



DEBT MANAGEMENT POLICY FORMER TENANTS

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1. INTRODUCTION

The effective administration of former tenant debt is crucial to the financial management of Castlehill Housing Association (CHA). CHA's approach to recovering former tenant debt sends a strong message to current tenants about the importance of paying rent on time and in full to sustain a successful tenancy. We understand that prevention of debt through the effective management of current tenancies is the best way to prevent former tenant debts occurring and the prevention of former tenant debt is a key element to our overall financial viability. Whilst CHA prefers tenants to sustain their tenancy, we understand that there will be those who leave with an amount owing on their rent account and this policy sets out how best to manage and recover former tenant arrears.

2. POLICY AIM

This policy aims to set out how CHA will manage and recover former tenant debts in a proactive, consistent and appropriate way.

The policy aims to reflect good practice and to deal with former tenant debt in a proactive and equitable way.

Early identification and prompt action are key to dealing with this problem along with continued contact with the tenant when the tenancy ends.

3. RELATED POLICIES

- Debt Management Policy
- Equalities & Diversity Policy
- Data Protection Policy
- Allocation Policy
- Rent Setting Policy
- Voids Management Policy

4. LEGAL FRAMEWORK

Housing (Scotland) Act 2001

Housing (Scotland) Act 2010

Housing (Scotland) Act 2006

Welfare Reform Act 2012

Equality Act 2010

Data Protection Act 2018 and the UK General Data Protection Regulation

Human Rights Act 1998

Debtors Scotland Act 1987

5. ROLES AND RESPONSIBILITIES

5.1 Role of the Management Committee

The Management Committee are responsible for overseeing the work and progress of the Housing Services Department in relation to all matters of debt recovery. The committee will receive reports at quarterly Management Committee showing levels of former tenant arrears and write off amounts. A report recommending amount for write off will be completed biannually. In addition, the committee will be responsible for agreeing and reviewing the former tenancy debt management policy.

5.2 Role of the Housing Services Manager

The Housing Services Manager will bring cases over a balance of £200 and warrant a write off to the attention of the Management Committee. The Housing Services Manager will approve write off's below £200. The Housing Services Manager takes a strategic overview of performance as well as delivering operational management of the arrears and income management services provided by the Housing Services Team.

5.3 Role of the Senior Housing Services Officer

The Senior Housing Services Officer is responsible for the day-to-day work involved in recovering Former Tenancy Debt. Housing Officer's will regularly liaise with the Senior Housing Services Officer on matters of procedure, write offs under £200 and reporting as requested.

5.4 Role of Housing Officer's

Day to day management of the recovery of Former Tenancy Debt is the responsibility of the Housing Officers. Housing Officers will be responsible for all geographic locations within the association's remit. Housing Officers will follow agreed internal procedures to maximise the amount of debt owed by former tenants.

5.5 Role of the Housing Services Assistant

Housing Services Assistants are responsible for processing all payments to the former tenant account. Housing Services Assistants are responsible for posting direct debit schedules.

5.6 Role of the Finance Team

The Finance Officer is responsible for processing bank standing orders to former tenant accounts. Efforts are made to ensure that all payments relevant to that month are posted to the former accounts before the debit is raised. The debit should be raised on the 1st working day of the new month for the Officers to receive the former tenant arrears report.

6. KEY PRINCIPALS

6.1 Prevention

CHA recognises the importance of the termination procedure in proactively preventing former tenant debts from occurring.

- When a tenant indicates that they are intending to leave they will be asked to complete the termination of tenancy form and be sent an end of tenancy checklist.
- Checks will be made regarding any joint tenants or those with occupancy rights who are required to sign the termination form.
- On receipt of the signed termination form a letter confirming the termination date and amount due to be paid on or before the termination date will be sent by post and/or email.
- Keys should be handed back to CHA according to the Voids Management Policy.
- Where keys are handed in to the office a face-to-face contact will be undertaken to ensure that any outstanding issues (such as arrears, repayment arrangements) are discussed.
- If contact cannot be made with the tenant prior to the termination date and where the tenant has not provided any forwarding address details, an investigation will be started, prior to a possible referral to the Debt Recovery Agency (DRA). There may also be recharges for the tenant which should also be included in the total debt.
- An initial letter should be sent to the tenant reminding them of the payment due and requesting payment is made without further delay. Where there is no contact or payment from the tenant, a further letter should be sent to the tenant advising payment should be made immediately to stop the case being passed to the Debt Recovery Agency. In total, three letters will be sent, separated by a maximum of two weeks. When a referral is necessary (third letter stage), the required documents and referral form will be provided.

6.2 Proactive Approach

- It is important that the tenant is notified in writing about the arrear at the earliest possible opportunity. Details of the level of the arrear, the way the arrear has accrued and methods for repaying the debt will be included in the correspondence. The timescale for initially contacting former tenants should be 2 weeks from the end of the tenancy however the earliest contact possible is likely to show the best results.
- We will promote the use of repayment arrangements with former tenants to pay back unpaid rent, service charges and recharges. Only when a reasonable repayment arrangement is not agreed will a case be passed to the Debt Recovery Agency. All letters should indicate the

consequences of failure to make regular payments and direct the customer to the member of staff dealing with the arrear.

- CHA will use a Debt Recovery Agency to pursue and collect Former Tenancy Debt where appropriate. The Agency will operate to the Code of Conduct set down by the Credit Services Association and relevant staff (including outsourced operations) will be subject to an Enhanced Disclosure Check.
- The Debt Recovery Agency will pursue debt due to CHA by use of door-step collection, small claims actions, wages arrestment and decree for recovery of debt.
- Regular reporting from The Debt Recovery Agency to CHA will ensure that cases are proactively managed, and cases reported to the Management Committee.
- CHA will discuss a settlement figure with a tenant for clearing former tenant arrears. Where an offer is made, CHA will make the decision to accept or decline the offer for full and final payment.
- Some former tenancy debts are not likely to be recovered, or the amounts involved mean recovery is not efficient use of staff resources.

A write off will be considered where;

- The debt is a small static arrear below £200 and more than 6 months old.
- The Tenant is unlikely to have the funds to clear the debt.
- There is a sequestrated balance which we are legally unable to pursue.
- There has been the Death of tenant and there is no estate.
- Amounts under £200 to be written off can be authorised by the Housing Services Manager. Sums in excess of £200 will be reported to the Management Committee on a bi-annual basis to request authorisation for write off.
- CHA will ensure that tenants understand their responsibilities and liabilities prior to undertaking repairs work that is recharged to the tenant.
- Tenants will be advised of the estimated cost of the recharge if a final cost is not available and where there is repair work that needs to be undertaken, the tenant will be given the opportunity to undertake that work to a satisfactory standard to avoid incurring costs. Photographs of defects which will result in rechargeable repairs will be taken in order to provide documentation should litigation be required.

Invoice all pay cards (separate from the rent cards) are available for tenants and former tenants to pay off the recharge balance.

- Where a former tenancy debt has been passed to the Agency and the former tenant is disputing the balance, the agency will contact the Association for clarification and will not continue to pursue the debt until clarification has been given.
- Where the tenant has had legal action raised by CHA against them, the court will award legal expenses to CHA. This amount is determined by the court and is usually indicated in the letter from our solicitors indicating the decree has been received. The tenant should be advised that legal action will incur expenses and that CHA's policy is to recover this cost as a recharge.

6.3 Early Intervention

CHA recognises that there are a number of reasons why a former tenant may have a debt on their account.

- The Tenant is unaware of the arrear. Our aim is to ensure that all tenants are aware on the last day of their tenancy if there is a balance on their account. This is not always possible in cases where Housing Benefit and Universal Credit is due, or recharges are made for repairs after the tenancy had ended.
- The Termination Date is amended. When the tenant advises of any delay in the termination date, CHA will inform the tenant of the revised balance due and confirm this in writing to them. Where keys are not handed in on the agreed date and at the agreed time, the rent will be charged until the keys are returned. We will attempt to contact the tenant at the tenancy address and the forwarding address. If this is not successful and the tenancy appears to be vacated, the rent will continue to accrue until a lock change has been completed.
- Where a tenant undertakes an Internal or External Transfers. Due to the tenant's requirement to give notice on the current tenancy and the need to reduce void times, the tenant is likely to have 2 tenancies running concurrently during the termination period. Tenants who are in receipt of Housing Benefit or Universal Credit will not automatically get both rents paid for them. Advice should be given to the tenant to ensure they know what steps to take to keep this to minimum or where appropriate claim for two homes.
- Where the tenancy has been Abandoned. Where a tenant leaves without notice, arrears will accrue while the abandonment notice is in operation. Frequently there are also arrears on the account prior to this. There is unlikely to be a forwarding address in these circumstances, in this case any outstanding balance will be recommended for write off.
- Where the Tenant Dies. Where the tenant dies, and the tenancy does not succeed there may be a former tenant arrear due to existing arrears prior to the tenant's death. Liability for rent ends with the tenant's death however rent arrears accrued can be recovered from the executor. Where there is not enough money in the estate the arrear should be written off. Claims will be submitted to the executor as soon as possible after the tenant's death. When informed about the tenant's death, a termination form which asks for the executors' details will be provided.

- Following an Eviction. Where a tenant has been evicted for rent arrears, the tenancy ends on the eviction date. Where the decree included action for recovery of debt this should be pursued.
- When a tenant is subject to Sequestration. Where a sequestrated amount is left at the time the tenancy ends it cannot be pursued. Normal procedure will be for sequestrated balances to be removed from the rent account during the tenancy.
- Housing Benefit Reclaims. Housing Benefit may be reclaimed after the tenancy has ended leaving a debt on the account.

7. REPORTING

To assess the performance of both the policy and the officers implementing the policy it is essential that suitable data is available from the Housing Management System. This enables targeting of resources and workload to be monitored and to encourage a performance culture of former tenant debt recovery.

Information such as this allows performance targets to be set by the organisation at a strategic level and by the managers within the organisation as a personal level.

The Management Committee receive statistics at the Management Committee meeting. The report aims to give information on:

- Quarterly former tenant debt totals
- Total level of former tenant debt
- Write off's

8. TRAINING

CHA recognises the importance of regular and systematic training for housing staff on the effective and sensitive collection of former tenant debt. Officers should be trained on the Former Tenant Debt Policy and be aware of the legal issues surrounding the collection of debt. Both in-house and external trainers should be used as appropriate.

Training on Welfare Benefits will also be carried out to ensure efficiency of the income maximisation contained within this policy.

Targets for Former Tenant Debts are held within the departmental work plan and staff will be advised of these figures and updated targets when the plan is revised.

9. REVIEW OF POLICY

The Senior Housing Services Officer should review the effectiveness of the policy during supervision with staff. Any areas where the policy could be improved should be brought to the attention of the Housing Services Manager. Any issues of good practice or clarification of legal issues should also be brought for discussion.