

## Tenants First Housing Co-operative

### Rent Arrears Policy

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## **1.0 Aims**

Tenants First Housing Co-operative believes that effective and efficient management of rent arrears is vital to the successful functioning of the Co-operative. It understands that maximising the rental income (including service charges) and preventing rent arrears accruing at the earliest opportunity will ensure that the Co-operative's commitments are met. In cases where rent arrears do accrue, the Co-operative understands the importance in taking early action so that these are kept to a minimum and reduced through a fair, responsive and, when necessary, firm approach

Through the Rent Arrears Policy, the Co-operative will aim to:

- have a performance culture where the prevention and pursuit of rent arrears is given a high priority
- enforce its commitment to homeless prevention by ensuring proper support and guidance is given to members in arrears on their rights and options so that their rent arrears are cleared without threat of losing their home

## **2.0 Objectives**

The Rent Arrears policy links with the following objectives contained in the Co-operatives **Business Plan**:

- 1) To provide manage and maintain properties to customers satisfaction
- 4) To manage and develop the business innovatively whilst maintaining financial viability

## **3.0 Rent Arrears**

### 3.1 Prevention

The Co-operative encourages a payment culture by motivating members to pay their rent on the first day of each month or in advance. A wide range of rent collection and payment options are available to make this possible. Obligations relating to timely rent payments shall be reinforced, clause by clause, when members sign their Scottish Secure Tenancy Agreement and again when 'follow up' visits are carried out. Where appropriate, advice will be offered to members to ensure that their income is maximised by claiming their full entitlement to housing and other benefit.

The Co-operative firmly believes that prevention is the key to rent arrears control and is committed to using proactive methods that will have a preventative effect. An example of a proactive method is the regular checks throughout each month of all rent accounts. These proactive methods also link to the Co-operative's belief that early identification of rent arrears is essential if they are to be managed effectively.

### ***3.2 Rent Arrears Recovery***

The Co-operative is committed to the recovery of rent arrears and will pursue negotiations with members and any other relevant agencies to ensure that all rent arrears owed is repaid in full. Account will be taken of situations where members are facing exceptional and genuine difficulties e.g. non-payment of housing benefit due to local authority error or failure to pay; the demise of an immediate family member; illness and divorce.

A variety of options and methods will be used for recovery of rent arrears that include direct deduction from benefit, affordable repayment agreements and ultimately recovery of possession.

Where members have static rent arrears, (those members who have made no payment toward rent arrears for at least three months), or other static debt such as legal fees and re-chargeable repairs, and where the level of debt does not warrant legal action, full clearance of the debt will be vigorously pursued. For static debt exceeding £50.00, consideration will be given to pursuing repayment through the small claims court, up to a maximum of £3000.00. It is not cost effective to pursue static debt less than £50.00 through Court.

Where a member is deceased and the tenancy is to end the Co-operative will provide a rent free period of two weeks to assist family members in having time to clear the property whilst not incurring rent payments.

### ***3.3 Homeless prevention and support for Members***

The Co-operative will aim to prevent homelessness by supporting its members in rent arrears. Members who are experiencing financial difficulties will have access to professional housing management advice with support and guidance being offered to ensure repayment agreements are affordable and that there is optimum use of the rent arrears direct option. Co-operative staff will also ensure referral to appropriate specialist support agencies if appropriate and where the member agrees to do so. The Co-operative works in partnership with other registered social landlords in two projects that provide individual tailored support to members having difficulty in sustaining their tenancies including financial difficulties. These projects are ASSIST and SMART and include access to access to Aberdeen City Council's Income Advisor for members. The Co-operative will ensure that it does everything it can to encourage members to accept assistance from these projects or other alternatives such as the Citizens Advice Bureau.

### ***3.4 Pre Action Requirement for Rent Arrears***

The Housing Scotland Act 2010 introduced a checklist of actions that a Registered Social Landlord must have taken before they can serve a Notice of Proceedings to commence legal or eviction action. The Co-operative will ensure that its approach to rent arrears fully complies with this by doing the following:

- We will provide our members with clear information about their tenancy agreement and any outstanding debt
- We will make every effort to provide our members or ensure they have access to advice and assistance on their eligibility to receive housing benefit, other financial assistance and debt management support
- We will make every effort to agree affordable and realistic repayment plans for rent and arrears with our members and will not serve a notice of proceedings if these are being fully adhered to
- We will not serve a Notice of Proceedings if we believe it is likely that a pending housing benefit application will either clear the account or reduce the arrears to a reasonable level
- We will not serve a Notice of Proceedings if a member is taking steps which in our opinion are likely to result in the repayment of the arrears within a reasonable time
- We will encourage our members to contact their local authority
- We will ensure that any guidance issued by Scottish Ministers is incorporated into our policies and procedures as appropriate

### ***3.5 Recovery of Property***

The Co-operative will only consider pursuing legal action against a member to repossess their tenancy after all efforts have failed to motivate them to reduce their rent arrears, all other options to recover the debt have been exhausted and the above checklist has been adhered to. No legal action will be commenced without formal approval being given by the Director of Housing on behalf of Housing Management Sub Committee.

### ***3.6 Section 11 of the Homelessness etc (Scotland) Act 2003***

In order to comply with the requirements stated above, introduced in April 2009, the Co-operative will notify the relevant local authority of its intention to commence legal action against any member whose case is being referred to the Co-operative's solicitor. This will be done by e-mail and could include (dependant on the requirements of the particular local authority) full details of the member, their household, the outstanding monies due and a summary of what interventions have taken place by the Co-operative to try to secure repayment of the rent arrears.

### ***3.7 The Court Hearing***

Once a decision has been taken to pursue the recovery of rent arrears and tenancy, the Co-operative will decide whether it is appropriate to seek decree for eviction, to seek decree for expenses or to have the case sisted (put on hold). This decision will depend on whether a member is making payments to reduce their rent arrears, or they have paid their rent arrears off in full between the date of the case being submitted to Court and the date of the Court hearing.

There will be occasions when a member's Solicitor or agent will ask for the case to be 'continued' on the basis that the member has entered into an agreement to repay their rent arrears. In these circumstances, the case can be continued for a specified number of weeks to monitor the repayments. If the repayment agreement is broken, the case will be re-called in court to seek decree for eviction.

### ***3.8 Decree for Recovery of Heritable Property***

In cases where a Sheriff has awarded a Decree for Recovery of Heritable Property and a member is facing eviction, advice will be given to members to seek assistance from the Homeless Section of the relevant local authority and other appropriate agencies. In most circumstances, the member will be given the final opportunity to pay the debt (including rechargeable repairs, legal fees and expenses (where awarded) and any other associated costs) in full to avoid the eviction being carried out and thus ensuring that they do not lose their home.

In circumstances where more than one decree for eviction has been awarded against a member during their history with the Co-operative (indicating a continued and unacceptable financial risk), the Co-operative may decide to utilise the decree even if the member can and does repay the outstanding monies in full.

It is recognised that there is a risk that wrongful action could be taken when pursuing recovery of rent arrears. Associated procedures are in place to minimise this risk, which include the requirement to have written authorisation from three Committee of Management members before a decree for eviction can be used.

### ***3.9 Termination of Tenancy***

A member's tenancy is ended when a Decree for Recovery of Heritable Property is awarded. Their membership of the Co-operative also ends seven days after the tenancy is ended. If a member pays the debt in full and the decree is not used the member will need new membership approval (unless a Scottish Secure Tenancy is re-signed within seven days of tenancy ending), and will be required to sign a new Scottish Secure Tenancy Agreement.

### ***3.10 Violent Profits***

Where a member has had a decree awarded against them their tenancy officially comes to an end. It is therefore essential that any payments made towards the outstanding debt are not recorded in the rent account, but kept separately and classed as 'violent profit'. 'Violent profit' is a legal term used to ensure that a new tenancy is not created as a result of receiving money from a former member towards clearing their debt.

### ***3.11 Committee Members who have Rent Arrears***

A member cannot remain or be re-elected as a Committee member on any of the Co-operative's Committees if they are involved in any legal proceedings concerning their tenancy or involved in legal proceedings that raise a conflict of interest with the Co-operative. Co-optees, who are not members, cannot remain or be re-elected on any of the Co-operative's Committees if they are involved in any legal proceedings which raise a conflict of interest with the Co-operative.

## **4.0 Training**

The Co-operative through its Business Plan is committed to training and developing staff and committee members to their full potential in order to deliver a high quality of service in all areas of its business to members and the public.

## **5.0 Equal Opportunities**

The Co-operative will ensure that in implementing its Rent Arrears Policy it will not unfairly discriminate against any individual, household or group on the grounds of gender, gender identity, marital status, on race grounds, or on the grounds of disability, age, sexual orientation, language or social origin, other personal attributes, including beliefs or opinions such as religious beliefs or political opinions.

## **6.0 Monitoring, Reporting and Performance Targets**

The Co-operative through its Business Plan is committed to continuous improvement in service delivery and standards, and understands that effective target setting, monitoring and reporting is inherent in the process of evaluating and reviewing its performance.

### ***6.1 Monitoring and Reporting***

The Co-operative's daily time recording system will be used by staff to record time spent on rent arrears cases.

The Director of Housing and Housing Manager will be responsible for giving guidance and support to staff when dealing with members who are in serious rent arrears and for those facing eviction. Serious rent arrears cases will be

monitored on a monthly basis with the Rent Arrears Officer to ensure the fullest possible investigations and action has been taken to secure repayment.

Quarterly performance reports will be submitted to the Housing Management Sub-Committee monitoring the following (against performance targets where applicable):

- Number and percentage of members in rent arrears
- The percentage of rent arrears owed in relation to the Annual Rent Receivable both as a gross and net figure
- Number of Notice of Proceedings issued in relation to rent arrears
- Number of cases over £400, the number of those with agreements and the number of agreements broken
- Number of cases to court
- Number of cases sisted
- Number of cases with decrees for expenses only
- Number of decrees for eviction awarded
- Number of decrees for eviction recalled
- Number of evictions completed
- Number of abandonments before eviction
- Number of cases referred to ASSIST
- Number of cases referred to SMART
- Number of cases to Income Advisor

An annual report analysing evictions will be prepared by the Director of Housing and submitted to the Housing Management Sub Committee.

### **6.2 Targets**

The Co-operative will set strategic targets for rent arrears annually each April taking into account past performance and benchmarking data from other Registered Social Landlords. The targets and any subsequent changes will be reported to the Housing Management Sub Committee for approval.

### **7.0 Review**

This policy will be approved by the Housing Management Sub Committee and is reviewed in consultation with staff and members. It will be reviewed every three years unless amendment is prompted by a change in legislation, or monitoring and reporting reveals that a change in policy is required sooner.

### **8.0 Legal Framework**

Housing (Scotland) Act 2001

Housing (Scotland) Act 2010

Code of Conduct for Governance and Financial Accountability (Housing (Scotland) Act 2010)

Data Protection Act 1998

Matrimonial Homes (Family Protection Scotland) Act 1981

Industrial and Provident Societies Act 1985

Equality Act 2010  
Human Rights Act 1998

## **9.0 References**

Scottish Government Performance Standards and self assessment material  
SFHA Raising Standards in Housing

## **10.0 Related Policies and Documents**

Scottish Secure and Short Secure Tenancy Agreement  
Business Plan  
Allocations Policy  
Equality and Diversity Policy  
Former Tenants Arrears Policy  
Rent Policy  
Service Charge Policy  
Budget Setting  
Cash Flow Projections  
Rent Arrears Procedure