



**Rent Collection  
Policy**

**September 2020**

DRAFT

## **1. Introduction**

This document outlines the Council's Rent Collection Policy which follows the principles of the Corporate Debt Policy. Detailed procedures also exist that regulate staff practices involved in carrying out this policy.

The strategic themes related to dealing with rent collection and arrears are to:

- maximise rent collection;
- minimise rent arrears;
- sustain successful tenancies; and
- prevent homelessness occurring as a result of rent arrears.

Effective and efficient collection is essential for a number of reasons:

- to maximise income to ensure that quality services can be provided to all tenants;
- to allow the Council to meet its objectives and financial commitments: and
- to assist tenants in arrears to help prevent their debts from becoming unmanageable.

Managing arrears is also an important part of the Council's strategic plan as uncontrolled debt can result in people being excluded from mainstream community activities. As stated within the Corporate Debt Policy we will allocate repayments for multiple debts recognising rent arrears as a priority in order to seek to prevent homelessness and sustain tenancies.

## **2. Rent Collection Policy**

The policy aims to establish efficient and effective systems of debt recovery. These are based on both legal guidance and best practice. Debt recovery methods will be flexible and take into account the needs of individual households. In implementing debt recovery systems, we shall ensure that equal opportunities for all are observed and have carried out an equalities impact assessment screening.

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

The policy aims to ensure there is effective collection of rent, recovery and control of rent arrears.

Our approach is to:

- develop a rent collection strategy based on preventing debt and making use of all available courses of action;
- reduce both the amount of arrears outstanding and number of tenants in arrears – for both current and former tenant arrears;
- ensure that our policy and procedures conform with the law and good practice in minimising rent arrears. Appendix 1 provides details of the legal and best practice framework;
- provide advice and assistance to all tenants on their responsibility for making rent payments on time;
- adopt a firm but sensitive approach to arrears recovery;
- take early action to prevent arrears arising or increasing by making direct contact with tenants through a variety of mechanisms that include letters, text messages,

- emails, home visits, telephone calls and case discussions;
- make contact with every tenant by the second week of arrears;
- take a staged approach in which action is targeted and recorded;
- take account of tenants' caring responsibilities;
- make effective use of Hardship fund and rent abatements where appropriate to manage arrears;
- take account of vulnerable tenants;
- use eviction only as a last resort when all other means of tackling debt have failed; and
- advise all new tenants that we require payment of rent at the point of signing for the tenancy or completion of a claim for Universal Credit or Housing Benefit.

#### **4. Keys to Prevention**

It is our priority to prevent arrears and use all mechanisms available to ensure tenants are given the right support to maintain their tenancy by:

- interviewing and explaining to all new tenants at sign up their responsibilities to pay rent on time and the various payment methods available to them and work across our finance, access to housing, working 4U and estate management service to ensure that all housing applicants are prepared financially and practically before taking on a tenancy;
- visiting all new tenants within 28 days of the start date of their tenancy to discuss any issues including their financial situation and offer support and assistance to pay their rent if this is required;
- providing advice and information on housing benefit or universal credit and assistance to complete claim forms and transfer existing housing benefit claims where possible;
- monitoring tenants' accounts regularly;
- not considering the allocation of a Council tenancy to any applicant with rent arrears relating to a former tenancy with West Dunbartonshire Council unless a payment arrangement has been maintained for 13 weeks. Variations to this policy may be considered by the Strategic Lead - Housing and Employability and the Strategic Lead - Resources or substitute in exceptional circumstances;
- data matching rent arrears debts with West Dunbartonshire Council employee payroll records;
- advising new tenants that the first week's rent must be paid or a fully completed housing benefit or universal credit form submitted when they sign for their tenancy to prevent their rent account going into arrears at the start of their tenancy. This will also help reinforce their responsibility for rent payment and help instil a payment culture; and
- developing a customer profiling strategy to ensure we have relevant information about our tenants and their household, such as contact details (mobile, email), communication preferences (e.g. language, large print), economic status, household information and whether they have an appropriate bank account to allow transactions such as direct debits.

Tenants who find themselves in arrears can expect us to:

- maximise uptake of housing benefit or universal credit and identify any gaps in social security and other welfare benefits to which they may be entitled;
- maintain strong links with housing benefit staff to assist with completion of forms and collection of necessary information and documentation to allow the swift processing of claims;
- develop strong referral links with Working 4U through the Information Advice Partnership which consists of Citizens Advice Bureau, Independent Resource Centre and Working 4U Financial Inclusion Team for benefit, debt and money advice;
- consider all possible methods of rent collection to meet, as far as possible, their needs and preferences;
- provide advice and assistance on how to manage debt and where to obtain specialist assistance;
- agree realistic repayment arrangements taking into account all their income and other debts in line with the Common Financial Statement. A Common Financial Statement is a standard budget format which helps creditors, advisers, and people with debt get a clear picture of an individual's or household's financial situation;
- develop an inter-agency approach in dealing with arrears such as working closely with our social work colleagues to ensure the needs of the household are dealt with on an individual basis;
- establish agreements with the Department for Works and Pensions to pay arrears direct for claimants 4 weeks in arrears or for universal credit cases, make alternative payment arrangements ; where it is the tenant's overriding interest; and
- establish close liaison with our social work and homeless staff to prevent eviction and homelessness.

## **5. Arrears Recovery**

Corporate Debt and Housing officers will adopt a firm but sensitive approach to rent collection.

- Visiting tenants when they are four weeks in arrears may reveal other issues such as multiple debts, illness, tenancy issues or relationship breakdown. Where tenants are vulnerable, specialist support may be required and officers will provide relevant information. Working 4U, community or voluntary groups, social work and health services can provide advice and support to both tenant and officers when such a need is identified. Details of the recovery procedures for current tenant arrears are detailed in Appendix 2

In accordance with best practice guidance, no legal action will be considered until a broad range of management actions have been implemented. These include:

- the regular monitoring of rent accounts to identify arrears cases as soon as they arise;

- the establishment of early contact with tenants to identify the cause(s) of arrears and the discussion of methods for tackling the debt;
- Issue first reminder letter or text message or make contact with the tenant after 2 weeks of rent charge for any period becoming overdue;
- ensuring all relevant information is gained before any action is taken against a tenant in arrears;
- the completion of Common Financial statement and interview form and providing the tenant with a copy;
- making realistic and affordable arrangements for payment based on the tenant's financial statement and ability to pay;
- not taking court action against tenants who actively work with and accept the support of the Council to agree a payment plan;
- monitoring payment agreements and taking appropriate action, should agreements break down;
- the provision of information about agencies that can offer suitable debt counselling services; this includes liaison with such agencies on behalf of the tenants where they give prior consent; and
- using appropriate methods of contact to ensure tenants are fully informed when in arrears. All contact with tenants will be in line with the Council's Service Standards.

## **6. Methods of Arrears Recovery**

Essential to our policy are the methods we adopt in the recovery of arrears. We will:

- monitor repayment arrangements;
- only issue a notice of proceedings when tenants fail to make an arrangement for payment or the arrangement breaks down;
- only initiate legal proceedings for recovery of possession when all other actions have failed;
- implement and act upon decrees when granted unless a suitable arrangement for payment is maintained.
- provide a staged, but escalated, process to recover rent arrears with legal action only taken where there is an intention to seek Decree for Eviction and Payment;
- Not take legal action where the tenant has arrears due only to under occupancy or if they have engaged with the Council and have an agreed payment plan in place that they are conforming with;
- ensure that all seven Pre-Action Requirements (PARs) as required under the Housing Scotland Act (as amended) 2012 are met before we formally serve Notice on tenants that we intend to take court action on which we could end their tenancy; and
- use eviction only as a last resort where all other methods have failed. All eviction actions will be discussed with and approved by Strategic Lead - Housing and Employability and Strategic Lead – Resources.

## 7. Legal Action

Prior to consideration of legal action, an appropriate Notice of Proceedings will be properly served on the tenant(s) and any qualifying occupier(s) in terms of the Housing (Scotland) Act 2001, updated in August 2012 Section 16(5A) to include a pre action requirements.

Legal action will only be considered when attempts to contact the tenant to make an acceptable arrangement for payment have failed.

The Section Head (Revenues & Benefits), Strategic Lead - Housing and Employability and the Strategic Lead - Resources or appropriate substitutes will authorise all cases prior to instructing the Council's legal department to proceed with court action.

Officers will accept reasonable arrangements to pay at any point during the course of the court proceedings and will monitor these in accordance with our standard procedure.

To ensure that the tenant obtains a fair hearing and to comply with the Council's commitment to the Human Rights Act 1998:

- we will complete a pre-action requirement document;
- we will provide tenants with detailed information of advice agencies they may wish to contact prior to court action; and
- we will carry out a full housing benefit check to ensure there are no outstanding payments due prior to Legal proceedings.

Where decree for recovery of possession of the property is granted we will:

- visit the tenant regularly until contact is made;
- explore further options to enable the tenant to sustain the tenancy; and
- only evict where the tenant fails to actively work with and accept the support of the Council to agree a payment plan.

## 8. Training

Training is a key part of the Council's organisational strategy. This strategy recognises that effective income management requires comprehensive and ongoing training of staff.

Training varies depending on the job description of individual staff. Examples of types of training provided include the following topics:

- ICT system;
- Social security and welfare benefits;
- Legislation;
- Corporate Debt Policy;
- Joint training with relevant agencies and services;
- Equalities training; and
- Customer service.

## 9. Former Tenant Arrears

It is our policy to use efficient and effective methods for the recovery of a former tenant's debt. The process for collecting former tenant arrears is detailed in Appendix 3

As a general principle, former tenant debt will be comprehensively pursued. Where internal collection is not possible we will refer the case to our Primary Debt Management agents for collection where the tenant does not have current tenant arrears.

## 10. Write off policy for former tenant arrears

Where it has not been possible to collect current and / or former tenant rent arrears authorisation to write these debts off will be requested to:

- the Section 95 Officer if the debt is under £5,000; or
- the relevant committee if the debt is valued at more than £5,000

Write offs will be requested in the following circumstances:

### Deceased

When a tenant dies and leaves no estate. Records are checked to determine whether any estate exists against which a claim could be made.

### No Forwarding Address

Unfortunately, many tenants in arrears abandon their tenancies or terminate leaving no forwarding address. Every effort is made to trace these people. Records are checked and outside agencies are contacted to try and ascertain the debtor's address.

### Prescribed

A debt cannot be enforced after 5 years from the date it became due. The period applies in the absence of a court decree, or acknowledgement of the debt via letter or payment. Where a decree has been granted, statute advises that these debts cannot be legally collected after 20 years of the last payment or acknowledgement of the debt and a debt automatically becomes prescribed at that point. The relevant law is contained within the Prescription and Limitation (Scotland) Act 1973.

### Unreasonable to Pursue

There are various reasons why it is unreasonable to pursue any arrears from former tenants. Examples include:

- When a tenant is permanently hospitalised, or goes into residential care, their income is used towards the cost of their care, as is any capital which the person may have. It is often unreasonable to pursue any arrears from people in this category due to personal financial circumstances.
- Tenants who cannot deal with their arrears problems due to mental illness, dementia or learning disability.

- All avenues of collection have failed.

### Uneconomical to pursue

Where the former tenant debt is below £75 we will not pursue this through court proceedings.

### **11. Current tenant write off**

There are exceptional circumstances where it is not in the tenant's or Council's best interest to pursue current tenant arrears. Before a debt will be considered for full or partial write off, all recovery options must have been exhausted. In the case of current rental debt circumstances considered for debt write-off include:

- Uneconomical to take action to collect the debt e.g. small, static balances;
- Sequestration of the tenant;
- Technical arrears; or
- Unreasonable to pursue.

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- Tenants who cannot deal with their arrears problems due to mental illness, dementia or learning disability.
- Tenants who receive a custodial sentence will have their debt written off for the period of their sentence, this will be reinstated upon their release.

In any of the above situations the Section Head (Revenues and Benefits) will authorise each case prior to being submitted to the Section 95 Officer or Housing and Communities Committee for approval.

### **12. Performance Monitoring**

The Council's Performance Management Framework sets out how each department will monitor, manage and report on performance information from their departmental plans. Key elements of our approach are:

- Customer focus – working with our customers to identify successful outcomes;
- Outcome focus – understanding what we are trying to achieve and basing our performance management and reporting on this;
- Continuous Improvement – using customer feedback, reviewing progress and



learning from good practice internally and externally to evaluate current practice and develop better ways of working; and

- Responsibility and ownership – every member of staff should understand the performance standards expected taking responsibility for improving service delivery.

The framework comprises a suite of both statutory and local Performance Indicators to assess how well the corporate approach to rent collection Service is performing. These indicators are reviewed and set annually and are heavily influenced by the Scottish Social Housing Charter which sets out the outcomes and standard that all social landlords should achieve for their tenants.

Targets for each indicator are agreed following discussions between officers within Housing Services and Resources, taking into account benchmarking information, previous performance and our drive for continuous improvement. The main performance measures for the service are outlined in Appendix 4.

Performance monitoring is key to the management of rent collection and as such our performance is managed in accordance with the Council's performance management framework. Rent arrears performance is monitored on a quarterly basis by the Housing Improvement Board (HIB) and by Members at Corporate Services Committee, Housing & Communities Committee, Council and by officers at Corporate Management Team and at the Housing Management Team.

Our agreed Housing and Community Safety Services Performance Management Framework ensures that performance reports are cascaded to each team and circulated to key officers. These reports are analysed and inform actions that are taken to improve performance.

### **13. Review of Policy**

The rent collection policy will be reviewed in the light of any legislative changes, trends or other factors that impact on the effectiveness of the policy.

## **Appendix 1 - Law and Best Practice Guidance**

Housing (Scotland) Act 2001 (as updated 2012)

Debtors (Scotland) Act 1987

Children (Scotland) Act 1995

Scottish Housing Regulator / COSLA / SFHA

Scottish Social Housing Charter

Homelessness etc (Scotland) Act 2003

## **Appendix 2 - Current Tenant Arrears procedure**

### **Prevention**

The first action in minimising rent arrears is to take prevention action. At the point of acceptance of an offer of tenancy contact will be made by the Housing officer with the tenant to:

- Explain the rent, council tax and other charges payable and when they are due, the likely running costs of the home and our rent arrears policy / corporate debt policy.
- Make an immediate assessment of the tenant's ability to pay the rent and cope with the tenancy, including a provisional assessment of his or her housing benefit entitlement.
- If required, pass case to Corporate Debt to make an arrangement for all corporate debts.
- Assist with the completion of a housing benefit and council tax reduction form or universal credit application.
- Provide information on the various methods of payment and where payments can be made.
- Advise who to contact if they have difficulty paying.
- Stress the importance of keeping the Benefits Section informed of any changes in circumstances.
- Stress the need to respond to correspondence from the Corporate Debt Team and the Benefits Section,
- Explain the effect of joint and several liability for the rent in the case of joint tenancies

Within 4 weeks of tenancy commencing an officer will visit the tenant if there is an arrears issue and discuss any difficulties the tenant may be having.

## **RECOVERY PROCEDURE**

When a tenant falls into arrears we will carry out the following actions in order to clear the arrears or obtain a repayment agreement to clear the arrears. Housing officers are responsible for managing new tenant cases or existing tenants that fall into arrears, with cases being passed to Corporate Debt when debt level reaches approximately £500. Housing officers can retain cases above this level if they are actively managing the debt and contact has been made with tenants or equally, cases can be passed to Corporate Debt at lower levels if they feel appropriate.

### **Housing officer steps:**

When a case falls into arrears, the Housing officer will

- Investigate reason for arrears e.g. housing benefit/universal credit entitlement, any disputed issues.
- Contact tenant and make arrangement.
- Monitor Payments.
- Liaise with Housing Benefit/Universal Credit teams and tenant to ensure new claims and change of circumstances are assessed as early as possible.
- Liaise with W4U, DWP and other relative agencies to assist the tenant in income maximisation.
- Record all steps on computer system for auditing purposes
- As balance approaches unacceptable level of arrears due to non-payment and/or non engagement case to be escalated to Team Leader

If no suitable arrangement is made, the Housing officer will forward case to **Corporate Debt Officer**.

- Pursue personal contact: face to face, telephone – home/mobile/text, family member/agent/appointee/social worker etc.
- Check all systems for information on tenant, Northgate, Saffron (Allocations, Repairs, Homeless)
- If no access /contact refer case for an out of hours visit.
- Consult list of specialist letters in CARS and issue where appropriate.
- Liaise with other sections e.g. Estate Management Homeless, Allocations and ASIST.
- Consider referrals to other agencies e.g. Welfare Rights/ Money Advice
- Homeless/Support, Social Work.
- Consider Case Conference for tenant and relevant parties.
- Consider abandonment procedures if occupancy not confirmed (issue 48hr Contact Letter and other relevant documents).
- Check for possible Termination / Pre Void.

If no suitable arrangement or response is received, the system will move to case to NI Stage which covers the following steps -

- Where no contact/co-operation or arrangement defaults hand deliver "Final Red Letter".
- Where no contact/cooperation or arrangement defaults issue NI (Notice of Proceedings)
- Issue a copy of NI to any Qualifying Occupiers 16 yrs+ in the household.
- Notice of Proceedings is effective for 6 months and must be reissued 4 weeks prior to expiry date if appropriate.

If no suitable arrangement made or if 2 broken arrangements, where arrears have increased, the case will be escalated to **Court Action Stage** below:

- Prepare Court Report for Eviction and email to Section Head for authorisation,
- Continue to action case.
- Court report returned authorised.
- Procedures for raising a court action apply.

### **Lock Ups Arrears**

- Issue Lock change letter and hand deliver to house, deliver
- Copy to lock up if accessible / arrange lock change for seven days following
- Delivery of letter.

### **Appendix 3 - Former Tenant Arrears procedure**

#### **Forwarding Address Known**

- Check previous history of case and ensure case set at appropriate stage
- Send first reminder letter
- If no response in 14 days send second letter
- If no response in 14 days then case is reviewed and passed to Walker Love Recoveries for collection

#### **Contact Made**

- Make a sustainable payment agreement
- Make all necessary referrals
- Advise former tenant of recovery procedures if agreement is broken
- When an agreement is made, the Corporate Debt Assistant inputs this into the system
- Ensure system is updated with all information
- If the agreement is broken, the system will generate a broken arrangement letter.
- If the agreement is not made up or another suitable agreement made then case is reviewed and passed to Walker Love Recoveries for collection

#### **Court Action**

Once draft Court Action Report (CAR) is received by Corporate Debt Officer, then recovery procedure should be followed as per current arrears procedure (payment only).

#### **No Forwarding Address**

Case must be considered for write off where there is no known forwarding address, the former tenant is deceased, the account has prescribed, or the debt is considered unreasonable to pursue. All in-house systems will be checked and homeless section e-mailed for any up to date information on former tenant.

#### **If Forwarding Address Found**

- Reset to appropriate stage on system

### Where FT is deceased: (check for Estate)

- Check benefit systems - if FT in receipt of IS/JSA(IB)/ESA/Pension Credit/Universal Credit - assume no estate
- If no capital declared on HB form - set to Write Off
- Check termination notice for next of kin
- If contact address for next of kin send Estate Enquiry letter

### Write Offs

Where all checks are complete and no address found Corporate Debt Assistant will update the system and set the case to 'write off' and forward paperwork to Assistant Section Leader for checking.

Once checked, Corporate Debt Assistant must batch the write off for future authorisation by Section 95 Officer or Housing and Communities Committee.

### Appendix 4 - Performance Management Indicators

Performance indicator
Rent collected as percentage of rent due months
Gross rent arrears as a percentage of rent due
Current tenant arrears as percentage of rent due
Percentage of current tenants owing more than 13 weeks rent
Percentage of tenants ending their tenancy with rent arrears
Average debt owed by those leaving in arrears (in weeks)
Number of current tenant arrears cases
Value of current tenant arrears
Number of former tenant arrears cases
Value of former tenant arrears

