

# Melville Housing Association



## Policy : Arrears & Credits

<b>Subject:</b>	Arrears & Credits
<b>Section:</b>	Housing Services
<b>Objective:</b>	To provide standards and guidelines for rent arrears
<b>SSHC Outcome:</b>	Outcome 11: Tenancy Sustainment
<b>Relevant Legislation</b>	Housing (Scotland) Act 2001, Housing (Scotland) Act 2014, Housing (Amendment) (Scotland) Act 2018
<b>Issue Date:</b>	January 2020
<b>Review Date:</b>	January 2023
<b>Policy Ref No:</b>	HSG 001

## **1.0 Introduction**

The purpose of this Arrears and Credits Policy is to set the standards and guidelines to be used in the management of rent arrears in rented properties. The purpose of arrears management is to minimise the loss of income to enable us to provide a quality and affordable service to our customers.

## **2.0 General Principles**

- 2.1 This Arrears and Credits Policy applies to all rented properties with the exception of Mid-Market rent properties which are covered under a separate policy. The term 'arrears' applies to both rent and service charges owed. The policy applies to current and former tenancies and to other debts such as rechargeable items.
- 2.2 All information provided to tenants concerning arrears will be clear, concise, simple to understand and free of jargon. Suitable arrangements will be made for tenants with communication needs, such as sight or learning difficulties, or if the tenant needs the information to be translated or communicated in another language.
- 2.3 All information received in connection with rent arrears is confidential to us. This means that the information will only be shared with or passed on to other individuals and agencies with the prior written consent of the person providing the information. However, where we are obliged by law to provide information to a third party, this may be done without the express consent of the individual.
- 2.4 With the agreement of the tenant, we will liaise on the management of arrears with agencies or individuals providing support and assistance to the tenant.

## **3.0 Arrears Prevention**

- 3.1 We advocate that successful arrears management begins with arrears prevention that starts before a tenant takes up a tenancy and continues throughout the life of that tenancy. We emphasise prevention, early intervention, and a customer-centred approach in our management of rent arrears.

### **3.2 New Tenants**

- 3.2.1 Prior to an offer of a tenancy being made, Housing Officers will carry out a pre-allocation visit. During this visit Housing Officers will complete an income and expenditure review with the applicant.

Once an offer of tenancy has been made all new tenants will be provided with information about the amount of rent payable, methods of payment, when it is due to be paid, how it is reviewed and who to contact if there are difficulties in paying the rent. They will be encouraged to accept our Tenancy Support Service where appropriate.

If it is anticipated that Full Housing Costs will not be payable, new tenants must pay their rent in advance before they receive their keys for the property. This includes those affected by the underoccupancy charge and Universal Credit (UC) however, UC claimants' circumstances will be taken

into account and payment amounts will be assessed on a case by case basis.

- 3.2.2 At their sign-up interview, all new tenants will receive advice on their likely entitlement to Housing Benefit (HB) or UC.

HB forms will be provided, and assistance can be given to complete these. Assistance will also be given to make a claim for UC if not already done so.

Where HB has been claimed we will ask the tenant to sign a form allowing staff to access details of the claim from the Local Authority and will also ask that the tenant authorises direct payment of HB to the Association. We will respect the tenant's decisions in these matters.

We will stress to tenants that direct payments to us will not be possible under Universal Credit unless their circumstances meet DWP criteria for Payments Direct.

- 3.2.3 We will expect tenants claiming UC to pay their rent in advance unless we have assessed that this is not possible, and we will agree a payment plan with the tenant which will eventually secure a month in advance arrangement.
- 3.2.4 All new tenants will be offered the services of our Tenancy Support Team, our Money Advice service and/or our Welfare Benefits Advisor who can help with money, budgeting and welfare benefit issues.
- 3.2.5 All new tenants will receive a settling-in home visit within 4-6 weeks of the start of their tenancy. At this visit, staff will check that rent payments have started and, if relevant, that benefits claims have been made and payments received.

### **3.3 All Tenants**

- 3.3.1 The Tenancy Agreement makes it clear that payment of rent is the responsibility of the tenant. This remains the case if the tenant is in receipt of welfare benefits.
- 3.3.2 Tenants will be offered a choice of payment methods, payment periods and can vary the payment method or period during their tenancy, with the prior agreement of the Association. Tenants will be encouraged to use Direct Debit as their rent payment method.
- 3.3.3 The Housing Services Team is responsible for managing current tenant arrears and monitoring tenants who have a former tenancy with arrears or a Sales Ledger Account. Tenants will be encouraged to contact their Housing Officer as soon as they have a change of circumstances or experience any difficulty in meeting payments. All correspondence will have contact details for the Housing Officer.

The Finance team is responsible for former tenant arrears.

- 3.3.4 All tenants will be provided with the required advance notice of any changes in the amount of rent payable.

- 3.3.5 Housing staff will liaise with Benefits offices, where possible to ensure that tenants' claims are submitted and processed without delay, provided prior authorisation has been given.
- 3.3.6 Tenants can access their rent statements through the tenant's zone on our Website. Tenants can also request a statement of their rent account at any time.
- 3.3.7 Tenants will be kept informed through *Voice*, and *Melville Housing Website* of significant changes in HB and other welfare benefits. Tenants can also receive advice and assistance on benefit issues from our Money Advice service and Welfare Benefits Advisors.

#### **4.0 Rent Arrears Management**

- 4.1 We aim to make sure that arrears management starts at the earliest possible stage. Accounts in arrears will be monitored on a weekly basis. A separate procedure details the stages involved within the process.
- 4.2 Tenants are expected to pay their rent monthly in advance. Where this is not possible, arrangements will be made to pay additional amounts each month until they are a month in advance. The exception will be where full housing costs are in payment and arrears are technical.
- 4.3 Arrears management will be based on personal contact with the tenant. The nature of this contact may depend on the circumstances of the tenant. Contact may be through home visits, telephone calls, office meetings letters/e-mails or text messages. Arrears letters will be personalised and contain an invitation to meet in person to discuss the arrears. Written records will be kept at each stage in the arrear's management process.
- 4.4 We will provide tenants with advice and assistance to maximise their income and manage their household budgets. This will be provided by Housing Officers and through the Welfare Benefits Advisers and Money Adviser, particularly if the tenant has multiple/excessive debt problems in addition to rent arrears. We will also promote the involvement of appropriate external agencies (eg Citizens Advice, Social Work, and Shelter).
- 4.5 Where it is not possible for the tenant to clear their arrears in a single payment, staff have the authority to negotiate an arrangement to clear the arrears in realistic and affordable instalments over a specific period.
- 4.6 Repayment arrangements will be recorded in writing and should include:
- the current level of the arrears,
  - the amount of each payment,
  - the frequency/dates of payments,
  - the method of payment.

The repayment of arrears has priority over the repayment of other recoverable costs due to us, however we will make every effort to make arrangements which contribute to all debts.

- 4.7 Staff will advise the tenant that legal action will be taken if an arrears repayment arrangement is not made or kept by the tenant. The implications of legal action will be explained to the tenant in writing and, wherever practicable, in person.

- 4.8 Where appropriate, Third Party Payments 'Arrears Direct' from the Department for Work and Pensions will be requested. This will be by direct application to the appropriate Benefits agency liaison. The debt should be greater than the equivalent of four weeks rent.

For UC claimants with arrears of over 2 months rent an Alternative Payment Arrangement (APA) application will be completed for third party deductions and sent to the UC Service Centre for consideration using the secure Email.

- 4.9 Transfers to Another Melville Property

In line with our Allocations Policy, if a tenant has current, former tenancy or a rechargeable repair debt, which amounts to more than a month's rent and has not entered and maintained an arrangement, the transfer may be suspended.

- 4.10 Property Swaps

In line with our Property Swap Policy, swaps may not be approved if a tenant has rent or rechargeable repairs costs outstanding

## **5.0 Legal Action and Authorisations**

- 5.1 Legal action for the recovery of debt or possession of a property will only be used as a last resort and when all other actions to recover arrears have failed. Legal action will commence with the issue of a Notice of Proceedings (NOP). Prior to serving a NOP, we will ensure that we comply with the Pre action Requirements, as set out in the Housing (Scotland) Act 2010.
- 5.2 Legal action for the recovery of rent arrears and/or the repossession of a property will be taken where the tenant has not responded to letters or visits from staff or has failed to make or keep to an agreed arrears arrangement. Court action to repossess the property will not be taken if the rent arrears are the result of a valid delay in the payment of HB or other welfare benefits and we are certain that a payment will be received by us.
- 5.3 The authorisation of either the Housing Manager or the Chief Operating Officer is required before a Notice of Proceedings for Recovery of Possession can be raised.
- 5.4 The authorisation of the Housing Manager and the Chief Operating Officer is required before a rent arrears case can be passed to a solicitor for court action.

The debt to be recovered will include the rent arrears, associated legal costs and other debts owing to us. The number of Court actions taken must be recorded by the Service Improvement Officer and reported to the Board.

Housing Services staff will notify the Local Council's Homeless Section and Social Work Department when a case is passed for Court repossession action for rent arrears. The appropriate Notice under Section 11 of the Homelessness etc (Scotland) Act 2003 will also be served on the Local Council.

- 5.5 Housing Services staff will advise tenants in writing and in person, wherever practicable, of the implications of any court order awarded to us to recover the debt or repossess the property, including the liability of the tenant for associated legal costs. The tenant will be advised to seek legal advice.
- 5.6 The authorisation of the Chief Operating Officer, the Chief Executive, and two Board members is required before an eviction is carried out. The eviction of a tenant must be reported retrospectively in the quarterly Housing Services report to the Board.
- 5.7 Housing Services staff will again notify the Local Council's Homeless Section and Social Work Department of all proposed evictions for rent arrears, before the eviction is carried out and advise them of children in the household
- 5.8 Once Decree has been obtained, the eviction will only normally be stopped if the tenant pays all the outstanding arrears, legal expenses and any other debts to Melville. The authorisation of the Chief Operating Officer or the Housing Manager is required before an eviction can be stopped. When two decrees have been granted against a tenant, they will be advised that, if decree is obtained again, the eviction will go ahead even if the arrears are paid.
- 5.9 We will not seek to recover pre-sequestration rent arrears other than by lodging a formal claim with the debtor's Trustee. If a tenant is sequestered and no more arrears accrue, we will not consider any legal action against them. If after sequestration, the tenant accrues further arrears we will raise an action to recover the new arrears.
- 5.10 We will not use a Decree to recover arrears and legal expenses by way of poinding but may use the Decree to recover arrears and legal expenses through the arrestment of wages or Bank/Building Society accounts.

## **6.0 Former Tenant Arrears**

- 6.1 Property Services will notify Housing Services when a tenant gives notice of intention to terminate their tenancy with us. Property and Housing services will work together to ensure, where possible, that arrears are cleared before the end of the tenancy, however if a debt remains after the tenancy ends, details of former tenant arrears will be passed to Finance Services for recovery.
- 6.2 We will make one attempt to contact the former tenant by letter or telephone to reach a satisfactory arrangement to repay the arrears. A formal arrears repayment arrangement will only be agreed with the former tenant where it is not possible for the debt to be cleared in full.
- 6.3 If no response, Debts under £60 will not be pursued beyond this stage.
- 6.4 If an arrangement cannot be reached or is not kept the case will be pursued using a Small Debt Action if this will be cost effective.
- 6.5 We may refer some cases to a Debt Agency if this appears to be the most likely and cost-effective means of recovering the debt. The Debt Agency will work to firm, but fair procedural guidelines agreed with us.

- 6.6 We will monitor the performance and cost-effectiveness of any work undertaken by a debt recovery agency and request regular feedback and liaison.

## **7.0 Other Static Debts**

- 7.1 These include all Sales Ledger Accounts that current tenants may have for rechargeable repairs, court costs or former tenancy debt.
- 7.2 Accounts will be reviewed monthly by Housing Services staff. Where a current tenant has a credit in their rent account, contact will be made with the tenant to advise them that some or all of their credit will be used to offset their Sales Ledger Accounts (where applicable) and reduce the outstanding debt.
- 7.3 We will also ensure that when making arrangements with tenants regarding rent arrears, that any Sales Ledger Accounts are reviewed and where necessary arrears arrangements should include an amount towards the Sales Ledger Account.

## **8.0 Credits**

- 8.1 The Customer Services Team Leader will monitor current tenant credits on a quarterly basis. Credits will not normally be refunded if the refund will result in the tenant's account no longer being monthly in advance. This includes tenants in receipt of housing costs through benefits.
- 8.2 The Customer Services Team Leader will monitor former tenant credits on an ongoing basis and take account of any potential HB overpayments before issuing a refund.
- 8.3 If a current or former tenant has any other outstanding debts with us, for example a rechargeable repairs account, we will contact them by letter to advise that the credit will be transferred to those debts and any net amount refunded.
- 8.4 We will consider writing off all former tenant credits under £20 where there are no other debts.
- 8.5 If the tenancy is/was a joint tenancy any cheque issued will be in joint names. If only one person is to receive the refund, we must receive a letter of authorisation from the joint tenant agreeing to the payment.
- 8.6 We will not refund a credit which has arisen at the death of a tenant until written confirmation of the status of the executor or next of kin has been provided. This can take the form of a solicitors' letter, a statement from the court or a copy of the will.

## **9.0 Write Offs**

- 9.1 Write offs of rent arrears or credits can be approved by the Chief Operating Officer and actioned by the Finance section on an ongoing basis.
- 9.2 Write offs will include:

- all cases which the debt agency has advised are untraceable
- former tenant debts under £60
- individual cases where pursuing the recovery would cause severe hardship.

9.3 The Housing Manager will pass all recommendations for write off to the Finance Manager on an ongoing basis.

9.4 The Chief Operating Officer will provide the Board with a summary report on bad debt write offs including reasons for writing them off retrospectively each quarter.

## **10.0 Board Responsibilities**

10.1 The Board has ultimate responsibility for the management of arrears and credits. It has delegated the responsibility for these actions to designated senior members of staff.

10.2 The Board will be involved in the direct decision making for cases where Decree is to be implemented.

10.3 The Board will receive reports with details of current and former tenant arrears in relation to the amount of rent receivable, changes in relation to previous periods, performance in relation to targets and any trends or patterns in arrears levels.

10.4 The Board will agree targets in relation to arrears management and performance before the start of each financial year.

## **11.0 Training**

11.1 We will ensure that staff have the appropriate level of skills and knowledge to deal efficiently and effectively with rent arrears.

11.2 Training on the Rent Arrears and Credits Policy and the associated procedures will form part of induction process for all new members of the Housing Services Team. Additional and on-going training will be provided for staff who deal directly with rent arrears issues.

## **12.0 Complaints**

12.1 All tenants have the right to complain if they feel that their arrears situation has not been dealt with properly.

## **13.0 Policy Availability**

13.1 Copies of this Arrears and Credits Policy are available on request and free of charge from our office and on the Melville Website. The Policy can also be made available in other languages and in spoken versions, if required.

## **14.0 Tenancy sustainment**

14.1 We are committed to assisting tenants, where possible, to remain in their homes. We recognise the individual needs of tenants and take these into account in all aspects of our service. Where we are unable to offer direct assistance, we will signpost tenants to other agencies and services. We have



a partnership agreement with CHAI (Community Help and Advice Initiative) to provide Tenancy Support and Money Advice services.

## **15.0 Equality & Diversity**

15.1 We are committed to Equality and Diversity and will not discriminate in the operation of this policy on the basis of age, gender, gender reassignment, race, colour, caste, ethnic or national origin, religion, trade union membership, marital status, family circumstances, political belief or affiliation, sexual orientation, pregnancy, maternity, medical condition or disability. We aim to promote equal opportunities and comply with all current legal requirements relating to equal opportunities.

## **16.0 Review of Policy**

16.1 The Chief Operating Officer will ensure this policy is reviewed every three years or earlier if there are any changes to legislation. The Senior Management Team has delegated authority to approve minor changes to this policy. Significant changes will be submitted to the Board for approval.