



# Rent Arrears Policy

**Approved : March 2016**

**Review Date : October 2019**

**If you have difficulty with sight, or if you require a translated copy of this policy, we would be pleased to provide the information in a form that suits your needs.**

## **1. OBJECTIVES AND STRATEGY**

This document describes the rent arrears policy of Govanhill Housing Association (“Govanhill”).

The prevention and effective management of rent arrears is essential for the following reasons:

- to enable the Association to maintain and improve its housing
- to prevent homelessness
- to provide the resources needed for service delivery
- to ensure the Association’s overall financial viability

The overriding objective of the arrears policy is to minimise rent arrears. We will do this by:

- helping tenants maximise their income and avoid getting into arrears by providing appropriate assistance, support and advice
- adopting an approach to arrears which is supportive and responsive to the tenant’s circumstance
- providing referrals to appropriate agencies if the tenant is experiencing financial issues.

The arrears policy and strategy consists of the following elements:

- 1) Arrears prevention
- 2) Arrears recovery, including legal action where this is required
- 3) Effective communication with tenants at all times
- 4) Defining the roles and responsibilities of our staff and Management Committee in implementing the arrears policy
- 5) Managing former tenant arrears
- 6) Monitoring the impact of our arrears policy and its implementation, to ensure that income received by the Association is maximised and that any scope for improving our performance is identified and acted upon.

## 2. LEGAL AND REGULATORY REQUIREMENTS

### 2.1 The Scottish Social Housing Charter

The Association's activities are guided by the principles of the Scottish Social Housing Charter, this includes its approach to managing rent arrears.

The outcomes relating to Housing Options and Value for Money have particular relevance to the prevention and management of rent arrears. The wording of the Charter is as noted at sections 2.2 and 2.3 below.

### 2.2 Access to Housing and Support

Social landlords work together to ensure that:

- people looking for housing get information that helps them make informed choices and decisions about the range of housing options available to them.
- tenants and people on housing lists can review their housing options.
- people at risk of losing their homes get advice on preventing homelessness.

These outcomes cover landlords' duties to provide information to people looking for housing and advice for those at risk of becoming homeless. These duties include helping tenants and people on housing lists to review their options to move within the social housing sector or to another sector.

### 2.3 Value for money

Social landlords manage all aspects of their businesses so that tenants, owners and other customers receive services that provide continually improving value for the rent and other charges they pay. 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; and giving better value for money by increasing the quality of services with minimum extra cost to tenants, owners and other customers.

### 2.4 Legal Requirements

The arrears policy and its implementation will reflect Govanhill's statutory and contractual obligations. These include but are not limited to the following:

- The **Scottish Secure Tenancy** used by Govanhill describes the contractual obligation which tenants have to pay rent (and service charges, where applicable), and the required frequency of payment
- The **Housing (Scotland) Act 2001** includes guidance in relation to the recovery of possession of a tenancy when a tenant has breached the conditions of their tenancy agreement by accruing rent arrears.

- The **Homelessness etc. (Scotland) Act 2003** requires us to notify the local authority where we are raising proceedings to recover a house as a result of rent arrears.
- The **Housing (Scotland) Act 2010** sets the legal framework for any action by the Association to recover tenancies on the grounds of rent arrears. This includes the provision of clear information to tenants on their tenancy and arrears situation; direct provision of advice and assistance; provision of details about other sources of advice and information; agreeing reasonable repayment plans; and revised arrangements for when a Notice of Proceedings can be served.

The Association will ensure that it complies with all relevant statutory and contractual obligations towards tenants, in implementing its arrears policy. In return, we expect tenants to fulfill their obligations to pay rent and service charges which are due to the Association.

### **3. ARREARS PREVENTION**

The cornerstone of our policy is **arrears prevention**.

The main methods we will use to prevent rent arrears are:

- our approach to rent-setting and rent collection.
- providing tenants with information and support.
- maintaining effective relationships with Glasgow City Council's Housing Benefit service.

#### **3.1 Rent Setting and Collection**

Govanhill's rents are reviewed annually. The Association aims to set rents to be affordable to people who are not in employment or are in low paid employment and to enable management and maintenance costs to be met. In conducting annual rent reviews, the Association will consider whether trends in rent arrears or other information indicate affordability problems.

The Association offers a variety of methods which tenants can use to pay rent, as follows:

- Post Office
- Telephone payments
- Payment at Paypoints
- Standing orders
- Direct Debit
- Housing Benefit Direct

- Rent Direct from the Benefits Agency
- Cheque
- Internet banking

Tenants are required to pay their rent one month in advance and any other charges on the 28th of each month, unless otherwise agreed with the Association. For example, it is possible for tenants to ask to pay rent weekly or fortnightly if this is more convenient for them, and will help them establish a regular payment pattern.

### **3.2 Information and Support for Tenants**

Govanhill uses a variety of communication methods to support arrears prevention work. These include regular telephone calls, home visits, office interviews, information available from our office, and tenant newsletters.

In all of our correspondence and publications relating to rent and rent arrears, we will provide clear information, adapting the format as required to suit the needs of tenants. For example, we will make information available in different languages and formats, as required. We can also provide tenants whose first language is not English with prompt access to a bilingual staff member, or to interpreting services.

#### **New Tenants**

We will use tenancy sign-up interviews and other contact with new tenants to provide pre-tenancy assistance and advice about:

- what the rent and any service charges cover.
- the tenant's responsibility to pay.
- rent payment arrangements, i.e. methods and frequencies for payment, and how and when rents will be reviewed.
- eligibility for Housing Benefit, assistance with completing a Housing Benefit application form, and the importance of notifying any changes in household circumstances and responding to Housing Benefit reviews.
- other sources of information and advice regarding entitlement to benefits and money advice.
- our rent arrears policy.

Sign-up meetings will also be used to:

- assess whether the tenant has any support requirements which would make referral to specialist support services or agencies desirable.

- seek tenant agreement to data protection waivers, to enable information sharing with Glasgow City Council's Housing Benefit service and other relevant agencies.

All new tenants will be provided with a settling-in visit within 6 weeks of the start of their tenancy. If settling-in visits identify potential problems with paying rent, housing staff will provide any relevant support and assistance and maintain regular contact with the tenant until the issue is settled.

## **Existing Tenants**

Govanhill will use routine contact on tenancy matters to make all of its tenants aware periodically of:

- the importance of paying rent, and of contacting the Association at the earliest possible stage if difficulties in paying rent are being experienced
- housing benefit eligibility criteria and application/review procedures
- our in-house welfare rights service and the local money advice service.

We will provide tenants with information about the Association's performance in arrears management (e.g. through our annual report). We will consult with tenants regarding annual rent reviews.

For individual tenants experiencing difficulty in paying their rent, housing staff will provide assistance with the completion of Housing Benefit claims, and refer tenants to other agencies where appropriate. Staff will maintain personal contact wherever possible, since this is the key factor in managing rent arrears effectively. Our approach and standards relating to personal contact with tenants who have rent arrears are described at section 4 of this policy.

### **3.3 Housing Benefit Claims and Administration**

The majority of Govanhill's tenants have low incomes or receive Housing Benefit to cover all or part of their rent. Effective monitoring of Housing Benefit claims and payments is therefore of critical importance to tenant's ability to pay their rent, and to the Association's finances.

Govanhill's housing staff will support tenants to submit Housing Benefit claim forms accurately and within the required timescales. Staff will also ask tenants eligible to receive Housing Benefit to have their benefit paid direct to the Association, from the point of benefit being first approved.

The Association will seek to maintain positive working relationships with Glasgow City Council's Housing Benefit service, to ensure that processing and payment

timescales are monitored, and that there is effective liaison on issues such as backdates and overpayments. We will also expect tenants to recognise their personal responsibility to notify the Housing Benefit service about changes in their circumstances and for returning review forms on time.

### **3.4 Universal Credit**

Universal Credit was introduced in Glasgow in June 2015 for claimants meeting defined criteria. We will support tenants to make Universal Credit claims where appropriate. Where possible we will work with the Department of Work & Pensions (DWP) to seek information on the progress and ongoing status of Universal Credit claims. Again we will also expect tenants to recognise their personal responsibility to notify the DWP about changes in their circumstances and to respond to requests for information on time.

## **4. ARREARS RECOVERY**

### **4.1 Monitoring Rent Payments**

The Association will respond promptly to non payment of rent or failure to return housing benefit claim forms, to prevent arrears from occurring or increasing.

The Association aims to ensure that all payments are credited to tenant's rent accounts within 5 days of being received.

Rent accounts and the status of Housing Benefit claims will be monitored by staff on a continuous basis.

### **4.2 Action in Response to Missed Payments**

A member of the Rent Advice Team will make personal contact or write to the tenant as soon as a payment is missed. In making contact with tenants and issuing letters, we will take account of whether tenants have agreed an alternative payment timescale with us, and/or the timing of approved Housing Benefit payments.

Unless an immediate payment and/or response is made, staff will try to make personal contact with the tenant (through interviews, home visits or by telephone) before the next rent payment is due, to establish the reasons for non-payment.

Where it is impracticable for the tenant to clear the arrears in one payment, staff will negotiate an agreement to reduce the arrears in realistic and affordable instalments over a specific time period. During such negotiations, staff will take a firm but sensitive approach which considers all debts and factors affecting payments, in order that the tenant's ability to pay and to manage any debts is

increased. Arrears interviews will include clear signposting to our Welfare Benefits Service and other sources of assistance, and referral to appropriate services with the tenant's agreement. Staff will also make a note of all "qualifying occupiers" residing in the house, should the arrears problem continue and the case proceeds to legal action.

When dealing with vulnerable tenants (for example where the tenant is elderly, has mental health problems, has young children or learning or language difficulties), staff will consider whether it would be appropriate to make a referral to social work or any other relevant agencies, with the agreement of the tenant.

Payment arrangements will be recorded in writing to the tenant and on the Association's computer system within 5 working days of the arrears interview. The tenant's adherence to the payment arrangement will be closely monitored in accordance with the amounts and payment frequency set out in the arrangement.

Personal contact will be maintained with the tenant throughout the arrears process to encourage payment of the debt and to try to prevent eviction or abandonment of the property taking place.

Where rent arrears exceed 8 weeks and the tenant receives a qualifying benefit including Employment and Support Allowance and Job Seekers Allowance, the Association will apply to the Benefits Agency for Arrears Direct Payments to be made on the tenant's behalf, and for Housing Benefit Direct Payments (if not already in place).

## **5. LEGAL ACTION**

### **5.1 Policy Statement**

We aim wherever possible to secure repayment of rent arrears without taking legal action to recover possession of the house. This principle underpins the processes already described for preventing and recovering rent arrears. While legal action is not the Association's preferred way of dealing with rent arrears, we will make use of legal action where this proves to be necessary. Eviction is a last resort for the Association, but we also wish tenants to be aware that arrears could ultimately lead to the loss of their tenancy if they do not demonstrate a satisfactory commitment to reducing arrears.

### **5.2 Initiating Legal Action**

If a tenant with rent arrears fails to respond to contact by the Association, or does not enter into and adhere to a repayment arrangement, the Association will consider issuing a Notice of Legal Proceedings to recover the property.

Prior to the issuing of a notice, the Association will check the arrears problem is not due to a Housing Benefit delay, to ensure tenants do not face potential eviction due to Housing Benefit processing problems. Should the arrears problem be the result of a Housing Benefit delay, support will be offered to the tenant to assist them in resolving this before any further legal action is taken in relation to the debt.

The issuing of a Notice of Proceedings may also be delayed if the Association are aware of any special circumstances, such as serious illness or support requirements, which may have affected the tenant's ability to respond to the problem.

If the arrears problem is not related to a Housing Benefit delay and the Association is not aware of any special circumstances we will issue a Notice of Proceeding, ensuring that all of the pre-action requirements have been fulfilled, for the following reasons:

- rent payments have been missed and we have followed all steps in sections 1 to 4 and/or an agreed repayment arrangement has been repeatedly broken
- the tenant has failed to respond satisfactorily to contact by the Association.

Court action will be initiated if the tenant does not respond to the Notice by entering into a repayment arrangement which is acceptable to the Association, and no alternative solution is available.

Notices will be in the form specified in secondary legislation and will specify:

- the grounds for recovery.
- a date at least four weeks from service of the notice (on 27<sup>th</sup> of the month for original Govanhill properties and 28<sup>th</sup> for properties acquired at Second Stage Transfer)
- that the Association can raise proceedings for possession within 6 months of this date.

In accordance with Sections 14(3) and 15 of the Housing (Scotland) Act 2010, we will also serve a Notice on any "qualifying occupiers" who live in the property, to advise them of their right to be heard in court at a recovery action. Tenants have a contractual obligation to advise the Association of who lives in their house. The Association will also take steps to confirm who lives in the house prior to initiating legal action, through letters and/or home visits.

Service of all relevant Notices will be witnessed, and proof of service maintained by the Association.

In accordance with the Homelessness etc. (Scotland) Act 2003, we will notify Glasgow City Council where we are raising proceedings to recover a house as a result of rent arrears, or on other grounds.

### **5.3 Grounds for Court Action**

Court action in respect of rent arrears will be taken under Ground 1, Schedule 2, Part 1, of the Housing (Scotland) Act 2001, which states that:

*'Rent lawfully due from the tenant has not been paid, or any other obligation of the tenancy has been broken.'*

Where there are other breaches of tenancy in addition to arrears, these may be included in a Notice of Proceedings detailing the additional grounds.

Action for repossession may only be started when a Notice is 'live'. Staff will issue clear instructions to the Association's Solicitor detailing the action and timing required in each case.

### **5.4 Court Proceedings**

The law requires landlords to convince the Sheriff that it is reasonable to evict. Staff will therefore keep records at all stages of arrears cases, to meet the requirements of any subsequent court action. Staff will also ensure that the person representing the Association in Court has the latest information available regarding the level of arrears and any repayment proposals made by the tenant.

In the period between the serving of a Notice for Recovery and any Court hearing, the Association will:

- Notify the Homeless Persons section of Glasgow City Council that a Notice has been served.
- Check the tenant has not absconded.
- Continue to make every effort to negotiate with the tenant.
- Advise the tenant to seek social work assistance.
- Check the tenant's circumstances for any specific requirements e.g. access to an interpreter.

Where staff consider that the tenant's ability to resolve the arrears problem would be improved by specialist benefits or debt counselling advice, the Association will involve our in-house Welfare Rights Service, or make a referral to a suitable organisation such as Glasgow City Council or Govanhill Baths Trust Money Advice Service during this stage.

## **Conjoined Actions – Recovery of Debt and Repossession of the House**

Decree may sometimes be awarded at the first hearing, if the tenant makes no effort to make repayments or defend the case.

Normally, there will be some effort by or on behalf of the tenant leading to an offer to reduce the debt by instalments. In these circumstances, the Association's policy will be to seek to have the case continued or "sisted".

At the next hearing, the case may be continued again or sisted, or if no progress has been made, decree may be sought. Sisting will be sought by the Association where an acceptable repayment proposal is made by the tenant. The Association will monitor repayments to ensure adherence to the arrangement. If the tenant defaults, the Association will apply to the court to have the case recalled.

### **5.5 Avoiding Evictions and Preventing Homelessness**

The Association will not refuse any reasonable offer of repayment at the first calling of a repossession action, and continuations or sists will be acceptable where a reasonable offer is made in court.

Consistent with its aim of minimising evictions, the Association will continue to offer tenants the opportunity to make an arrangement and to provide support in adhering to the arrangement, throughout the course of any court action. In doing so, we will ensure that tenants are made fully aware of the possible consequences of failure to pay.

Whichever type of action is raised initially, the tenant may pay the debt in full prior to the first hearing.

### **5.6 Enforcement of Decrees**

Decisions to enforce a decree will rest with the Association's Housing Services Sub-Committee. In being asked to make decisions, Committee will be made aware of any factors which are relevant to the individual's circumstances (for example, where the household contains children or vulnerable adults).

A decree for repossession enables the Association to end the current tenancy on or after the date set by the Court. On occasion, the granting of the decree may prompt the tenant to repay sufficient arrears to persuade the Association not to complete the eviction.

## **5.7 Eviction**

If the Housing Services Sub-Committee approves the enforcement of a decree for repossession, the Association will instruct Sheriff's Officers to issue a final notice to the tenant. If there is a possibility that the property may already have been abandoned, arrangements will be made for a joiner to attend at the time set by the Sheriff's Officer, to allow entry to be taken and the property to be secured.

The Association will notify Glasgow City Council's homelessness and social work sections of any decisions taken to enforce decree for repossession.

## **6. RESPONSIBILITY FOR IMPLEMENTING THE ARREARS POLICY**

Implementation of the arrears policy will be conducted by the Rent Advice Team under the direction of the Depute Housing Services Manager. Staff will present regular reports about rent arrears to the Association's Housing Services Sub-Committee.

Committee reports will cover individual arrears cases only where the cases are subject to legal action. Confidentiality will be preserved by using numbers or codes rather than tenants' names and / or addresses.

Senior/Housing Officers have delegated authority to instruct the issue of a Notice of Proceedings and to instruct the commencement of Court action.

All decisions relating to the enforcement of decrees, including evictions, require the approval of the Housing Services Sub-Committee.

## **7. FORMER TENANT ARREARS**

The Association will pursue former tenant arrears, subject to the need to give priority to current tenant arrears and the need to make the best use of available staff time and resources.

This means that priority will be given to former tenant arrears cases where the current whereabouts of the debtor are known, and where there are realistic prospects of recovering the debt, (i.e. the use of staff time and legal assistance will be targeted carefully, to ensure that the Association's approach is cost-effective).

Where a debt is uneconomic to pursue, or recovery attempts have failed, or the former tenant's whereabouts are unknown, or there is no prospective of recovery, approval to write off the debt will be sought. Authority to write-off former tenant arrears rests with the Finance and General Purposes Sub-Committee.

Recommendations to the sub-committee will reflect the age, the level of, and recovery prospects of any debts recommended for write-off.

Any written off debt may be reactivated and recovery action recommenced if the former tenant's whereabouts become known or information is provided which indicates a significant change in their circumstances.

## **8. PRIORITISATION OF DEBTS**

We will always seek to recover debts in the following order, and will not move onto the next category until any preceding categories have been fully recovered;

- Current tenancy rent arrears.
- Former tenancy rent arrears.
- Current tenancy rechargeable repairs.
- Former tenancy rechargeable repairs.
- Any other debts.

## **9. MEASURING AND IMPROVING ARREAR PERFORMANCE**

Performance will be monitored routinely and continuously by the Rent Advice Team and the Depute Housing Services Manager, to ensure that the Association's performance standards and targets are adhered to.

Specifically, the Association will monitor and analyse its performance on arrears using both regulatory and in-house performance indicators as follows;

### Scottish Social Housing Charter Indicators

- Rent collected as a percentage of the rent due
- Gross rent arrears as a percentage of the rent due
- Percentage of initiated court actions resulting in eviction

### In-House Indicators

- The total amount of current tenant arrears and as a percentage of rent due.
- The total amount of former tenant arrears and as a percentage of rent due.
- Number of current tenancies owing greater than 8 weeks rent.
- Number of notices for arrears served.
- Number of court actions for arrears initiated.

Performance against both the Charter and In-House indicators will be reported quarterly to the Housing Services Sub-Committee. Monthly reports to the Housing Services Sub-Committee will also specify the progress of arrears cases at court, and any committee decisions required.

## **10. POLICY REVIEWS/CONSULTATION**

The overall rent arrears policy will be reviewed every 3 years or more frequently if required. Targets, procedures and working methods may be altered more frequently, where the Association's monitoring of policy outcomes indicates this is needed.

The Association will regularly publish information about its performance in managing rent arrears, through annual reports and any other appropriate methods. We will also seek feedback from tenants about the operation of the policy through regular satisfaction surveys and any other appropriate methods.