



# Arrears Policy

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## 1.0 Introduction

- 1.1 This policy sets out the way in which Hjaltland Housing Association ('The Association') will manage and recover debts owed by customers. The term 'customer' is used throughout this document and applies to both existing and former tenants, sharing owners and factored property owners.
- 1.2 The Association expects all customers to pay their charges in accordance with their tenancy, lease or exclusive occupancy agreement. However, The Association also recognises that for a number of reasons, customers can sometimes fall into arrears.
- 1.3 Rental income is The Association's only funding stream to deliver all its services. The Association must provide value for money to all customers and therefore has a duty to maximise rental income and deal with debt in an efficient manner. Hjaltland will always act in a fair and reasonable manner to support tenants in maintaining a satisfactory rent account and will sign-post and refer to external agencies where this will help the customer.
- 1.4 The Association will take proportionate steps, up to and including potential eviction proceedings, where a tenant fails to address their debt and chooses not to engage with any support that may be offered.
- 1.5 The Association will meet all legal obligations of the Pre-action Requirements as established by the Housing (Scotland) Act 2010 and a range of procedures have been developed to support this Policy to ensure a consistent and effective approach to service delivery.

## 2.0 Debt Prevention

- 2.1 The Association recognises that the key to debt management is prevention. To help customers manage their accounts, a rent/recharges statement is sent to all customers in arrears. Statements can also be sent to customers at any time upon request. Tenants also have the option to register with, 'My Tenancy', an online portal where they can monitor their rent account at any time of day.
- 2.2 The Association will ensure that customers are aware of the arrears policy, their requirement to pay rent on time and what action The Association will take following failure to pay any charges due. This will be emphasised before the start of a tenancy or lease, at sign-up and during the course of a tenancy where customers find themselves in arrears.
- 2.3 When a tenant signs their new tenancy agreement they will be expected to pay for the rent for the part of the month that is outstanding at the time that they sign their tenancy. This will mean that a tenant does not automatically go into arrears.
- 2.4 Tenants will be required to put in place arrangements to make regular rental payments. To assist them to do so a range of payment options will be made available;
- Direct debit payments that can be taken either weekly or monthly
  - Standing Order payments via their bank
  - Debit card payments over the phone or at the office
  - Electronic payments via online banking
  - Cash or cheque payments at the office
- 2.5 In exceptional circumstances credit card payments will be accepted as one-off payments. This may suggest the tenant is financially struggling and staff will discuss whether the customer wishes for a referral to be made to the Financial Inclusion Officer to provide advice about budgeting and income maximisation.
- 2.6 The Association recognises that some of its customers are dependent upon welfare support to pay their charges. The Association will consider any claim, the anticipated timing of payment and likelihood of success prior to taking any arrears action. The Association will provide evidence, such as a rent increase letter or tenancy agreement, to the applicant in support of any welfare benefit claim.

- 2.7 In the case of those who will be entitled to housing costs under Universal Credit, tenants will be required to submit a change of circumstances through their Universal Credit online journal for their new tenancy. Depending upon their financial circumstances, The Association will expect those applying for housing costs to make small weekly payments towards their rent until such time as their Universal Credit claim is updated and processed. The Association will regularly monitor its own Universal Credit portal to ensure there are no delays when tenants are making a new claim. A separate application for Discretionary Housing Payment (DHP) should be made to the local authority where a tenant is under-occupying a property.
- 2.8 At the start of a tenancy, and if the customer meets the qualifying criteria, e.g. is considered vulnerable, The Association may seek to put in place a Landlord Request with the Department of Work and Pensions (DWP) for an Alternative Payment Arrangement (APA) in the form of a direct payment of housing costs to the Association.
- 2.9 The DWP guidance stresses that all cases must be assessed non-judgmentally on an individual basis, taking into account all relevant details provided by claimants, their representatives and landlords. The guidance lists 'Tier 1 and Tier 2 factors' which should be used to help decide whether alternative arrangements are appropriate in an individual case. Where a tenant receives their housing element of welfare support directly and fails to transfer this payment to cover rent due, The Association will request an Alternative Payment Arrangement to safeguard future payments.
- 2.10 Tier 1 factors are described as 'highly likely'/ 'probable' needs for alternative payment arrangements. They are:
- **Drug, alcohol and other addiction problems**
  - **Learning difficulties, including problems with literacy or numeracy.** This may be linked to a medical condition (e.g. autism or Down syndrome) and evidenced by low educational achievement.
  - **Severe/multiple debt problems.** This could apply to claimants unable to meet credit commitments after necessary expenditure. Severe problems could be evidenced by multiple debts, at least two months' arrears and heavy use of local welfare assistance schemes. The 'key factor' is described as 'the claimant has not made a repayment plan or is not sticking to the terms...and is a very disorganised and chaotic money manager'.
  - **In temporary or supported accommodation.** This could include B&Bs, refuges, homeless hostels and accommodation with housing-related support, where this

impedes the ability to manage financially with monthly payments – e.g., because the accommodation is short stay.

- **Homeless.** This applies to those without safe or reasonable accommodation or threatened with loss of such accommodation within 28 days. This will include rough sleepers and those in hostels, squats or about to be evicted. Claimants should have been homeless for more than two weeks or not at the same address for more than a month.
- **Domestic violence and abuse.** This could include current or past financial, psychological, physical, sexual or emotional abuse, and threatening or coercive behaviour, between partners, family members and in 'forced marriages'.
- **Mental health condition.** This could include any condition which impairs the ability to manage affairs effectively – e.g. phobias, bipolar disorder, severe depression).
- **Rent arrears/threat of eviction or repossession.** The guidance refers to those with two or more months' rent arrears, those evicted for rent arrears in the previous 12 months and those threatened with repossession or eviction. A recent DWP circular indicated that claimants in the pathfinder areas with more than two months' rent arrears will automatically be switched to direct payments to landlords.<sup>9</sup>
- **16/17-year-olds and care leavers.** Many will have limited or no financial capability and be in hardship.
- **Families with multiple and complex needs.** They could be part of the government's Troubled Families Programme, or have a history of persistent offending, antisocial behaviour, mental health issues, and domestic violence or drug and alcohol issues.

2.11 Tier 2 factors are described as 'less likely/possible' needs for alternative payment arrangements. They will only be relevant where they impair a claimant's ability to effectively manage her/his financial affairs. They are:

- no bank or usable account;
- third-party deductions in place (e.g., to repay utility arrears), or eligible for rent arrears because of more than two months' arrears;
- refugees or asylum seekers eligible for UC;
- history of rent arrears (in past 12 months) but not currently in arrears;
- previously homeless or in supported accommodation (in past 12 months);
- disability other than mental illness;
- recently left prison or hospital or bereaved (in last three months);
- English not first language;
- ex-service personnel (discharged in last 18 months);
- aged under 24 and not in education, employment or training.



### 3.0 Debt Recovery Action

- 3.1 Arrears recovery will start as soon as a customer goes into arrears and where arrangements to pay have been broken and/or where welfare payments have been cancelled or suspended.
- 3.2 Arrears recovery includes the issuing of a sequence of letters to the customer, offering support, advice and sign-posting to organisations that can help with debt management. Where a customer does not address the level of debt or engage positively in the process, the action will progress to the next stage.
- 3.3 The Association will commence legal action for recovery of possession (eviction) and/or arrestment of wages as a last resort where the customer's arrears exceed the value of two months' rent and/or the tenant is failing to engage with our support to help them to reduce their debt.
- 3.4 Where eviction action is being considered, The Association will issue a Notice of Proceedings (NOP). This document will be served on the tenant and all household occupants over the age of 16. The NOP will advise that court action, including potential eviction, may happen within six months.
- 3.5 In line with the Housing (Scotland) Act 2010, before issuing an NOP, The Association will ensure the tenant has access to all available advice and will follow what is known as 'Pre-Action Requirements'. Appendix One of this policy will document the Pre-Action Requirements.
- 3.6 Authorisation must be sought from:
- ❖ Head of Housing and Customer Service to:
    - Issue a Notice of Proceedings (NOP). The Head of Housing and Customer Services will report to Committee (Operations) advising them of NOPs that have been issued;
    - Escalate recovery action;
    - Enrol the case in court;
    - Suspend recovery action of the debt;
    - Suspend an Eviction;
    - Enforce an eviction within six months of decree being granted
  - ❖ The Management Committee to:

- Seek agreement to enforce the Decree of Eviction where the tenant has children as part of the household or where there are other vulnerable household members
- 3.7 Suspending court action or an eviction will only take place where the debt has been cleared or there has been a significant reduction in the debt and a payment plan has been agreed for the remaining rent and debt payments. Any suspension of eviction must be authorised by the Head of Housing and Customer Service.
- 3.8 The Association will seek to obtain from the defender payment of expenses as awarded by the court and noted on the Extract Warrant.
- 3.9 Any decision not to pursue housing debt through the courts must be authorised by the Head of Housing and Customer Service and will take account of the cost of recovering the debt and the likelihood of the debt being paid.
- 4.0 Former Tenants Arrears**
- 4.1 All tenants when terminating their tenancy are required to pay any outstanding debt to The Association prior to vacating their tenancy. Where they are unable to pay the amount off in full, they will be required to enter into an affordable and sustainable payment plan. The tenant will be made aware that The Association will continue to pursue this debt and the implications of not maintaining the payment plan as detailed below.
- 4.2 In pursuing former customer's debts, The Association shall consider the following:
- Employing the services of an external debt collector or raising a claim through the small claims court where The Association has been unsuccessful in securing payment from the former tenant/customer.
  - Taking legal action against the former tenant/customer for the recovery of the debt including the arrestment of wages or bank account funds where appropriate.
  - Suspending any future application for housing from the former tenant if the level of debt owed to the Association exceeds rent equivalent to one calendar month's rent, or where a payment plan has not been adhered to for at least three months.



- 4.3 Where a debt is uneconomic to pursue, attempts to recover arrears have failed, the former tenant's whereabouts are unknown, or there is no likely prospect of recovery, the debt will be put forward for write off in line with The Association's Bad Debt policy.
- 4.4 In line with the Bad Debt Policy, any written off debt may be re-activated and recovery action commenced if the debtors whereabouts become known or The Association becomes aware of a change in their financial circumstances.
- 4.5 In the upsetting event of the death of a customer, the person handling the affairs of the deceased or the executor of the Will should contact The Association at the earliest convenience. Where there is no joint tenant or qualifying occupier to succeed the tenancy, the tenancy will automatically end on the date of death. Support will be offered to the executor or family members, with a request for keys to be returned within two weeks.
- 4.6 Where any arrears are in respect of a deceased tenant, the Association will be sensitive in these cases, only pursuing this action where the tenant's financial circumstances warrant this. The decision to pursue this course must be authorised by the Head of Housing and Customer Service.
- 5.0 Credit Balances**
- 5.1 Credit balances can occur on the rent accounts of both existing and former tenants. These balances will be managed through regular monitoring with refunds being made to current tenants where requested and former tenants where possible. However, where there are outstanding arrears or recharges any credit balance will be off set against this before a refund is made. Where there is no prospect of returning the credit balances, these will be subject to year-end write off procedures.
- 6.0 Equality**
- 6.1 This policy is applied in accordance with the Association's Equality and Diversity Policy and follows a specific Equality Impact Assessment. Upon request, the Association will make this policy available in alternative formats, such as large print, audio tape, Braille, and community languages, if required.

## **7.0 Complaints**

- 7.1 Anyone who feels that the Association has not complied with this policy can use the Associations complaints procedure which is available by either contact the office or accessing our website.

## **8.0 Monitoring & Reporting**

- 8.1 The Association will set an arrears target within its annual Business Plan and will monitor performance against this target.
- 8.2 Reporting on arrears will be provided to the Management Committee on at least a quarterly basis, or more frequently, if requested.

## **9.0 Review**

- 9.1 This policy will be reviewed on a three yearly basis and more frequently if circumstances require. The review will assess the effectiveness of the policy and identify any changes which may be required.

## APPENDIX ONE

### **Pre-Action Requirements**

The Housing (Scotland) Act 2010 introduced the pre-action requirements which need to be implemented prior to proceeding to Notice of Proceedings (NOP) in the case of rent arrears. It will be The Association's policy to adhere to the requirements set out in the guidance for social landlords on Pre-action Requirements and seeking repossession of social housing as issued by the Scottish Government in June 2012.

As part of the arrears process, The Association recognises a flexible approach to communication is required, and will use all of the following methods, where applicable;

- Office visits
- Home visits
- Letters – including hand delivery
- Emails
- Phone calls
- SMS text messages

### **Pre-Action requirement requirements**

1. The Landlord has provided the tenant with clear information about the terms of tenancy agreement, the outstanding rent and any other outstanding financial obligations of the tenancy, including a description of any charges likely to be incurred if the money due is not paid.
2. The Landlord has made reasonable efforts to provide the tenant with advice and assistance on whether the tenant may be able to get housing benefit or other financial help (such as benefits or grants)
3. The Landlord has provided the tenant with information on where to go for debt advice and assistance.
4. The Landlord has made reasonable efforts to agree with the tenant a reasonable plan for paying the money due and paying the rent in the future.
5. The Landlord has asked the tenant if they have made an application for housing benefit and, if they have done, the landlord has considered the likely effect of that application on the money due.

6. The Landlord has considered whether the tenant is taking other steps to pay the money due.
7. The landlord has considered whether the tenant is keeping to an agreed plan for paying the money due and continuing to pay.
8. The landlord has advised the tenant to contact their local authority about their housing situation.

At the same time as issuing the NOP, a section 11 referral must be made to the Shetland Islands Council.

## Appendix Two – Flowchart of arrears action



