Key Performance Indicators which are also agreed with Committee each year.
5. To achieve the standards set by the key Performance Indicators Individual Housing Officer “patch” targets for arrears levels will be set with a view to ensuring effective self-monitoring in the management of arrears performance at “patch” level.

**13. LEGAL PROCEEDINGS**

1. In circumstances where a tenant persistently fails to pay rent, has broken agreements for payment and where the Association believes no other alternative action is appropriate and all pre-action requirements have been complied with legal proceedings will be commenced.
2. The decision to serve a Notice of Proceedings rests with the housing officer. In all cases where:
  - i) If the pre-action requirements have been complied with, and
  - ii) The arrears of rent or other payments due to the Association exceed a sum equivalent to 2 month's rent
  - iii) Where an application for Housing Benefit for the tenant has been made and not yet determined but the Association believes that it is not likely to result in the benefit being paid at a level allowing the tenant to pay or reduce by an amount acceptable to the Association the outstanding rent and other financial obligations of the tenant, and
  - iv) No satisfactory arrangement to clear the arrears of rent or other financial obligations of the tenant has been entered into; and
  - v) Where there was an arrangement which has broken downThen a Notice of Proceedings for Recovery of Possession in terms of Section 14 of the 2001 Act shall be prepared and served on the tenant and any qualifying occupier.
3. Every effort will be made to maintain personal contact with the tenant throughout the legal process. This may include evening or other out of hours visits to their home.
4. Where the serving of a Notice has not resulted in an adequate improvement in payments by the tenant and the arrear has reached a sum equivalent to 4 month's rent. To enter the case into the Sheriff Court requires the agreement of the Senior Housing Officer who will also decide whether the action initiated is for recovery of possession, debt and expenses or merely for recovery of debt and expenses.
5. In the event a Decree for Recovery of Possession is granted, the recovery will only be halted if all outstanding debts are cleared in full, including the Association's legal costs, or where the tenant recalls the case to court (Minute of Recall).
6. In accordance with the terms of the Homelessness Act 2003, written contact will be made with the Social Work Services Homeless Casework Team and other agencies as appropriate when Court Action is raised. A record will be kept of such contacts and responses given.

7. In the case of sharing owners, the Association will notify their lender when debts exceed two months charges and shall serve a Notice terminating the exclusive right to occupy and request, in accordance with the appropriate Co-operation Agreement, that the lender and the Association initiate legal steps for recovery of the property or recovery of monies owed. In the event a sharing owner has no loan outstanding, the Association will serve a Termination Notice on the sharing owner and initiate a Court action for the division and sale of the house.

## **14. ARREARS MONITORING**

The Association shall maintain internal information systems which are based around ensuring effective monitoring, control and reporting of its rental income.

The Association will monitor rental income and rent arrears performance using both regulatory and local performance indicators (KPI's).

The Social Housing Charter indicators are as follows:-

- Indicator 24: Percentage of court actions initiated which resulted in eviction and the reasons for eviction.
  - Indicator 30: Rent collected as percentage of total rent due in the reporting year
  - Indicator 31: Gross rent arrears (all tenants) as at 31<sup>st</sup> March each year as a percentage of rent due for the reporting year.
1. The monthly report to the Committee will provide the relevant information pertaining to the requirements of the Social Housing Charter, Annual Return on the Charter (ARC)
    - The number of court actions initiated each month
    - The number of properties recovered for non-payment of rent
    - The number of properties recovered for anti-social behaviour
    - The number of properties recovered for other reasons
    - The total amount of rent collected each month
    - The total amount of rent due to be collected each month
    - The total value of gross rent arrears at the end of each month

Each of the above reports are presented to Committee on a monthly basis and reported as part of the Internal Management Plan on a quarterly basis. This information is then reported annually to the Scottish Housing Regulator through the ARC, Annual Return on the Charter.

2. There will be a monthly presentation to Committee of the information contained within the monthly arrears report by the Housing Manager. This will highlight particular trends and issues and is intended to allow proper discussion of these matters as part of the agenda of the meeting.



## 15. TARGETS

Annually as part of the budget setting and business planning process, the performance target for arrears will be set as a percentage of the annual rental income of the Association.

Targets for performance will be benchmarked against other RSLs and reported within the Internal Management Plan. The Internal Management Plan and Key Performance Indicators will be reviewed quarterly by the Senior Management Team.

## 16. FORMER TENANTS ARREARS

The Association's Policy in relation to the recovery of former tenant arrears is broadly similar to the recovery of current rent arrears.

Former tenant debt includes:-

- Arrears of rent and/or service charges
- Legal costs charged following action in court
- Recharges made to tenants to repair damage or unauthorised alterations to the property.

In assisting with the recovery of former tenant arrears the following actions will be implemented:-

**Ending a Tenancy:** The Association recognises that a key stage in recovery of rent arrears is to provide the outgoing tenant with information that a rent arrear is outstanding when they give notice of termination of tenancy.

During tenancy termination interview the Association will notify the tenant of any outstanding rent or other debt, agree an affordable repayment plan and make arrangements for payments through Direct Debit, Allypay etc.

The Association will make every effort to obtain a forwarding address and telephone contact details from the tenant to enable communication once the tenancy ends.

On receipt of the keys, the Association will confirm in writing any arrears that remain outstanding and confirm the repayment plan previously agreed with the tenant.

Referrals will be made to Welfare Rights Officers for support in reducing any outstanding liability by completing Housing Benefit claims for period of overlap.

### **Abandonment**

During investigations for abandonment, where no forwarding address is available, the Association will attempt to contact the tenant by:

- Information available including contact numbers, email
- Next of kin details
- Previous address of tenant
- Other registered landlords

### **Former Tenant Arrears Recovery**

The Association will minimise former tenant arrears by:

- Maintaining accurate information and closely monitoring progress of individual former tenant accounts and payments
- Responding to non-payment of former tenant arrears by issuing former tenant arrangement letters
- Arranging a letter from the Association's Solicitor warning of potential action for the recovery of the debt.

### **Legal Action**

Where the former tenant fails to cooperate in reducing former tenant arrears, the Association will consider the following actions for recovery of the outstanding debt:-

- Earnings Arrestment
- Small Claims Action
- Bank Arrestment

### **Write Off**

Despite all efforts to recover outstanding debt to the Association, there are circumstances which prevent recovery action or are uneconomic to pursue.

Debt in the following circumstances will be considered for write off:

- The tenant is deceased
- The tenant is admitted to long term hospital, residential care or institution.
- The tenancy has ended with no forwarding address and their whereabouts cannot be traced.
- The age/level of debt – 5 years/£50 threshold and debt is prescribed under the Prescription and Limitation (Scotland) Act 1973.
- The tenant has been declared bankrupt or has been sequestrated.

The Housing Management Sub Committee will consider writing off current and former tenant arrears and credit balances and the write off will be reported in the Association's Annual Accounts.

## **17. TENANT ENGAGEMENT AND SATISFACTION**

In accordance with the Engagement Strategy Policy, Shettleston Housing Association aims to deliver the highest quality of housing services and customer care to residents by providing a sensitive and efficient rent collection and rent arrears control service to our tenants and Sharing Owners.

To do this successfully, SHA is committed to engaging effectively with people who use, or want to use our services, so that

- All of our services are informed by feedback and
- Improvement is driven by tenant/resident expectations

SHA aims to achieve a high level of tenant satisfaction within the rent collection and rent arrears control service, which it provides. The Association is committed to offering a range of opportunities to tenants/residents to make it easier for them be informed of and to provide feedback on our services and their level of satisfaction including:

- **HOWDY Cards** – Individuals who have had contact in relation to rent or arrears will be asked to comment on the service they receive by filling in a HOWDY (how well did we do?) card. Service users can provide feedback by completing a HOWDY card online at [www.shettleston.co.uk/survey](http://www.shettleston.co.uk/survey);
- **Tenant Satisfaction Surveys** – Every 3 years SHA will commission an external organisation to carry out a formal satisfaction survey;
- **New Tenant Surveys** – All new tenants are asked to participate in a New Tenant Survey to provide feedback on their level of satisfaction with their home;
- **Consultation Panel** – SHA has established a Consultation Panel made up of our service users to consult on a variety of issues and services;
- **Focus Groups** – These may be formed from our Consultation Panel where it may be necessary to discuss a particular item in more detail;
- **Happy To Translate** – SHA is a member of Happy to Translate, a service that helps bridge the gap between people who want to access our services but who may have difficulty communicating in English;
- **Complaints** – Anyone can complain if they feel we did not deliver our service to their satisfaction. We aim to handle complaints and comments in accordance with the expectations of the Scottish Public Services Ombudsman (SPSO), and full details of the complaints process are contained within our complaints procedure. The complaints procedure can be downloaded from our website at [http://www.shettleston.co.uk/Uploads/2012/12/24/1356345898\\_1739852719\\_complaintsleaflet2012.pdf](http://www.shettleston.co.uk/Uploads/2012/12/24/1356345898_1739852719_complaintsleaflet2012.pdf);
- **On-Line** – SHA publish information about our performance and tenant/resident feedback on our website. The website also provides the facility for tenants to provide feedback on services via the following link: [www.shettleston.co.uk/survey](http://www.shettleston.co.uk/survey);
- **Social Media** – SHA has established a social media presence to facilitate communication between service users and the Association;
- **Newsletters** – SHA publish quarterly newsletters for all tenants and residents. Each newsletter includes a feedback section for reporting on feedback received.
- **Face to Face Contact** – Tenants and residents can visit our office for pre-arranged interviews and can also call into the office to speak to staff;

- **Leaflets** – SHA publish leaflets on individual services. These leaflets are available from our office;
  - Paying your Rent
  - Welfare Reform
  - Shettleston Money Advice
  - Your Maintenance and Housing Officers Contacts
  - Complaints Procedure
- **AGM** – SHA hold an annual general meeting that is open to all members;
- **Committee Membership** – Tenants and residents are encouraged to consider standing for election to the Management Committee;

## 18. POLICY REVIEW

This policy will be reviewed every 3 years unless an earlier review is required due to legislative changes.