

Rent Arrears: Prevention, Management & Recovery Policy and Procedures

Service: Finance Services	Date	Staff Member
Version Number: 2		
Approved by: Management Committee	20/11/2017	N/A
Effective From:	21/11/2017	N/A
Next Review Date:	11/2022	CE
Revision Number:		
Revision Date:		
Posted on Intranet:		
Posted on Website:		
Publicity Material issued:		
Handbook(s) updated:		
Document Register updated:		
Previous Version archived:		
SSHHC: Charter Standards and Outcomes:	11, 13, 14 & 15	

BUIDHEANN TIGHEADAS LOCH AILLSE AGUS AN
EILEIN SGITHEANAICH
LOCHALSH AND SKYE HOUSING ASSOCIATION

Scottish Social Housing Charter Relevant Standards and Outcomes

STANDARD	OUTCOME
<p>Section: Access to Housing and Support</p> <p>11. Tenancy sustainment</p> <p>Social Landlords ensure that:</p> <ul style="list-style-type: none"> • <i>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.</i> 	<p>This outcome covers how landlords on their own, or in partnership with others, can help tenants who may need support to maintain their legacy. This includes tenants who may be at risk of falling into arrears with their rent, and tenants who may need their home adapted to cope with age, disability or caring responsibilities.</p>
<p>Section: Getting good value from rents and service charges</p> <p>13. Value for money</p> <p>Social landlords manage all aspects of their businesses so that:</p> <ul style="list-style-type: none"> • <i>tenants, owners and other customers receive services that provide continually improving value for the rent and other charges they pay.</i> <p>14 Rents and service charges and Social landlords set rents and 15. service charges in consultation with their tenants and other customers so that:-</p> <ul style="list-style-type: none"> • <i>a balance is struck between the level or services provided, the cost of the services, and how far current and prospective tenants and service users can afford them</i> • <i>tenants get clear information on how rent and other money is</i> 	<p>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; giving better value for money by increasing the quality of service with minimum extra cost to tenants, owners and other customers; and involving tenants and other customers in monitoring and reviewing how landlords give value for money.</p> <p>These outcomes reflect a landlord's legal duty to consult tenants about rent setting; the importance of taking account of what current and prospective tenants and other customers are likely to be able to afford; and the importance that many tenants place on being able to find out how their money is spent. For local councils, this includes meeting the Scottish Government's guidance on housing revenue accounts. Each landlord must decide, in discussion with tenants and other customers, whether to publish information about expenditure</p>

BUIDHEANN TIGHEADAS LOCH AILLSE AGUS AN
EILEIN SGITHEANAICH
LOCHALSH AND SKYE HOUSING ASSOCIATION

<i>spent, including details of any individual items of expenditure above thresholds agreed between landlords and tenants.</i>	above a particular level, and in what form and detail. What matters is that discussions take place and the decisions made reflect the views of tenants and other customers.
---	---

BUIDHEANN TIGHEADAS LOCH AILLSE AGUS AN
EILEIN SGITHEANAICH
LOCHALSH AND SKYE HOUSING ASSOCIATION

RENT ARREARS –
PREVENTION, MANAGEMENT AND RECOVERY POLICY AND PROCEDURES

CONTENTS

1. INTRODUCTION
2. PREVENTION OF ARREARS
3. ARREARS CONTROL
4. LEGAL ACTION - CURRENT TENANTS
- FORMER TENANTS
5. COMMITTEE CONTROL
6. TARGETS
7. DATA PROTECTION
8. POLICY REVIEW

RENT ARREARS – PREVENTION, MANAGEMENT AND RECOVERY POLICY AND PROCEDURES

1. INTRODUCTION

- 1.1 The Association recognises the importance of effective rent arrears prevention management and recovery and aims to minimise the level of rent arrears whilst also being sensitive to the individual circumstances of those (tenants and sharing owners) in arrears. Rent arrears are a cost to the Association and therefore, ultimately, a cost to tenants. For the purposes of this document, rent includes rent charges, service charges and management charges; also the term “tenant” is taken to include sharing owners, unless otherwise stated.
- 1.2 More specifically, the Association will adhere to the following main principles when implementing the policy:-
- (a) Prevention is the key to arrears control and the Association will ensure that measures are taken to minimise the risk of rent arrears arising in the first instance. This will be done in a fair and consistent manner while being sympathetic to the individual needs of tenants.
 - (b) The Association will respond quickly to non-payment of rent and to requests for assistance in dealing with arrears. This will allow the tenant every opportunity to clear the debt when it is at a manageable level and help develop a positive relationship with tenants who generally do not want to be in arrears.
 - (c) The Association will adopt a supportive approach to those in arrears or those potentially facing arrears. Only a small proportion of those in arrears are able to pay but choose, for various reasons, not to.
 - (d) The Association will provide clear and understandable information and advice on rent payments and arrears control measures along with adequate reporting to allow staff and Committee to monitor the effectiveness of the rent arrears policy.
 - (e) The Association will take all reasonable steps to recover rent arrears due.
 - (f) The Association aims to ensure that rental loss due to arrears is kept to a minimum to safeguard the financial well-being of the Association.
 - (g) The Association will at all times have regard to the requirements of its Tenancy Sustainment Strategy in the implementation of this policy and the associated procedures.
- 1.3 Where the Association acts as managing agent for properties belonging to other organisations, it will deal with rent arrears in the same way as it does its own properties, subject to any provisions in the relevant Minutes of Agreement

or Tenancy Agreements.

2. PREVENTION OF ARREARS

2.1 The Association will take the following steps in order to prevent arrears arising:-

- (a) When initially offering accommodation, the Association will clearly advise the applicant on the level of rent payable for the property and that Housing Benefit or the Housing Element of Universal Credit may be payable for all or part of their rent.
- (b) As part of the pre-tenancy and handover procedure, new tenants will be given clear information on rent payment methods, the availability of Housing Benefit or the Housing Element of Universal Credit and recovery action that may be taken in the event of non-payment of rent.
- (c) As part of the pre-tenancy and handover procedure, new tenants will be asked for their National Insurance Number and/or other forms of ID as this may be used to trace tenants if they move away, leaving sums owing to the Association.
- (d) As part of the pre-tenancy and handover procedure, the Association will try to ensure that the tenant is fully aware of and understands the information provided to them in respect of rent payment methods, entitlement to Housing Benefit or the Housing Element of Universal Credit and recovery action:-

(i) Payment methods

Tenants may choose their own method of payment but the Association will encourage the use of:

- Standing Orders;
- internet or phone banking;
- Direct Debits (for payment of full rent on the 1st of the month);
- cash, cheque or postal order;
- credit or debit card at our office or by phone;
- Bank Giro Credit Slips (usable at bank branches and mobile vans) are available where a tenant has no other method of payment available, or has previously been paying using this method and wishes to continue, but this is not encouraged as bank reference numbers are no longer entered on our bank statements by the bank.

Although there are risks associated with cash payments, it should be remembered that not all tenants will have a bank account, however, payments of cash by post are discouraged but, if made, should be sent by Recorded Delivery. The Association will allow any frequency of payment, provided the sum due for any one

month is paid within that timescale. However, tenants are encouraged to pay their rent on or by the first of each month in advance.

(ii) Housing Benefit

Assistance will be offered and given, if required, in the completion of Housing Benefit application forms and tenants will be informed of the importance of forwarding the form to the Local Authority, together with all relevant documentation, as quickly as possible. The need for the Association and other relevant bodies to be advised in the event of changes in circumstances will be highlighted during the pre-tenancy and handover procedure. Housing Benefit is paid four-weekly in arrears and direct payment to the Association will be encouraged. Changes in legislation may affect direct payments being made to the Association, but this can be overruled when a tenant is more than eight weeks in arrears.

If it is unlikely that a tenant will receive full Housing Benefit, they will be encouraged to pay an affordable amount towards their ongoing rent. Any overpayment will be refunded to them. Shortfalls will require to be paid following the completion of their claim.

Where a notification of Housing Benefit shows a deduction due to the Removal of the Spare Room Subsidy (commonly known as the "Bedroom Tax"), the Association can assist with an application for a Discretionary Housing Payment to cover the shortfall.

Tenants will be asked to contact the Local Authority Housing Benefit Section in the event of a relevant change in their circumstances.

(iii) Universal Credit

Where the Association is made aware of a tenant making a claim to Universal Credit, advice and assistance will be offered to help the tenant understand how to make and/or manage a claim, in an attempt to minimise rent arrears and maximise incomes. This will include:

- Ensuring it is clear how the rent will be paid to the Association, ie (i) if the Department for Work and Pensions pays the Housing Element of Universal Credit to the tenant, he/she must pay rent direct to the Association, or (ii) if the tenant has opted for any Scottish Flexibilities, eg Managed Payment to Landlord or fortnightly payments, or (iii) if the Association has applied for an Alternative Payment Arrangement and/or Third Party Deductions.
- If payment of the Housing Element is to be made to the

Association by the Department for Work and Pensions, the tenant will be asked to provide evidence each month of how much Housing Element will be paid for the most recent Universal Credit Assessment Period, and the date of the schedule the payment will be included in. This is required due to a lack of information available from the Department for Work and Pensions, as well as significant delays in receiving Managed Payments to Landlords and Alternative Payment Arrangements.

- A request that the tenant checks if the Housing Element has been reduced due to the Removal of the Spare Room Subsidy (known as the “Bedroom Tax”). Where this is identified, the Association can assist with an application for a Discretionary Housing Payment to cover the shortfall.
- Advising the tenant that Council Tax Reduction is claimed separately by applying to the Highland Council.
- Advising the tenant not to delay in taking action required by the Department for Work and Pensions to avoid their claim being cancelled.

Access to the Association’s guest Wi-Fi system will be offered to tenants who wish to access their Universal Credit Journal at the Association’s office premises.

(iv) Recovery Action

The importance of making regular timeous payments of rent will be emphasised to the tenant and the recovery action options explained in detail. It will be pointed out that should problems arise, the Association should be contacted in the first instance. If necessary, the tenant may be referred to other agencies for appropriate advice and information, including debt counsellors, money advice, welfare benefit agencies, Social Work Services and health agencies as appropriate.

- (e) New tenants will have their rent account closely monitored for early signs of difficulties and should they occur, contact will be made to offer advice and assistance in remedying any problems.
- (f) In the event that early arrears are identified and assistance is required, the Association will make every effort to liaise with other relevant agencies, e.g. health agencies as appropriate, Social Work Services, Advice Agencies, Department for Work and Pensions and the Local Authority Housing Benefit Section, all in accordance with our Data Protection Policies and Procedures.
- (g) Annual rent increases will be notified to tenants at the earliest opportunity and always within at least 4 weeks prior to their implementation.

- (h) All staff will be easily contactable and accessible by telephone, e-mail, fax and letter. Personal visits may be arranged either to our office or at the tenant's home, if required, particularly if there is knowledge of the tenant being elderly, infirm or disabled or vulnerable in any other way. An outreach service is available throughout the area and office hours have been extended by lunchtime opening. Tenants may be contacted by text (outgoing messages only), via Facebook or by telephone in the evening if necessary.
- (i) The Association will liaise with the Local Authority Housing Benefit Section when problems arise with the payment of Housing Benefit, subject to Data Protection restrictions.

3. **ARREARS CONTROL**

- 3.1 Arrears monitoring procedures will take account of the pre-action requirements (PARs) which have to be carried out under sections 14 and 14A of the Housing (Scotland) Act ("the 2001 Act") as amended by section 155 of the 2010 Act, where a tenant is taken to court using rent arrears as grounds for possession of the property (ie eviction).

In brief, the Association will keep records as evidence that the following pre-action requirements (subsections 2 to 7 of Section 14A as above) have been carried out prior to issuing a Notice of Proceedings to a tenant:

- Give clear information about the tenancy agreement and the unpaid rent or other financial obligations (PAR subsection (2));
- Make reasonable efforts to give help and advice on eligibility for Housing Benefit and other types of financial assistance (PAR subsection (3));
- Give information about sources of help and advice with the management of debt (PAR subsection (4));
- Make reasonable efforts to agree with the tenant a reasonable plan for future payments (PAR subsection (5));
- Not serve a notice of proceedings without considering (a) the likely result of any application for Housing Benefit that has not yet been decided (b) other steps the tenant is taking which are likely to result in payment within a reasonable time (c) whether the tenant is complying with the terms of an agreed plan for future payments (PAR subsection (6));
- Encourage the tenant to contact the Local Authority (PAR subsection (7)).

- 3.2 The Association will ensure that the rent accounting system is accurate at all times and in the event of rent arrears arising, a firm but fair approach will be adopted.

- (a) Rent accounts will be monitored fortnightly to identify potential new arrears cases.
- (b) Initial contact will be made by letter or personally within fifteen days of

non-payment, giving clear information about the tenancy agreement and the unpaid rent or other financial obligations (satisfying PAR subsection (2)), requesting payment and suggesting that contact be made with the Rent Account Manager to discuss the situation if immediate payment cannot be made. If a tenant has set up their regular payment for a date other than the 1st of the month, they will not be lettered unless a payment is missed. This also applies to tenants paying weekly or fortnightly. Tenants will be encouraged to pay on or by the 1st of the month.

- (c) If it is not possible for a tenant to repay the arrears in one payment, an instalment arrangement will be agreed (satisfying PAR subsection (5)), taking into account a sum that can realistically be paid once all the relevant information is known. A Repayment Plan will be made up in duplicate which must be signed by both the tenant and a member of staff of the Housing Association; one copy will be given to the tenant when signed. This will include details of the consequences of further non-payment. Checks that repayment arrangements are being adhered to will be carried out in the same frequency as the terms of the Repayment Plan. Should a tenant approach the Association giving a genuine reason for not being able to adhere to the Repayment Plan, it may be appropriate to agree to reduce their payments. The tenant will be made aware that in signing an agreement, they are committing themselves to a contract which may ultimately have a legal bearing and that breaking such an agreement may result in legal action.
- (d) If neither full payment nor a Repayment Plan have been made, within one month of the arrear accruing, a letter requesting payment within a designated timescale will be sent and advising that legal action will be taken in the event of non-payment. Where appropriate, a blank Repayment Plan will be enclosed requesting that the tenant offer repayment terms (satisfying PAR subsection (5)). The tenant will be encouraged to contact the Housing Association in the first instance as well as the Local Authority Housing Benefit Section or other appropriate agencies.
- (e) Progress made in the payment of rent arrears will be closely monitored and all correspondence and records of telephone calls and visits will be kept in the tenant's file, or on a computerised system. Where tenants fail to respond to correspondence, telephone calls will be made, if appropriate, to attempt to resolve the situation. Tenants will be invited to a meeting at the landlord's office or home visits will be made where it is considered that these are appropriate. Appropriate action will be taken to ensure the Association complies with the necessary pre-action requirements.
- (f) The Rent Account Manager and Tenant Adviser will continue to liaise with other agencies, where applicable, particularly the Housing Benefit Section and other appropriate advice agencies, subject to Data Protection restrictions.

- (h) Where appropriate, the Association will apply for Third Party Deductions from a tenant's benefits.

4. LEGAL ACTION

4.1 Current Tenants

4.1.1 Where a tenant persistently fails to pay rent and/or has broken instalment arrangements, then legal action will be instigated. The decision to commence legal action will be taken by the Rent Account Manager in consultation with the Tenant Adviser only if no alternative action is available or appropriate.

4.1.2 The following procedures will apply:-

- (a) The Association's Management Team will be consulted on the proposed action to give them an opportunity to report if they are aware of any reason which should prevent or delay the serving of a Notice of Proceedings.
- (b) A Notice of Proceedings for Recovery of Possession (in cases where grounds include rent arrears) under the Housing (Scotland) Act 2001, which gives a minimum of four weeks' notice of court action and includes a list of pre-action requirements carried out, will be served on tenants and qualifying occupiers over 16 years of age known to be living at the address. The Notice will normally be served by two members of staff of the Association, although other competent methods of service may also be used, eg by Recorded Delivery and ordinary 1st class post.
- (c) Where the serving of a Notice has not resulted in an adequate reduction in arrears or agreed action to reduce the arrears, the Legal Services Manager will send a letter intimating the intention of raising court action and that legal costs may be involved, unless a satisfactory response is received from the tenant within seven days.
- (d) If a satisfactory response is not received, the matter will be passed to the Association's solicitors to raise court proceedings. The solicitor, on raising court proceedings, will also notify the Local Authority of the tenant's possible homelessness, and whether children or other vulnerable persons are part of the household to the best of the Association's knowledge.
- (e) If the tenant fails to provide a satisfactory response, the Association will seek a decree in court. In most cases, a decree for payment and re-possession will be sought. The Rent Account Manager will liaise with the solicitors to ensure that all necessary information is available for the court hearing, including any feedback from the Local Authority Homeless Prevention team.
- (f) During all stages of legal action, the tenant will be advised of the Association's intentions and of the outcomes and consequences of

successful legal action by the Association. Tenants will also be encouraged to make personal contact with a member of staff to ensure that all possible methods have been used to address the arrears, prior to an eviction taking place. Where possible, staff will continue to assist the tenant and/or advise the tenant to seek independent help and advice.

- (g) If a decree for eviction is awarded, the specific consent of the Management Committee is required prior to the eviction being carried out. Sheriff Officers will be engaged by the Association's solicitors to enforce the decree. A Property Services Officer should be in attendance, together with a joiner to secure the property. If furniture/personal items remain in the property, a full inventory will be prepared. If appropriate, other agencies such as the Police and Social Work Services may also be asked to be present. The Highland Council's Housing Services staff should also be alerted of an imminent homelessness situation arising. Repayment proposals may be considered at this stage, using professional judgment and discretion.
- (h) Legal costs, e.g. solicitor's fees, Sheriff Officer's costs, may be re-charged to the tenant.
- (i) When the Association obtains a decree for recovery of possession due to rent arrears, it will:-
 - (i) consider whether it wishes to enforce the decree and, if it does, will take action to do so within the deadline for an eviction to be carried out as stated on the decree, ie usually within six months;
 - (ii) consider whether it will return to the court for a further decree in the event that it wishes to recover possession at a later date.

The Association will implement the most appropriate of these actions, dependent on the individual circumstances of each case.

4.2 Former Tenants

- (a) Prior to terminating their tenancies, tenants will be given an estimate of the rent balance for which they will be liable to the end of the proposed end of tenancy date.
- (b) Following the end of a tenancy, the Association's Housing Services staff email a Change of Tenancy Notification to the Local Authority and copy in Finance Services staff. On receipt of this email, Finance Services will issue a letter to the former tenant(s) confirming notice of rent due for which they are liable and requesting payment or proposals for payment. If this is not paid in full, the former tenant(s) will be offered a Repayment Plan, ie an arrangement to pay by instalments.
- (c) Where former tenant(s) fail to clear their account or make appropriate arrangements to clear outstanding debts, the Rent Account Manager will, where appropriate, raise court action against the former tenant(s) to

obtain a decree for payment through the courts. If successful, this will allow the Association to apply for arrestment of earnings or attachment of property. This course of action will be undertaken only if deemed likely to succeed and in straightforward cases. Where cases are not straightforward, or where a case is disputed or defended in court by the former tenant(s), the matter will be passed to the Association's solicitors for further action.

- (d) Where the Association is unaware of the whereabouts of a former tenant who owes rent arrears or other debts, including legal expenses, or in other special circumstances, e.g. the death of the former tenant, or where the debt is deemed to be uneconomical to attempt to recover, then provision will be made to write off this debt in line with the Association's Policies and Procedures for dealing with Bad Debt.

5. **COMMITTEE CONTROL**

- (a) The Management Committee will receive a quarterly Performance Report on rent accounting and arrears as follows:
- total non-technical arrears as % of gross rental income
 - gross rent arrears as a percentage of rent due, ie current tenants' technical and non-technical arrears for rented stock (not including Shared Ownership arrears).
 - % of rent lost through properties being empty
 - number of court actions initiated
 - number of properties recovered for non-payment of rent
- (b) A report on current and former tenant arrears to be written off will be submitted to the Management Committee for approval, if required, no less than once a year. They will also receive an annual report on the comparisons between the arrears level and the target figures set as well as comparative data through benchmarking.
- (c) Management Committee approval will be required prior to any eviction being carried out. The Management Committee will receive a recovery action report on the proposed eviction, however, sensitive details relating to the tenant will be anonymised. If they decide that eviction is appropriate, then the tenant will be entitled to a final right of appeal which will be heard by the Management Committee or Sub-Committee convened for that purpose. The tenant will be able to have a friend or advisor in attendance. The Management Committee/Sub-Committee decision will be final.

6. **TARGETS**

- 6.1 Targets in respect of rent arrears will be set annually within the Association's Business Plan.

7. **DATA PROTECTION**

- 7.1 The Association will ensure that when any action is being taken against a tenant that it conforms fully with the Association's Data Protection Policies and Procedures.

8. **REVIEW**

- 8.1 This document will be reviewed by the Management Committee or Sub-Committee set up for that purpose in accordance with the requirements of the Association's Register of Policies and Procedures.
-