



# **Housing Services: Rent Arrears Policy**

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This policy is available in a range of formats and languages on request.

# 1. Introduction

Management of rent arrears owed to the council is an integral part of our service delivery. Arrears control is essential for a variety of reasons as follows:

Firstly, maximisation of rental income is important to ensure that we continue to provide quality services to all tenants and that the Housing Revenue Account continues to be appropriately resourced.

Secondly, arrears control is an essential part of the council's general business and financial strategy.

Thirdly, arrears control is essential to help prevent arrears arising in the first place and becoming difficult for tenants to manage.

Finally, arrears control is an important part of the council's social inclusion strategy since debt can result in people being excluded from community involvement.

The word "we" will often be used throughout this policy to refer to the council.

## 2. Rent Arrears Policy Statement

It is our general policy to minimise the loss of income by establishing efficient and effective systems of arrears recovery. These systems are based on both legal and good practice guidance. It is stressed that arrears recovery methods will be flexible and take into account the needs of individual households in arrears.

This document has been produced by Housing Services and is intended to ensure that we:

"Act in a manner which encourages equal opportunities and in particular the observance of the requirements of the law for the time being related to equal opportunities" (Housing (Scotland) Act 2010, Section 39).

In addition we aim to ensure that we meet the Scottish Social Housing Charter's rents and service charges outcome and standard in respect of rents 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.

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. Each landlord must decide, in discussion with tenants and other customers, whether to publish information about expenditure 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.”

In implementing arrears recovery systems, we will ensure that:

- no individual is discriminated against on grounds of age, disability, gender reassignment, marriage/civil partnership, race, religion or belief, sex, sexual orientation or pregnancy and maternity.

This policy outlines our commitments in respect of arrears management. Detailed procedures also exist that regulate staff practices involved in carrying out this policy.

In reviewing this policy we have taken into account the Counter Terrorism Act 2015 and related guidance and procedures. No specific measures are required in respect of our arrears policy.

This policy is subject to approval and regular monitoring by the Head of Housing, Homelessness and Schoolcare Accommodation Services and the Revenues Manager.

We will comply with both law and good practice in carrying out our arrears policy.

We will also ensure the promotion of equal opportunities by publishing rent arrears information in different languages, as required, and in other formats such as in large print, audio format and braille.

### **3. Aims and Objectives of Policy**

This section outlines the main objectives of the Arrears Policy.

Information on individual commitments is detailed in later sections of this policy.

3.1 We aim to ensure that policy and practice meets legal and good practice requirements in minimising rent arrears. Thus, no action will be raised to recover possession of property unless it is deemed reasonable to do so. Appendix 1 provides details of the legal and good practice framework.

3.2 We will develop an arrears strategy based on the principle of prevention of arrears, including raising arrears only actions.

3.3 We will aim to reduce both amounts of arrears outstanding and numbers of tenants in arrears. This will apply to both current and former tenant arrears.

3.4 We will use different methods of rent collection to meet, as far as possible, the needs and preferences of our tenants.

3.5 We will strive to maximise uptake by tenants of housing benefit and other welfare benefits to which they are entitled.

3.6 We will treat arrears that are due to delayed benefits as technical arrears.

3.7 We will develop an inter-agency approach to tackle arrears effectively, for example, working closely with Orkney Health and Care to ensure that the needs of households are dealt with on an individual basis.

3.8 We will tackle arrears and other debt promptly to make the debt easier to manage.

3.9 We will implement systems for recovery of former tenants' arrears and write off debt in line with financial procedures and guidance, while considering best value for our tenants.

3.10 We will develop and implement performance management systems for monitoring both the effectiveness and efficiency of current policy and practice. This will include scrutiny of practice to ensure compliance with equality objectives. Appendix 2 lists current indicators used to monitor performance.

3.11 We will review the arrears policy formally on a regular basis. Amendments will be made as required after full consultation with service users and other agencies (where relevant). Section 5 contains details of groups with whom we will consult.

3.12 In order to achieve our objectives, we will ensure that relevant staff receive comprehensive and ongoing training in effective arrears control, arrears management and benefit entitlement / welfare reform.

3.13 We will monitor our arrears in line with the performance indicators aligned to the Scottish Social Housing Charter and endeavour to maintain strong performance and ideally improve performance to ensure all our tenants get best value for their rental payments.

## **4. Key Policy Issues**

### **4.1. Rent Payments**

Rent payments should be made through the cash collection points in Kirkwall and Stromness.

A variety of payment methods are available and tenants should use the method that is most appropriate for them. Staff will provide advice on the different payment methods on request.

We do not recommend that tenants send cash by post to the council offices and we cannot accept responsibility for any loss incurred.

Rent payments are payable weekly in advance and should be made on or before Monday of each week.

When tenants are unable to make rent payments by the date due, they should contact the our Housing Management Section or Revenues Section. The tenant(s) should explain the nature of the delay and advise when payment will be made.

If tenants fail to make contact, then the rent account will automatically show arrears and arrears recovery procedures will begin.

We are legally required to give tenants 28 days written notice of any proposed rent increase.

We are also required to discuss rental policy with tenants, including any changes to policy that are likely to affect them and consult on our annual rental increase.

Section 5 provides details on ways we intend to consult with tenants on policy development.

This policy is closely related to our Welfare Reform Strategy and issues arising as a result of welfare reform are used to inform meetings of the Welfare Reform Housing Operational Group.

## **4.2. Arrears Procedures**

### **(a) General Principles**

Prevention of arrears is the main element of arrears management. In attempting to prevent arrears, the following principles are applied:

- Making early contact with tenants who fall into arrears so that realistic repayment agreements can be made.
- Advising tenants of benefits that can be claimed and agencies that can provide support.
- Offering joint visits between housing staff and those of the housing benefit section.
- Providing guidance on the anticipated effects of welfare reform (where relevant), including universal credit and signposting tenants to agencies who can assist further as relevant.

### **(b) Arrears Management: Specific Procedures**

Detailed organisational procedures exist that govern arrears management practice. This section provides a summary of these procedures.

#### **(i) Management Actions**

In line with good practice, no legal action will be considered until a broad range of management actions have been implemented. These actions are as follows:

- Monitoring of rent accounts by the Senior Clerical Assistant (Rents) to identify arrears cases as soon as they arise.

- Making contact with tenants to identify the cause(s) of arrears and discuss methods of tackling the arrears. Interviews may take place at the Council offices and, where agreed with the tenant, in their home. Home visits will be appropriate in many cases to meet our equality commitments, for example, where it may be difficult for tenants to visit the Council offices.
- Making suitable and affordable arrangements to clear arrears based on the tenant's ability to repay the arrears.
- Monitoring agreed payment arrangements and taking appropriate action should arrangements break down.
- Providing information about external agencies that can offer suitable arrears advice, advice on income maximisation and welfare reform; this includes liaison with such agencies on behalf of tenants provided they give prior consent.
- Utilising appropriate methods of contact to ensure that tenants in arrears are fully informed of progress; this includes sending personalised letters that are clear and user-friendly.

The Scottish Secure Tenancies (Proceedings for Possession) (Pre-Action Requirements) Order 2012 requires that certain pre-action requirements are undertaken ahead of a Notice of Proceedings being served. This is covered to a greater extent in our Notice of Proceedings Procedures.

## **(ii) Legal Action(s)**

Legal action(s) will include (a) raising court actions to recover arrears only, for example, using the small claims procedures and (b) raising court actions to recover both arrears and the property.

It is emphasised that eviction will always be an action of last resort and, that we will consider all other appropriate remedies prior to consideration of eviction. In no situation will eviction be considered unless both arrears exist and it is considered reasonable to seek eviction.

In those situations where legal action to evict is considered necessary, the following principles will be applied:

- A notice of proceedings will be served only after the full range of management checks have been carried out and the tenant either fails to make an arrangement or fails unreasonably to keep to the agreed arrangement.
- A notice of proceedings will generally be served if the debt exceeds 6 weeks net rent and the tenant is not engaging in a repayment plan, each case will be determined on its own merits.
- In the event of a joint tenancy a separate notice of proceedings will be served on each tenant and a copy of this notice to be served on any qualifying occupier. \*
- Raising an action for recovery only where the tenant continues to break reasonable arrears repayment arrangements or fails to make arrangements without reasonable cause.



\* A qualifying occupier is anyone who satisfies the following:

- A member of the tenant's family aged 16 (defined by the Housing (Scotland) Act 2001, s108) or over living with the tenant as their principal home.
- Any subtenant, lodger or assignee (someone to whom the tenancy has been transferred).

Further information is available from our Notice of Proceedings procedure.

The Scottish Secure Tenancies (Proceedings for Possession) (Pre-Action Requirements) Order 2012 requires that certain pre-action requirements are undertaken ahead of a Notice of Proceedings being served. This is covered to a greater extent in our Notice of Proceedings Procedures.

Separate procedures exist for the service of a notice of proceedings for recovery of possession.

It is emphasised that we will provide the tenant with detailed information, ideally both oral and written, of advice agencies that the tenant may wish to contact to seek support.

This information will be provided prior to any court action to allow the tenant to obtain representation. This complies with our commitment to The Human Rights Act 1998 to ensure that tenants obtain a fair hearing.

### **(iii) Role of Councillors**

Councillors are responsible for agreeing Council policy in relation to the recovery and monitoring of arrears and related performance.

## **5. Consultation Arrangements**

Involvement of tenants and other residents in policy development is an important part of an effective rent arrears policy. In this connection, this policy was implemented only after full consultation with tenants and other service users through our Tenant Participation Strategy. This policy is also subject to regular review and development in liaison with other departments and agencies.

### **Consultation arrangements**

A process of consultation included:

- Staff members in Education, Leisure and Housing, Corporate Services and Orkney Health and Care.
- Other agencies including Orkney Citizen's Advice Bureau and Advocacy Orkney.
- In order to consult with our tenants we:
  - Publish articles in Housing News.
  - Carry out personal mail-drops to all our tenants.
  - Hard copies will be available at certain central locations.

- Copies of the document will be sent to all our tenants' groups/representatives.
- Ensure relevant documents are available on the Council's website and are accessible.
- Where relevant focus groups / meetings with tenants' groups / residents panel may be organised.
- We review our policy every 5 years or if there is a legislative change which impacts on it. Tenants will be consulted where there is a policy change which will affect them and informed where a legislative change may be relevant.

## **6. Training**

Training is a key part of our general organisational strategy.

This strategy recognises that effective arrears management requires comprehensive and ongoing training of staff, as well as regular training for councillors.

Training varies depending on the job description of individual staff.

Examples of types of training provided include the following topics:

- Legal provisions regarding arrears management and court actions.
- Good practice guidance.
- Welfare rights, benefits and welfare/social security reform.
- Managing multiple debt.
- Promoting social inclusion.

## **7. Former Tenants' Arrears**

It is our policy to recover former tenants' arrears by using all appropriate methods. Details of these methods are contained within current financial procedures and guidance.

As a general principle, former tenants' arrears will be pursued rigorously in accordance with the Council's debt recovery policies and procedures. This will involve the use of court action as necessary, including the employment of sheriff officers to recover arrears.

## **Appendix 1: Law and Good Practice Guidance**

Debt Arrangement and Attachment (Scotland) Act 2002.

Housing (Scotland) Act 2010.

Housing (Scotland) Act 2001.

Debtors (Scotland) Act 1987.

Children (Scotland) Act 1995.

Equality Act 2010.

Welfare Reform Act 2012 and Scotland Act 2016.

Chartered Institute of Housing, Housing Management Standards Manual.

Communities Scotland/COSLA/SFHA: Performance Standards for social landlords and homelessness functions, 2001.

The Scottish Social Housing Charter, Scottish Government, 2012.

The Scottish Secure Tenancies (Proceedings for Possession) (Pre-Action Requirements) Order 2012.

## Appendix 2: Performance Monitoring and Indicators

- Weekly current rent arrears performance reporting on the value of arrears and the number of tenants in arrears.
- Fortnightly meetings held between frontline staff to monitor arrears and agree actions to be taken.
- Quarterly rents performance analysis reports to monitor additional internal performance indicators to give a greater insight into trends and reason for performance variances.
- Regular management team meetings to monitor rent arrears performance, discuss high value cases, identify trends and to review procedural changes or strategies where appropriate.
- Monthly detailed monitoring reports for former tenant arrears.
- Quarterly analysis of the ARC indicators is undertaken. Also a quarterly meeting is held and is attended by staff who are responsible for the performance indicators in their given area. Discussion focusses on performance levels including any issues which may have impacted on performance whether positive or negative.
- Housing Services and our Housing Benefit Section are key members of the Welfare Reform Group. A Welfare Reform Housing Operational Group is in existence which meets quarterly to discuss relevant issues to ensure housing policies remain reflective of the current position.

Information used for monitoring purposes includes the following key national performance data:

- Rent collected as percentage of total rent due in the reporting year.
- Gross rent arrears (all tenants) as at 31 March each year as a percentage of rent due for the reporting year.
- Percentage of rent due lost through properties being empty during the last year.
- Number of households for which landlords are paid housing costs directly for during reporting period.
- Numbers of summons requested for arrears.
- Court cases and outcomes.
- Number of cases recalled.
- Amount and percentage of former tenant rent arrears written-off at year-end.
- Analysis of cases by equality group to ensure there is no discrimination on any of the grounds noted in this policy.