

Introduction and Overview

The purpose of this procedure is to guide staff through the processes that should be followed when maximising rent collection and preventing, managing and controlling rent arrears. These procedures comply with current legislation, the Scottish Social Housing Charter (SSHC), statutory instruments and good practice and should be read in conjunction with the Association's Arrears Management Policy, the Association's Pre-action Requirements Guidance and Compliance documents and the Scottish Government's Guidance 'Social Landlords on Pre-Action Requirements and Seeking Repossession of Social Housing'.

Arrears Management Procedures

This document outlines the Association's procedures in relation to the following sections:

1. Rent Collection;
2. Pre-Tenancy, Tenancy Sign-Up and Early Tenancy Management;
3. Prevention of Rent Arrears;
4. Rent Arrears Recovery and Pre-action Requirement Procedures;
5. Service of a Notice of Proceedings;
6. Court Action;
7. Former Tenant Accounts;
8. Credit Accounts;
9. Services to Tenants;
10. Equal Opportunities;
11. Confidentiality;
12. Right of Appeal;
13. Management Committee; and
14. Performance and Monitoring;

1. Rent Collection

The Association is a non-profit making organisation and relies on the income generated by rent to fund its activities and provide tenants including the management of the Association's stock and its surrounding environment improvement of homes to Scottish Housing Quality Standard. In accordance with the terms of tenancy, the rent and any service charges are due monthly in advance, on or before the 1st of the month. Tenants can, however, pay weekly or fortnightly to suit their financial circumstances. Where a tenant decides to pay weekly or fortnightly then staff must advise the tenant that this is acceptable providing rent payments are made in advance.

To minimise the development of rent arrears and ensure the efficient management of the Association's rental income the Association aims to maximise rental income by providing an effective rent collection system that offers a wide range of accessible and convenient options for tenants to pay rent. The following rent payment options are available to tenants:

- All Pay Card (including Debit / Credit Cards);
- Direct Debit; Standing Order; BACS Transfer; Internet Banking
- Office Payment (cheque / by post);
- Housing Benefit Direct;
- Universal Credit Direct and
- Benefit Agency Direct.

2. Pre-Tenancy, Tenancy Sign-Up and Early Tenancy Management

In order for Housing Management to adopt a preventative approach to minimising the development of rent arrears, it is recognised that encouraging payments, good communication and detailed information is essential. The following procedures should be applied at the different tenancy stages:

Pre-Tenancy Stage

Prior to signing their tenancy agreement, all prospective tenants are required to carry out an accompanied viewing of the property. During this viewing, staff must provide the prospective tenant with details of the monthly rent, including any service charges, and details of the rent due at the point of sign-up. The prospective tenant must be advised of when rent payments are due along with details of how rent can be paid. Staff should make an assessment of the preferred method of payment and the possible entitlement to housing benefit

Tenancy Sign-up Stage

At the appointment for sign-up, the incoming tenant will be required to pay the rent due for that month. Where the incoming tenant will be applying for housing benefit or Universal Credit they should be provided with contact details of housing benefit services / DWP and offered an appointment with Drumchapel Money Advice Centre for money / welfare advice and assistance.

Before signing their tenancy agreement staff must make the incoming tenant aware of their responsibilities including the need to pay rent.

During the sign-up process staff should gather information about the family composition, contact details, benefit status and whether the household has any health or support needs. The incoming tenant will be asked sign a Glasgow City Council Landlord Mandate irrespective of whether or not they will be applying for housing benefit. The mandate will allow the Association to make enquiries with Glasgow City Council regarding any current or future claims for housing benefit by the tenant.

Incoming tenants will be provided with the following information in relation to rent and money / welfare advice:

- Copy of their signed Scottish Secure Tenancy Agreement (outlines charges and when rent payments are due).
- Summary Scottish Secure Tenancy Agreement (provides rent charge and details of when rent payments are due).
- Payment of Rent & Money Advice for New Tenants sheet (details all charges, when rent payments are due, rent payment methods, contact details for Housing Management, Money & Welfare advice and Housing Benefit information).
- Residents Handbook (details when rent payments are due, rent payment methods and provides information relating to Housing Benefit / Universal Credit and Money / Welfare advice).
- Tenant Information Sheet (includes details of Money advice, Housing Benefit Offices and local Councillors).
- Yoker Credit Union Leaflet.

Incoming tenants preferring to pay rent by either standing order or direct debit will be encouraged to set this up during the sign up appointment. Due to banking administration standing orders and direct debits cannot be set up to start immediately. Where a tenant has liability for rent for period prior to a standing order or direct debit commencing, Housing Management staff must advise the tenant of the amount due and how this can be paid.

Early Tenancy Stage

New tenancies will be monitored regularly to ensure that rent accounts are being maintained and managed and to ensure that the necessary welfare / money advice and support is being provided to tenants. Where new tenants are experiencing difficulties managing their account then early communication and intervention will be established.

3. Prevention of Rent Arrears

Preventative Measures

Staff will adopt a preventative approach to minimising rent arrears. Both prior to and during the period of their tenancy, tenants will be provided with a high standard of information to promote the effective management of rent accounts. In addition to this early intervention will be seen as a priority for managing the recovery of rent arrears.

The preventative measures that will be adopted are:

- Operating an effective rent accounting system to provide detailed information and analysis on current arrears.
- Effective communication with tenants at pre-allocation, at sign-up and throughout their tenancy to encourage tenants to maintain their rent accounts in accordance with the terms of the tenancy agreement.
- Providing a range of methods and locations for rent payments and encouraging direct payment to the Association.
- Gathering information about tenants' personal circumstances and giving appropriate advice to tenants to help them maximise their income by claiming entitlement to benefits and provide welfare / money advice.
- Providing clear information on rents due, payment methods and rent increases and check to ensure that correct payments are being maintained.
- Maintaining effective communication with tenants to ensure that tenants' are aware of their tenancy obligations and encourage them to seek assistance in cases of financial difficulties.
- The monitoring of new tenancies to provide appropriate support, ensure early intervention and enable prompt implementation of appropriate procedures.
- Continual assessment of tenants' rent accounts to ensure early intervention, monitoring and prompt implementation of appropriate procedures.
- Maintaining effective liaison with tenants and Glasgow City Council, DWP and other benefit agencies in the processing and control of housing benefit applications.
- Partnership working between the tenant and Money and Welfare Advice Agencies and Social Work Services in providing free and independent advice and support.
- Maintaining detailed administration of arrears management to enable effective control and monitoring of rent arrears.
- Producing monthly, quarterly and annual reports to monitor the efficiency and effectiveness of the policy and procedures.

Communication and Information

In order to efficiently prevent and manage rent arrears the Association recognises that early intervention and personal contact is in the interest of both the Association and its tenants. In order to achieve early intervention staff will make prompt and reasonable attempts to contact the tenant. The method of contact and the approach towards the recovery of the debt will be influenced by the tenant's individual circumstances and the level of co-operation and commitment the tenant displays towards clearing the arrear. Initial contact will normally be done by telephone or letter. However, other forms of communication including home visits will be used to allow flexibility, reflect circumstances and the seriousness of the situation.

Staff should use a variety of methods to contact tenants including telephone, home visits, calling cards, issuing rent statements, letters, office interviews and dealing directly with an authorised representative of the tenant. Staff must take into consideration tenants' preferences with regards to how they wish to be contacted.

When an interview takes place, staff should adopt a firm but sympathetic and non-judgemental approach to the tenant's circumstances.

Arrears letters must be worded to ensure that tenants are given clear information about their position and the course of action to be adopted if the outstanding rent is unpaid. Arrears letters must also contain details of all tenancy debts, likely costs to be incurred if legal action is initiated and contact details for Housing Benefit Services, the DWP, welfare / money advice and the local authority.

Recording of Information

Staff must record comprehensive details of interviews, correspondence, visits, actions and outcomes on the tenants' rent accounting system with supporting information being held on scheme and computer house files. Contact details, national insurance numbers and support services should also be recorded on the system (tab five).

Vulnerable Tenants

Where support needs are identified then staff will consider the tenant's health and care needs when giving advice and assistance and signpost the tenant to the relevant support service. Where the tenant has difficulty in reading or understanding information then reasonable steps will be taken to ensure that staff has communicated the information in ways that the tenant understands. In cases where tenants are vulnerable or have difficulty in engaging directly with the Association then communications should, with the approval of the tenant, include joint partnership working with support services.

In cases where a tenant is under the age of eighteen or is particularly vulnerable, staff should, at an early stage consider whether the tenant has capacity to understand their position. Where tenants have an advocate or someone with an appointed power of attorney staff must include them in all communications.

Non Engagement

Staff must ensure that details of all non-responses or non-engagement by tenants are recorded on the tenant's rent account.

Money and Welfare Advice Support

To ensure that tenants experiencing financial difficulties are given appropriate advice and support staff should provide tenants with money / welfare advice and information. Tenants should be encouraged to seek advice and assistance as soon as possible and be provided with contact details of support services where tenants can obtain free independent advice and assistance. Money / welfare advice must be provided throughout the arrears management process and information should be given at the point of sign-up, enclosed with arrears letters and provided during home visits / office interviews held with the tenant.

Where the tenant or their representatives indicates that the tenant requires assistance to contact appropriate support services, staff should signpost the tenant to the appropriate service or arrange to make a referral on behalf of the tenant.

Welfare Reform

To minimise the impact of welfare reform, staff must ensure that effective communications between Glasgow City Council, the Department of Works and Pensions and the Benefit Agencies is established to ensure that the tenant is provided with advice and assistance on their eligibility to receive Housing Benefit or other types of financial assistance.

Welfare Reform – Housing Benefit

Staff should encourage all tenants to sign a housing benefit mandate to allow the exchange of information between organisations. This may be done at the point of sign-up, office interviews or home visits held with the tenant. Staff must encourage tenants to report any change in circumstances that is likely to affect their entitlement. Where a tenant is in receipt of partial housing benefit or is subject to deductions applied to their ongoing housing benefit (e.g. non-dependant deductions, housing benefit overpayments), the tenant should be made aware of their liability to pay rent and advised of how to make payment to the rent account in accordance with their tenancy agreement.

Where rent arrears arise as a result of delays in the processing of Housing Benefit claims, housing benefit overpayments, partial entitlement or benefit deductions (e.g. non-dependants or under occupancy) then tenants will be kept fully advised of the status of the rent account and the arrears will be pursued in accordance with this procedure.

Welfare Reform – Universal Credit

Where tenants are in receipt of Universal Credit then they must be made aware of their tenancy obligations to maintain payment of rent and prevent rent arrears. Where tenants are in receipt of Universal Credit and rent arrears arise staff should encourage tenants enter an affordable and reasonable repayment arrangement for the rent arrears. Staff should also encourage the tenant to update their claim to include an Alternative Managed Payment for payment of the housing cost element to be paid directly to the Association.

Where appropriate, staff should also apply to the DWP, using the Form UC79, for an Alternative Managed Payments for the housing cost element to be paid directly to the Association and for rent arrears direct to be paid to the Association in cases where the outstanding arrears equate to at least eight weeks rent.

Where possible, staff should use the Universal Credit online portal to request an alternative Payment Arrangement such as requesting the housing cost elements to be paid directly to the Association. Where possible, staff should also use the online portal to request payment of rent arrears direct to the Association in cases where the outstanding arrears equate to at least eight weeks rent.

Where tenants are subject to a reduced payment of housing costs as a result of under-occupancy, staff should advise tenants to make an application to Glasgow City Council for Discretionary Housing Payment (DHP) to cover this shortfall.

Where tenants are experiencing any difficulties with their claim for Universal Credit staff should offer a money advice referral for money advice and welfare rights assistance.

Where tenants fail enter into or manage their repayment arrangement or fail to manage their claim for Universal Credit, the arrears will be pursued in accordance with this procedure.

Welfare Reform – Discretionary Housing Payment

Where tenants are receiving deductions to their housing benefit or Universal Credit housing costs as a result of under-occupancy, staff should advise the tenant to submit an application to Glasgow City Council for Discretionary Housing Payment (DHP) to cover this shortfall.

Where tenants are receiving reduced levels of housing benefit or Universal Credit housing costs as a result of the benefit cap, staff should advise the tenant of their rent liability. Staff should also advise the tenant to submit an application to Glasgow City Council for DHP in order to potentially obtain assistance with their housing costs.

Where tenants received partial housing benefit and are struggling to meet their own rent liability they should be encourage to submit an application to Glasgow City Council for DHP in order to potentially obtain assistance with their housing costs.

Rent Arrears Direct

If a tenant fails to arrange or maintain payment to the account and they are in receipt of benefit then staff should consider making an application for payment of rent arrears to be deducted from their benefit. Staff must inform the tenant in writing that an application is being made to the Benefits Agency.

If a tenant fails to arrange or maintain payment to the account and they are in receipt of Universal Credit then staff should consider making an application for payment of rent arrears to be deducted from their benefit using Form UC79. Staff must inform the tenant in writing that an application is being made to the Benefits Agency.

If an application to the Benefits Agency / DWP is unsuccessful or the tenant fails to reach a reasonable repayment plan then the rent arrears recovery procedures should be applied.

Local Authority

Staff must encourage tenants to contact their local authority so that they can receive advice on what their entitlement to housing may be should they become homeless, and to give them housing options advice. Staff will do this by ensuring that contact information for the local authority is contained within standard letters.

Sequestration

Where tenants are sequestrated, the appointed trustee will deal with any existing arrears prior to sequestration. A claim against the estate may be lodged by the Association. Arrears arising after sequestration will be pursued in accordance with these procedures.

4 Rent Arrears Recovery and Pre-Action Requirements Procedures

Payment of the rent is the responsibility of the tenant. Rent Arrears has an impact on the Association's financial ability to provide services to tenants and maintain the Association's housing stock and surrounding environment. The tenancy agreement states what the rent and other charges the tenant must pay and when. Tenants, however, can find themselves in a variety of circumstances which make it difficult to pay the rent. The pre-action requirements sets out what the Association must do, as a minimum, before taking action to evict a tenant. Most arrears appear to arise through a change of circumstances or because tenants get into difficulty with the general management of their affairs. The first consideration then is about identifying, and where possible, resolving the issue that has resulted in the tenant falling into arrears. Early personal contact may prevent more acute problems developing in the future and the approach taken to resolve arrears will depend on the circumstances of each case.

Arrears Recovery Procedures

Pre-action requirements have placed an emphasis on resolving the payment of the rent arrears and making sure tenants have been offered the appropriate information, guidance and support on managing arrears before court action can be initiated. In order to comply with these requirements, the following standard letters should be used during the arrears recovery process:

- Reminder Statement or Reminder Notice.
- First Warning Notice.
- Final Warning Notice.
- Notice of Proceedings.

Details of all tenancy debts, Housing Benefit services, Universal Credit, money / welfare advice and details of the local authority will be contained within or enclosed with all standard letters. Details of likely costs that the tenant may incur should legal action be initiated will be contained within the first warning notice, final warning notice and notice of proceedings warning notice.

When completing the warning notices it is important that a brief history of the arrear is included in the body of the letter. This should include dates of communications, services involved and arrangements / failed agreements and non-engagement.

Pre-Action Requirements

The Housing (Scotland) Act 2010 introduced the Pre-action Requirements that landlords must satisfy in all rent arrears cases before serving a notice of proceedings on a tenant. Pre-action Requirements are aimed at providing further protection for tenants facing eviction for rent arrears by:

- Creating greater consistency in practice between landlords.
- Making sure that landlords and tenants explore other ways of resolving the arrears.
- Making sure that eviction for rent arrears is a last resort.

The pre-action requirements are to:

- (1) Give clear information about the tenancy agreement and the unpaid rent or other financial obligations.
- (2) Make reasonable efforts to give help and advice on eligibility for housing benefit and other types of financial assistance.
- (3) Give information about sources of help and advice with the management of debt.
- (4) Make reasonable efforts to agree with the tenant a reasonable plan for future payments.
- (5) Consider the likely result of any application for housing benefit that has not yet been decided.
- (6) Consider other steps the tenant is taking which are likely to result in payments within a reasonable time.
- (7) Consider whether the tenant is complying with the terms of an agreed plan for future payments.
- (8) Encourage the tenant to contact their local authority (where the local authority is not the landlord).

Depending upon a tenant's individual circumstances the following procedures should be adopted where appropriate and to ensure compliance with the individual pre-action requirements:

(1) Give clear information about the tenancy agreement and the unpaid rent or other financial obligations

To ensure compliance with this pre-action requirement the following procedures should be adopted where appropriate:

- At the pre-tenancy viewing staff should give the prospective tenant verbal details of the terms of their tenancy agreement including payment of rent and housing benefit services.
- At the signing of the tenancy agreement staff should explain the tenants' obligations under the terms of their tenancy, including payment of rent. Staff must issue the tenant with a copy of the Summary SST and a copy of their signed SST at this appointment.
- At the signing of the tenancy agreement staff should issue the tenant with a Resident Handbook which gives clear information about the terms of tenancy and payment of rent.
- At the signing of the tenancy agreement staff should issue the tenant with a Rent Schedule which gives clear information of the payment of rent, rent and service charges, money / welfare advice and housing benefit services.
- During settling-in visits staff should remind the tenants of the terms of tenancy and provide statements confirming all outstanding debts.
- During telephone interviews with tenants regarding their rent account, staff should remind tenants of the terms of tenancy and provide tenants with verbal details of all outstanding debts.
- During office interviews or home visits regarding their rent account, staff should remind tenants of the terms of tenancy and provide tenants with statements confirming all outstanding debts.
- Staff must include statements confirming all outstanding debts when issuing any standard letters.
- Where a third party is mandated by the tenant then staff should correspond with the nominated person.

(2) Make reasonable efforts to give help and advice on eligibility for housing benefit and other types of financial assistance

To ensure compliance with this pre-action requirement the following procedures should be adopted where appropriate:

- At the pre-tenancy viewing the prospective tenants' entitlement to housing benefit should be discussed and details of Glasgow City Council's housing benefit service provided and the DWP's Universal Credit Service.
- At the signing of the tenancy agreement staff should discuss the tenants likely entitlement to housing benefit and provide details of Glasgow City Council's housing benefit service, including local and on-line services and the DWP's Universal Credit Service.
- At the signing of the tenancy agreement staff should provide the tenant with a Rent Schedule which contains details of Glasgow City Council's housing benefit service and the DWP's Universal Credit Service.
- At the signing of the tenancy agreement staff should provide the tenant with a Resident Handbook which contains details of Glasgow City Council's housing benefit service and the DWP's Universal Credit Service.

- At the signing of the tenancy agreement staff should gather information relating to the tenants benefits / income and advise the tenant on their likely entitlement to housing benefit.
- At the signing of the tenancy agreement staff should issue the tenant with a Welfare / Money Advice Leaflet which includes details of local Benefit Agencies and details of where the tenant would be able to make enquiries about their entitlement to benefits or grants.
- At the signing of the tenancy agreement staff should encourage tenants, irrespective of whether or not they are likely to make an application for housing benefit, to sign a Glasgow City Council Landlord Mandate. This will allow the Association to make enquiries with Glasgow City Council about the tenants claim.
- During all office / telephone interviews staff should ask the tenant if they have made an application for housing benefit and also discuss a tenant's likely entitlement to housing benefit.
- When issuing standard letters staff should ensure that details of Glasgow City Council's housing benefit service and the DWP's Universal Credit Service are enclosed.
- Where mandated to do so staff should make appropriate enquiries with Glasgow City Council about a tenants claim. This could be in relation to suspension, deductions or reassessments. Where appropriate, staff should then contact the tenant to advise them of the outcome of any enquiries and offer any relevant advice.
- Where a tenant has not signed a mandate staff should make general enquiries with Glasgow City Council. Where appropriate, staff should then contact the tenant to advise them of the outcome of any enquiries and offer any relevant advice.
- Where appropriate, staff should advise tenants to apply for Discretionary Housing Payments (DHP) and if instructed to do so assist the tenant in completing an application form for DHP.
- Where a third party is mandated by the tenant, staff should correspond with the nominated person.

(3) Give information about sources of help and advice with the management of debt

To ensure compliance with this pre-action requirement the following procedures should be adopted where appropriate:

- At the signing of the tenancy agreement staff should provide the tenant with a Rent Schedule which provides written details of organisations that provide free, local and independent money advice and support.
- At the signing of the tenancy agreement staff should provide the tenant with a Welfare / Money Advice Leaflet which provides details on organisations that provide free, local and independent money advice and support.
- At the signing of the tenancy agreement staff should provide the tenant with a Resident Handbook which provides details of organisations that provide free, local and independent money advice and support.
- When issuing standard letters staff should ensure that details of welfare / money advice is contained within the body of the letter.
- Where appropriate staff should assist with a referral to a specialist debt / money advice agency.

(4) Make reasonable efforts to agree with the tenant a reasonable plan for future payments

To ensure compliance with this pre-action requirement the following procedures should be adopted where appropriate:

- To ensure that the Association is making reasonable efforts to enter a repayment plan staff should use a variety of methods to contact tenants. Contact methods include office interview, landline telephone, mobile telephone, home visit, calling card and standard letters.
- During interviews tenants should be encouraged to provide an explanation for the accruing arrears and discuss their income to ensure that any repayment plan is reasonable and sustainable.
- Where mandated, staff should make contact with the tenant through the appointed person. An appointed person can be a family member, friend, support worker or advocacy worker.

(5) Consider the likely result of any application for housing benefit that has not yet been decided

To ensure compliance with this pre-action requirement the following procedures should be adopted where appropriate:

- At the signing of the tenancy agreement staff should encourage tenants, irrespective of whether or not they are likely to make and application for housing benefit, to sign a Glasgow City Council Landlord Mandate.
- During any telephone interview, office interviews or home visits staff should ask tenants whether or not they have applied for housing benefit.
- If a tenant advises that they have made an application for housing benefit then staff should make enquiries with Glasgow City Council about the likely outcome of the application. Where the tenant has signed a Glasgow City Council Mandate, staff should make specific enquiries in relation to the claim, e.g. likely processing time, likely outcome, whether there is an entitlement to a backdate and whether there is likely to be any overpayments in place. Where the tenant has not signed a Glasgow City Council Mandate, staff should make general enquiries in relation to the claim, e.g. whether or not an application for housing benefit has been made.
- Staff should consider the information provided in Glasgow City Council notices to determine whether or not application for housing benefit is likely to have an effect on the outstanding arrears.
- Where it is established that an application for housing benefit will have an effect on the outstanding arrears a notice of proceedings must not be served.

(6) Consider other steps the tenant is taking which are likely to result in payments within a reasonable time

To ensure compliance with this pre-action requirement the following procedures should be adopted where appropriate:

- During telephone interviews, office interviews or home visits staff should determine whether tenants have any other means to pay within a reasonable time, e.g. backdated wages, insurance pay out, inheritance, redundancy, backdated housing benefit or student loans.
- Where a tenant advises that they will have means to make payments within a reasonable timescale staff should record this on the rent account.
- Where evidence of other steps are provided staff should consider the likely impact that this will have on the outstanding arrears before deciding whether or not to serve a notice of proceedings.

(7) Consider whether the tenant is complying with the terms of an agreed plan for future payments

To ensure compliance with this pre-action requirement the following procedures should be adopted where appropriate:

- When entering a repayment arrangement, staff should encourage the tenant to provide information about their income and expenditure and use all available information to agree repayment plan that is affordable and sustainable. Staff must advise the tenant to notify the association of changes to their circumstances in order that repayments plans can be reviewed accordingly.
- When a tenant enters into a repayment schedule, either verbal or written, details of the schedule must be recorded on the rent account to allow all staff easy access to details of the repayment arrangement.
- When entering a repayment schedule staff should regularly check payments to the rent account to ensure that the tenant is complying with the terms of the repayment arrangement;
- Where a tenant fails to make a payment in accordance with the repayment arrangement staff should contact the tenant as soon as possible to obtain an explanation for the missed payment.
- Where a payment has been missed staff should give the tenant a reasonable timescale to respond to communications regarding the default and to allow them to make up the missed payment.
- Where a tenant advises that they are struggling to maintain a repayment plan and explains that that this is down to affordability, staff should engage with the tenant to review the existing repayment arrangement and ask the tenant to enter a revised repayment plan that they consider to be affordable and sustainable.

- Where a tenant defaults on their repayment schedule and fails to willingly communicate with the Association or respond to communications within a reasonable timescale then staff should implement the next stage of the arrears recovery procedure.

(8) Encourage the tenant to contact their local authority

To ensure compliance with this pre-action requirement the following procedures should be adopted where appropriate:

- When issuing standard letters staff should ensure that contact details for the North West Community Casework Service is enclosed within the body letter.

5. Service of a Notice of Proceedings

Where the pre-action procedures have been followed and Housing Management believe it is reasonable to pursue legal action against the tenant then a Notice should be served. The Notice Regulations prescribe the form that Housing Management use in preparation and service of a Notice of Proceedings (Notice). Before serving a Notice, staff must make all reasonable enquiries to establish whether there are any qualifying occupiers of the house. A copy of the Notice in the prescribed form must be served on each qualifying occupier. Where a joint tenancy exists then a Notice must be served on each of the tenants. The Notice must specify the grounds for recovery, reasons for repossession, date from which recovery proceedings may be raised and the steps that the Association has taken to comply with the pre-action requirements. The Notice will require Housing Management to confirm compliance with each separate requirement with reference to the specific steps taken. Housing Management will be required to complete an averment for the court to certify the completion of the pre-action requirement. If the Association's averment is challenged in court, then staff will be required to provide evidence to the court of compliance with pre-action requirements and also demonstrate that all reasonable attempts to resolve the position have failed, before the Sheriff will grant an order for recovery of possession.

The Notice should be accompanied by guidance notes and the tenant issued with a covering letter encouraging the tenant to engage with Housing Management and support agencies to resolve the position. Two members of Association staff must be present at the service of a Notice and a record of service must be attached to copies of the Notice. The record of service must contain the tenants name and address, the staff members present at the service, the date of service and how the notice was served. A Notice can be served during an office interview or at the tenants' property. A copy of the Notice should be retained on Scheme and House files.

5. Service of a Notice of Proceedings

During the notice period, staff should make every effort to make contact with the tenant to arrange a reasonable repayment plan. Where the tenant refuses or fails to respond to the Notice then a court warning notice should be issued offering a final opportunity to resolve the situation and warning that a lack of engagement or satisfactory outcome will result in the Association raising court proceedings. Where all reasonable attempts to resolve the position have failed, then Housing Management should forward the action to the Association's solicitor to raise court proceedings.

A Notice **must not** be served in the following instances:

- the Association has failed to comply with the pre-action requirements.
- an application for housing benefit has been made but has not yet been determined.
- where an application for housing benefit is, in the opinion of the Association, likely to result in the benefit being paid at a level allowing the tenant to pay, or reduce by an amount acceptable to the Association, the outstanding rent and any other outstanding financial obligation of the tenancy.
- the tenant is taking other steps which, in the opinion of the Association, are likely to result in the payment of outstanding rent and any other tenancy debt within a reasonable time; or
- the tenant is complying with the terms of a repayment plan agreed as set out before.

6. Court Action

Where a Notice has been served and the tenant has failed to resolve the situation, Housing Management staff should instruct the Association's solicitors to initiate court proceedings. Housing Management should ensure that the Association's solicitor are in possession of all necessary documentation and liaise with them for the duration of proceedings. When initiating legal action, staff should provide the solicitor with a copy of the Notice, tenancy agreement and all letters / correspondence that has been issued to the tenant.

The Association's solicitor will forward the action to the Sheriff Court to raise legal proceedings for recovery of possession, rent arrears and expenses. The Sheriff Clerk will check that the Association has included an averment in the statement of claim before authenticating the summons. Once authenticated, the Association's solicitor will arrange to serve the court summons on tenant. The Association will have raised the court proceedings when they have served the summons on tenants.

The pre-action requirements do not replace the requirement on the court to consider whether it is reasonable to make an order for recovery of possession of the property. It will be for the court to consider the submission and the reasonableness of granting an order for repossession. If tenants or their representatives challenge compliance with one or more of the pre-action requirements in court then it is likely that Housing Management will need to give evidence around compliance to the court.

The court may continue the case if it needs more information. The court may also temporarily suspend or "sist" the case where, for example, the action is defended and a proposal submitted to court. In such circumstances the Sheriff may grant several continuations to monitor the court agreement. If the court agreement is broken without good cause then the Association's solicitor will be instructed to recall the action to court. When pursuing legal action staff may need to seek advice from the Association's solicitor regarding the case before advising what action to take at a hearing.

Where the outstanding rent is received in full, or reduced to one month's rent arrears, the Association may still seek a Decree for expenses only.

Housing Management staff, in accordance with Section 11 of the Homelessness Etc. (Scotland) Act 2003, must notify the Local Authority of the action and that the tenant may require assistance. Staff must use the Glasgow City Councils prescribed Section 11 Notice to notify the Local Authority when the Association is initiating legal action. In certain instances, the Association's solicitor will notify the Local Authority of the action. Staff should liaise with Social Work Services or any appointed support agency during court proceedings.

Decree for Expenses

Where a Decree for expenses is granted every reasonable effort should be made to recover the sum owed by arrestment of earnings, repayment schedule or other appropriate means.

Decree for Recovery of Possession, Rent Arrears and Expenses.

If the court grants a Decree for possession of the property then the tenancy is not ended on a date the Decree is granted. In such cases, the tenancy ends only when the Association recovers possession of the property. The Decree granted by the court must specify a period for which the Association has a right to recover possession of the house. The Period Order prescribes a maximum period for the court order of six months from the date when the decree is extracted. The period specified in the order may be less than this but may not be more. During this period the tenant's existing tenancy will continue unless an eviction is enforced.

6. Court Action (Continued)

Where the tenant or their representative lodge an appeal after the court extracts the order for recovery of possession and the court later upholds the order for recovery of possession, the maximum period of six months will begin from the date of the interlocutor of the court disposing of the appeal. If the Association recovers possession of the property within the period the court specifies, then the tenancy ends. If the Association does not recover possession of the property then the order ceases to have effect after the specified period. If rent arrears reoccur after the specified period then the Association will have to meet the pre-action requirements before raising any future proceedings to repossess the property.

The final decision in eviction proceedings must be taken by the Management Committee. In order for the Management Committee to consider all the facts before making the decision of whether or not to enforce the Decree, Housing Management must present a report to the Management Committee at the next scheduled meeting providing the following information:

- Details of the tenancy (date tenancy commenced, any changes to tenancy);
- Family composition (details of all residents, tenancy status, relationships and ages);
- Personal history (where known, details of the families personal circumstances or other relevant details);
- Arrears history (a brief history of the rent account, actions, agreements and organisations involved);
- Court history (a history of court proceedings and outcomes);
- Update in proceedings (an update in case since court hearing);
- Recommendation.

Where a Decree is to be enforced staff must issue a hand delivered letter to the tenant, providing details of support agencies and advising of the Management Committee decision. Staff should instruct the Association's solicitor to make the necessary arrangements for the recovery of possession of the property. Once a date has been arranged for the recovery of possession then a further hand delivered letter must be issued to advise the tenant of the date of repossession, provide supporting information and confirm the tenant's responsibility for the removal of personal effects and belongings. The Association's solicitors will also instruct Sheriff Officers to serve notice on the tenant confirming the date of eviction. During recovery proceedings, Housing Management staff will liaise with appointed support organisations, legal services and any other relevant organisation.

Where the Management Committee decision is not to enforce eviction, then the Decree will be held for the specified period. Should the tenant breach the terms of tenancy within this period then a further report will be presented to Management Committee to revisit the circumstances of the accruing arrears.

At any point up to and including the date of eviction, the tenant may clear the outstanding balance or make a substantial payment to the rent account. At a minimum, this payment should bring the arrears back into line with any agreements made previously. In this circumstance, the eviction will be postponed and Housing Management staff will present a further report to the next Management Committee detailing the circumstances. Staff must issue a hand delivered letter to the tenant outlining the Management Committee's decision.

6. Court Action (Continued)

Recovery of Possession

Housing Management, Maintenance Services and the appointed Sheriff Officers should be present at the arranged recovery of possession. The tenant should be made aware that it is their responsibility to make provision for removal of their personal effects and furniture prior to the eviction. Where belongings are found in the property after the eviction then Housing Management will attempt to contact the former tenant to remove personal effects and belongings. Where the former tenant's whereabouts are unknown, they fail to respond to communications or they fail to remove belongings then the Association will have the right to arrange for the clearance and disposal of the belongings and recharge the outgoing tenant.

7. Former Tenant Accounts

Prior to tenancy end a pre-termination visit should be arranged between the tenant, Housing Management and Maintenance Services to make the tenant aware of tenancy end procedures including payment of tenancy debts and ensuring a forwarding address is noted. Where rent arrears exists Housing Management should encourage the tenant to clear the debt prior to tenancy end or enter into an arrangement to clear the outstanding balance. Following the termination of tenancy, former tenants should be issued with a final statement of account to confirm any balances due. Where tenants have an outstanding balance the following procedures should be followed:

- Should the whereabouts of a former tenant be known, or there is some other likelihood of recovering former tenant arrears, staff should pursue the tenant for the outstanding amount (letter, telephone, contact at employers).
- Where it is considered necessary, staff should consider raising a simplified procedure.
- Where the former tenant is in receipt of benefits, staff should make an application to the DWP for rent arrears direct;
- Where a Decree has been granted, staff should liaise with the Association and consider the options of pursuing an earnings arrestment.

A former tenant arrear may be written-off when the former tenant fails to respond to communications or it is considered to be irrecoverable or uneconomical to pursue further action. Factors taken into consideration can include:

- The tenant has been sequestrated and the debt has become irrecoverable by law.
- The tenant has died and there is no estate or other responsible person.
- The Association has no forwarding address and has exhausted all reasonable means of establishing one.
- All efforts have been made to recover the debt and it would not be cost effective to continue to pursue legal action.
- All rent accounts with arrears that have been in existence for five years to be written off.

Where cases to be recommended for write off by the Management Committee, staff should present the cases within a quarterly report. Within the report staff should state the level of former tenant arrears and also provide an explanation of why the write off is being recommended. Although an arrear may be written-off it may be re-instated at any time and be actively pursued by the Association.

8. Credit Accounts

Prior to the Association refunding all or part of a credit that has accrued in a tenant's rent account the Association will take into consideration the following factors in order to prevent arrears accruing as a result of this refund:

- The previous pattern of payment.
- Any history of rent arrears.
- Entitlement to housing benefit / claim for overpayment of housing benefit.
- Tenancy or other debts owing to the Association.

Credits will normally only be written-off from the former tenant account when:

- The former tenant has died and there are no known next-of-kin or estate details.
- The Association has no forwarding address and has taken all responsible steps to establish one.

9. Services to Tenants

Improvements to Rented Properties

Where a tenant has accrued substantial tenancy debts and has consistently refused to co-operate with Housing Management or Maintenance Services then the Association retains the right to withdraw that tenant's home from any programme of improvement works such as kitchens or bathrooms. The decision to remove a property from the improvement programme will be considered jointly between Housing Management and Maintenance Services.

10. Equal Opportunities

The Association is committed to Equal Opportunities and will endeavour to ensure that all services within the arrears procedures are carried out in an equal and undiscriminating manner in line with the Association's Equality & Diversity Policy.

In particular, the Association will not discriminate on the grounds of age, disability, marriage and civil partnership, pregnancy and maternity, race, religion or belief, gender, gender reassignment or sexual orientation.

To ensure that the Association's rent arrears procedures are understood by all tenants and that everyone affected has access to the relevant information and advice, translation and interpretation services will be provided where required and, where appropriate information will be made available in other formats.

11 Confidentiality

All information regarding rent arrears and personal information will be treated in strictest confidence by Association staff unless the tenant has mandated third party involvement. Anonymity will be preserved from Management Committee with references to specific cases being coded.

12. Right of Appeal

Tenants have the right to appeal any decision made by the Association regarding their rent account and / or arrears. Tenants may also make a complaint if they feel aggrieved about the service they have received during the implementation of the arrears procedure. Appeals and complaints will be dealt with in accordance with the Association's Complaints Procedures

13. Management Committee

The Management Committee shall agree the policy for the prevention and control of arrears and must always authorise eviction. As Management Committee members may also be tenants of the Association, those tenants should not accrue rent arrears or tenancy debts. Each month Housing Management staff should identify any Management Committee member that has rent arrears and pursue the arrears in accordance with arrears management procedures.

Housing Management will make the Association's Director aware of any Management Committee member that has over one month's rent arrears outstanding or has rent arrears persisting for a period of three consecutive months without a repayment plan in order that procedures under personal interest may be implemented.

14. Performance Monitoring and Reporting

A Statutory Performance Indicator set by the Scottish Housing Regulator reports on collecting arrears. When setting the Association's internal performance target for rent arrears, consideration will be taken of past and current performance, as well as the latest peer group sector performance figures published as part of Scottish Registered Social Landlords Statistics.

Quarterly reports will be submitted to the Management Committee detailing the current and former tenant arrears performance in accordance with the Association's targets and performance indicators. Reports will be reviewed on a regular basis to ensure they are providing the Management Committee with sufficient and relevant information to monitor the efficiency and effectiveness of the policy and procedures. The reports will contain the following information:

- Comparable performance statistics.
- Arrears as a percentage of rent receivable.

At the year-end a Legal Action report will be presented providing details on overall trends including the number of Notices of Proceedings raised, court actions, evictions and costs involved.

On a quarterly basis the Management Committee will receive a Former Tenant Write-Off Report detailing cases being presented for approval to have the tenancy debt written-off.

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