

CLYDE VALLEY HOUSING ASSOCIATION

Arrears Policy

Policy Number HM 02

• Policy Prepared by	Stewart MacKenzie Head of Housing Services
• Reviewed by Committee	October 2008
• Approved by Board of Management	December 2008
• Date of Next Review	December 2011
COMPATIBLE WITH:	
• Legislation	Yes
• Equality Policy	Yes
• Business Plan	Yes
• Performance Standards	Yes
• Tenant Participation Strategy	Yes
• Risk Strategy	Yes
• Statement on Openness and Confidentiality	Yes

Please Note

On request, the Association will provide translations of all our documents, policies and procedures in various languages and other formats such as computer disc, tape, large print Braille etc. This can be arranged by contacting the Association's offices.

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1. Introduction

- 1.1 Clyde Valley Housing Association (CVHA) will act at all times to prevent our tenants from building up rent arrears and will recover them fairly, effectively and firmly.
- 1.2 The rules contained within our Arrears Policy apply to all of our houses and this policy sets out how we will manage and control rent arrears. This policy has been set by the Board of CVHA and will be operated by officers of CVHA.
- 1.2 We are committed to encouraging tenants to pay their rent in full and on the due date. We are also committed to providing as much advice and assistance as required to help tenants deal with financial difficulties. This policy seeks to outline that commitment.
- 1.3 We will promote a payment culture by informing tenants of the impact that rent arrears have on maintenance and investment programmes.
- 1.4 We define arrears as income which is lawfully due in terms of the tenancy agreement, but which the tenant has not paid.
- 1.5 We recognise that Housing Benefit is an important issue for tenants and CVHA. We will take all reasonable steps to promote entitlement to Housing Benefit and ensure that advice on Housing Benefit and other welfare benefits can be easily accessed.

2. Context

- 2.1 Rental income is the largest part of CVHA's cashflow. Maximising rental income and the effective control of rent arrears will be crucial to CVHA's financial well being and its ability to deliver on a range of business plan commitments.
- 2.2 Housing Officers will play a central role in managing our rent arrears. Their duties will include ensuring that all tenants comply with their tenancy agreement, including the payment of rent when it is lawfully due. Housing Officers will manage their duties within a specific 'patch' or geographic area and will act as the main point of contact for dealing with arrears management issues within their patch.

3. Legislative & regulatory framework

- 3.1 We will comply with all relevant legislation, standards and targets set down by the Scottish Housing Regulator in terms of arrears management.
- 3.2 We will comply at all times with all relevant legislation and regulations when dealing with rent arrears and Housing Benefit issues.
- 3.3 We will liaise closely with other agencies such as the Council's Housing Benefit and Social Work teams, the Benefits Agency, Citizens Advice Bureaux, etc.

4. Aims & objectives

4.1 The aims of our Arrears Policy are to manage our rental income effectively so that at all times CVHA is a financially viable and sustainable organisation. We will promote financial inclusion and deal with any rent arrears in a firm, fair, sensitive and efficient manner.

4.2 Our objectives are to control rent arrears in a manner that:

- fulfils our legal obligations;
- is firm, fair, sensitive and efficient;
- is personal;
- focuses on prevention of rent arrears and encourages early intervention; and
- is confidential.

5. Corporate fit

5.1 Legislation & best practice

When managing rent arrears, we will comply with the law and the principles contained within performance standards and guidance notes issued by the Scottish Housing Regulator.

Our Arrears Policy complies with legislation, guidance and good practice including:

- The Housing (Scotland) Act 2001;
- Debtor's (Scotland) Act 1987;
- Performance Standards for Registered Social Landlords (AS1.8); and
- Raising Standards in Housing (Chapter 15).

Our Arrears Policy complies with the Association's Welfare Benefits Policy.

Our Arrears Policy also complies with the Association's Equality Policy. We therefore seek to ensure equality of treatment for all tenants without discrimination or prejudice.

5.2 Equalities

We will consider all tenants, regardless of sex, faith or religion, race, ethnic origin, sexual orientation, mental or physical health, disability or marital status.

We will operate at all times within our Equality Policy.

5.3 Confidentiality

We recognise that confidentiality is important to tenants and will treat their tenancy information in the strictest confidence under the Data Protection Act 1998 and in line with our Openness and Confidentiality Statement.

5.2 Business Plan & risk management

Our Business Plan depends significantly upon generating revenue from the properties that we rent. We therefore seek to mitigate against business risk through minimising our rent arrears. Managing arrears in an efficient, effective

and economic manner should minimise our rent loss through non-payment of rent.

5.3 The Board

The Board, via the Housing & Technical Services Committee, will monitor the implementation of this policy to ensure that it is properly operated, that there is appropriate officer involvement in the arrears control processes and that there is effective scrutiny of the Arrears Policy.

The Board will ensure that the Arrears Policy is meeting its intended objectives and that monitoring and reporting of activities takes place in accordance with the Performance Standards and monitoring as detailed at Part 14 below.

In implementing the Association's Arrears Policy certain functions are the responsibility of the Board or nominated committee, although staff have delegated authority to undertake many tasks. Examples of key functions / tasks are summarised below.

Function / task	Responsibility
Arrears Policy – review, amendment & approval	Housing & Technical Services Committee responsible for making recommendations to Board for approval.
Arrears Procedures – development, monitoring & review	Head of Housing Services and Housing Services Managers to develop operational procedures that reflect the principles set out within the Arrears Policy.
Monitoring of Arrears Cases	Head of Housing Services and Housing Services Managers to oversee the effective monitoring of individual cases, reporting trends to the Housing & Technical Services Committee.
Repossession Actions	Head of Housing Services and Housing Services Managers to make recommendations on individual anonymous cases to the Housing & Technical Services Committee, which is responsible for scrutiny and making in principle recommendations to Board for approval on cases identified for eviction.

6. Arrears prevention – new tenants

- 6.1 We will work closely with all new tenants to ensure that they are fully aware of their full range of responsibilities under their tenancy agreement, including the obligation to pay rent on the due date. We will confirm that failing to pay rent when lawfully due could have serious implications, potentially including loss of their tenancy.
- 6.2 We will explain clearly our arrears policy and procedures to our new tenants when they sign up for their new home.

- 6.3 We will provide our new tenants with advice and assistance when they sign up for their new home and again when we carry out the new tenancy visit during the first 4–6 weeks of the tenancy. This will include advice on how much their rent is, how often the rent is due, how and where they can pay their rent, how to apply for Housing Benefit and whom they should contact if they have any difficulties with their rent payment, etc.
- 6.4 We will explain the implications of 'joint and several liability' to those who are joint tenants, whether they be new or existing tenants. Joint and several liability means that joint tenants are responsible together or, if there are more than two joint tenants, as a group. But it also means that one joint tenant is responsible for the actions and defaults of another joint tenant in keeping to all the terms of the tenancy agreement. For example, all joint tenants or one individual tenant may be held responsible for the payment of all the rent.

7 Arrears prevention – all tenants

- 7.1 We will work closely with all tenants from the time that their rent account first goes into arrears to attempt to prevent the arrears from increasing. This will include issuing reminder letters, home visits and potentially the issuing of notices of proceedings.
- 7.2 We will explain in a clear and concise way the action we are taking against tenants to recover rent arrears, stressing at all times the serious implications that failing to pay rent may have on the tenancy.
- 7.3 We will provide debt counselling and / or specialist welfare benefits advice to our tenants who accrue rent arrears and may also direct them to other agencies who may be able to assist them further, for example where a tenant has multiple debts.
- 7.4 We will arrange and monitor repayment plans closely in accordance with our rent arrears procedure to prevent the arrears from increasing. The repayment plan may take the form of Arrears Direct Payments from benefits such as Income Support or Job Seekers Allowance. The repayment plan will be formally agreed in writing with the tenant and witnessed by a Housing Officer. If the tenant fails to keep to the repayment plan, the Housing Officer will pursue the tenant for the missing payments. This may take the form of letters, telephone calls, home visits, etc.

8 Housing Benefit – relationship with the Council

- 8.1 The local authority is responsible for the administration of all Housing Benefit.
- 8.2 It is in our interests to ensure that all Housing Benefit claims are processed quickly by the Council so that there is minimal delay in the receipt of associated payments by CVHA. The Council has a statutory obligation to process all claims within 14 days of receipt of the claim, or to make a payment on account if the claim is not completed within that time.

- 8.3 We will operate within the terms of the Housing Benefit 'Verification Framework' and will share information with the Council. Where possible we will communicate electronically and will seek payments in this – this will promote transactional efficiency when posing payments to CVHA's bank account and should also mitigate against double entry processing errors occurring. Specifically we will also share information with the Council, the Benefits Agency and other statutory agencies to prevent benefit fraud and assist in their recovery of benefit that has been fraudulently claimed.

9 Housing Benefit – informing tenants

- 9.1 We will encourage new tenants and existing tenants to apply for Housing Benefit and will provide advice on how to apply for Housing Benefit and stress the importance of providing full, verifiable and up to date income information to the Council in this regard.
- 9.2 We will encourage all tenants who qualify for Housing Benefit to agree to direct payment of the Housing Benefit to CVHA. Formal agreement of this will be by a signed mandate, formally witnessed.
- 9.3 We will explain the Housing Benefit 'Verification Framework' under which Councils operate and stress the importance of submitting Housing Benefit review forms. Although the verification framework is complex it is a useful tool for identifying and reducing fraudulent claims. We will also stress the tenant's obligation to advise the Council of any changes to the number and circumstances of members in their household as this has implications for Housing Benefit.
- 9.4 We will emphasise to tenants the importance of advising CVHA of any changes in household formation (i.e. changes to who lives in the house). It will be important to know if there are 'qualifying occupiers' (i.e. all members of the household aged 16 years and over, including members of the tenant's family and their children) so that we may properly manage the houses.

10 Housing Benefit – recovery of overpayments

- 10.1 Overpayments of Housing Benefit can be recovered from the claimant or the person to whom the overpayment was made. In such cases where they concern our tenants the *"person to whom the overpayment was made"* refers to CVHA. It will be at the Council's discretion to determine who it will seek to recover the overpayment from.
- 10.2 If the overpayment is recovered from CVHA, we will then seek recovery from the tenant.

11 Enforcing the tenancy agreement

- 11.1 We will take immediate action against tenants who breach their tenancy agreement by failing to pay their rent. This action is detailed in our rent arrears procedure and will initially be a reminder letter. All action will be formally recorded. We will enforce our rent arrears procedure consistently, efficiently and effectively.

- 11.2 The action we take will be firm but fair when dealing with tenants who have rent arrears and we will explore all options available to assist the tenant to deal with their arrears and other financial issues they may have.
- 11.3 We will meet with tenants to discuss any issues about their rent account in our offices, in their home or in a location in which they feel comfortable.
- 11.4 We will not take legal action lightly, but will take it where a tenant continually fails to co-operate in reducing their arrears balance or repeatedly breaks a formal repayment arrangement.
- 11.5 Where appropriate, we will ensure that all members of the household aged 16 years and over, including members of the tenant's family and their children, ('qualifying occupiers') are aware of legal action we take.
- 11.6 As a last resort, we will take eviction action against tenants who persistently refuse to pay their rent when it is lawfully due.

12 Writing off former tenant arrears

- 12.1 Former tenant arrears can occur in a number of circumstances, such as a tenant absconding or dying with a balance of arrears outstanding on their rent account.
- 12.2 When the procedure for dealing with former tenant arrears has been exhausted and the arrears cannot be recovered the arrears should be put forward for write off, in line with CVHA's Bad & Doubtful Debts Policy.
- 12.3 The Housing Officer will be considered by each former tenant arrears case. The Housing Manager will prepare a quarterly report of proposed write offs for the Housing & Technical Services Committee and Finance Committee to consider and make recommendations to the Board for approval. The report to the Board will detail the reasons for the proposed write off by the following categories:
- uneconomical to pursue (small value arrears);
 - unreasonable to pursue (people in long term care, people with mental health issues, deceased with no estate, etc.);
 - prescribed cases (namely those arrears which are over 5 years old and which the former tenant has not acknowledged or accepted either through payment or in writing); and
 - sequestrated cases.

13 Involving & informing tenants

- 13.1 We will publicise our rent arrears control and Housing Benefit policy through our newsletter, our tenants' handbook and on our website.
- 13.2 A copy of this policy will be available on request at our office. If a tenant requires a copy of the policy in a different format such as large print, braille or audiotape, or in another language, please let us know and we will do our best to assist you.

- 13.3 Any information that we provide about our rent arrears control and Housing Benefit policy and all letters we send will be clear, concise and in plain English.
- 13.4 We will issue tenants with an annual rent statement. Annually, the Board will review rent charges and consult with tenants regarding any change in rent charges. Thereafter, we will write to our tenants giving at least 28 days notice of changes to their rent due.
- 13.5 We will promote a positive culture of regular rent payment through our newsletters and on our website, and we may explore opportunities for rewarding those tenants who pay their rent. We will also work closely with the Council and other agencies to publicise Housing Benefit and other welfare benefits.

14 Service quality & continuous improvement

- 14.1 We will operate our rent arrears control in accordance with our Equality Policy and our Openness and Confidentiality Statement.
- 14.2 If anyone is dissatisfied with how we have dealt with an arrears case or a related Housing Benefit matter, they can register a complaint through our Complaints Policy.
- 14.3 We will ensure that we regularly assess the rent arrears control service that we provide. As part of this process we will consider examples of good practice from other organisations.
- 14.4 We will monitor our arrears in the following categories:
- Current tenant arrears (arrears accrued by tenants with a Scottish Secure Tenancy or a Short Scottish Secure Tenancy);
 - Former tenants arrears (arrears accrued by individuals when they were tenants but who no longer have the tenancy);
 - Sequestered tenants (tenants who are bankrupt); and
 - Violent profits (damages for unlawful occupation of a property).
- 14.5 The Board takes performance management seriously and, through the Housing & Technical Services Committee, will routinely consider monitoring reports that will identify key trends in performance over time. Key Performance Indicators (KPIs) will include the following.

Rent Arrears (total & by team)

- current tenant arrears as a percentage of net debit (broken down into 'technical' and 'non-technical' arrears);
- current tenant arrears by financial band (under £500; £500 - £1,000; £1,000 - £2,000; and over £2,000); and
- former tenant arrears by financial band (under £500; £500 - £1,000; £1,000 - £2,000; and over £2,000).

Housing Benefit

- percentage of CVHA's tenants in receipt of Housing Benefit (at 31 March); and
- number of cases of Housing Benefit overpayment and value of sums outstanding by financial band (under £500; £500 - £1,000; £1,000 - £2,000; and over £2,000).

Violent Profits

- number of instances where sums are due for unlawful occupation of a property.

Legal Action (for non-payment of rent lawfully due)

- number of tenants issued with a Notice of Proceedings;
- number of court cases sisted;
- number of wage arrestments granted;
- number of wage arrestments enforced;
- number of decrees for eviction granted; and
- number of tenants evicted.

- 14.6 We will provide every tenant with an annual rent statement, including details of any rent arrears.
- 14.7 We will ensure that every arrears case has a full audit trail to assist with any legal action and provide information for monitoring purposes.
- 14.8 We will report performance results to tenants through our newsletter, to members through our Annual Report and to employees through routine performance reports.
- 14.9 The Board, through the Housing & Technical Services Committee, will annually review the effectiveness of the Arrears Policy and associated procedures and will identify areas requiring policy and / or service development. The Arrears Policy will be reviewed every three years or earlier if circumstances require it. We will consult our tenants when reviewing our policy and any proposed revisions to policy will be subject to approval by the Board.