

<b>Policy on :</b>	<b>Arrears Management</b>
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<b>Compliant with Performance Standard :</b>	<b>GS1.2 Policies and Procedures GS1.3 Commitment to Continuous Improvement</b>
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<b>Compliant with Tenant Participation Strategy:</b>	<b>Consultation still to take place</b>
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<b>Compliant with Equal Opportunities :</b>	<b>Yes</b>
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<b>Compliant with Internal Management Plan :</b>	<b>Yes</b>
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<b>Date Approved Following Consultation:</b>	<b>29<sup>th</sup> May, 2008</b>
<b>Date for Review :</b>	<b>April 2011</b>

<b>Responsible Officer:</b>	<b>Housing Manager, Michael Byrne</b>
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*This leaflet can be made available in different languages  
and alternative formats*

## **1. Introduction**

Barrhead Housing Association recognises that the main objective of effective arrears management is to minimise loss of rental income for current and former customers by prevention, prompt, and effective recovery of rent arrears, whilst being sensitive to the individual circumstances of customers in arrears.

## **2. Objectives of the Policy**

The overall aim of the Rent Arrears Policy is to minimise the level of rent arrears in a sensitive but effective manner. The specific objectives of the Rent Arrears Policy are:

- To offer early appropriate professional support and guidance to tenants to reduce rent arrears;
- To monitor levels of rent arrears and have early intervention mechanisms in place which prevent rent arrears arising;
- To take appropriate action in accordance with the level of rent arrears;
- To prevent homelessness occurring within the East Renfrewshire area.

## **3. Tenants' Responsibilities**

The term 'tenant' includes sole and any joint tenants.

If two or more people have signed the Tenancy Agreement, they are jointly and severally liable for the payment of rent. This means that each person is fully responsible for the payment of rent and any arrears of rent.

Tenants have an obligation under the Terms and Conditions of their Tenancy Agreement to pay rent due in advance on or before the first day of each month.

Tenants have a responsibility to notify the Council of any changes that may affect their ability to pay their rent.

Tenants can choose to pay their rent from one of the following methods:

- Cash or cheque
- Standing Order
- Direct Debit
- Credit or Debit Card
- Allpay

The Association also has a chip and pin facility available for payment by credit or debit cards at our office, or by phone.

#### **4. Prevention of Rent Arrears**

The Association will adopt a supportive approach to our customers with the emphasis on prevention, advice and counselling.

The Association will consult with tenants regarding any change to the rent payable and will give tenants 28 days written notice of any increase in rent, or service charges.

#### **5. Assessment, Support and Liaison with Other Agencies**

The Association will offer a detailed financial assessment to all tenants when it is identified that their rent account is in arrears in order to assist in the management of his/her tenancy and ensure that rent is paid. During this assessment the Housing Officer will identify possible sources of support for the tenant.

#### **6. Rent Arrears Recovery**

Rent arrears recovery will be based on a staged escalation process, up to and including repossession for non-payment of rent.

The process will be based on a preventative approach that seeks to maximise tenants' entitlement to benefits and secure regular payments. The Housing Officer will place emphasis on intensive management and personal contact whilst arrears are at a relatively low level, in order to prevent the escalation of arrears.

The Association will consider legal action to recover rent arrears where management actions prove ineffective.

#### **7. Early Action**

The Association will ensure that there is early intervention in rent arrears before the debt becomes unmanageable.

#### **8. Serious/Persistent Arrears Action**

Serious arrears action will commence when arrears continue to rise, or direct contact with the tenant has failed. This may include initial stages of raising legal proceedings against the tenancy.

#### **9. Repayment Arrangements**

In cases where the tenant cannot clear the arrears in a single payment, the Association will agree an affordable payment to reduce the arrears in realistic and sustained installments over a specific period of time. Any repayment agreement will be based upon a detailed assessment of the tenant's ability to pay.

## **10. Legal Action**

Legal action is the last stage in the rent arrears process. The decision to request that an action for recovery of possession of the property and payment of arrears of rent be raised will only be taken when all other means of recovery of rent arrears have been exhausted. The court may make either (or both) an order for recovery of possession or an order for repayment. An award of court expenses will be sought and recharged to the tenant.

## **11. Former Tenant Arrears**

Former tenants are tenants who have terminated a tenancy and have outstanding rent arrears related to the property vacated.

All tenants, when terminating their tenancy, are responsible for paying any outstanding arrears of rent and will be advised of the implications involved if rent arrears are not paid in full.

## **12. Monitoring and Reporting**

The Housing Manager will provide the following information on a quarterly basis to the Housing Management Sub-Committee :

- Total arrears as a percentage of the gross rental income;
- Current tenant arrears as a percentage of the gross rental income;
- Former tenant arrears as a percentage of the gross rental income;
- Total number of arrears cases;
- Total arrears cases within bandings between <£200, £200-£500, £500-£1,000 and >£1,000;
- Number of Notice of Proceedings issued
- Number of court actions initiated
- Number of Decrees granted
- Number of evictions.

## **13. Equal Opportunities**

Barrhead Housing Association is committed to providing fair and equal treatment to all our customers.

The Association will not discriminate against anyone on the grounds of civil partnerships, race, colour, ethnic or national origin, disability, religion, age, sexual orientation, marital status, civil partnerships, family circumstances, employment status or physical ability.

We will offer customers a range of options for communicating with us, since requiring to contact us may have to be in writing and this may be a deterrent, for example for people with poor literacy skills, visual impairment, or where first language is not English. We will monitor use of our Arrears Management policy and procedure for ethnic origin and disability to ensure that our procedures deliver fair outcomes for different groups of customers.

## **14. Complaints Policy**

Barrhead Housing Association operates a complaints policy that is open and transparent, should any customer or service user feel the need to make a complaint against an individual or the organisation, the complaints policy and procedure will be implemented.

This is covered by a separate policy and you should request a copy if you wish to make a complaint.

In keeping records about complaints and in allowing access to our files we will comply with the legislative requirements including, Access to Person at Files Act 1987 and Data Protection Act 1998.

## **15. Policy Review**

The Housing Management Sub-Committee will review the Arrears Management Policy at least every three years. However, improvements in performance and service delivery may be made on a regular basis to reflect change and in light of various factors such as:

- New or revised legislation
- Changes in good practice
- Organisational change, e.g. revision of operational practices
- Views of tenants and other service users
- Auditing practices
- Resource requirements

## **Appendix 1: Arrears Procedure**

### **1.1 Prevention of Rent Arrears**

Housing staff will ensure that a face-to-face meeting is conducted at the start of each tenancy to explain:

- the amount of the rent due,
- payment methods, the use of direct debits will be encouraged,
- how to claim housing benefit and other welfare benefits,
- the need to pay rent on time and in one month's advance,
- what happens if rent is not paid,

### **1.2 Assessment, Support and Liaison with Other Agencies**

Housing staff will offer a detailed financial assessment to all tenants when it is identified that their rent account is in arrears in order to assist in the management of his/her tenancy and ensure that rent is paid. During the assessment, housing staff will identify possible sources of support for the tenant. These may include :

- Family/household members;
- Social Work;
- Housing Benefit;
- Welfare Rights Officer;
- Tenancy Intervention Officer;
- Homelessness Services;
- Dept of Work and Pensions;
- East Renfrewshire Money Advice
- Citizens Advice Bureau; and
- Any other appropriate voluntary agency

### **1.3 Early Action**

Housing staff will monitor rent accounts on a weekly basis. Arrears control and recovery action will be activated as soon as a rent account falls into arrears.

Detailed procedures for rent control and arrears action ensure that each case is regularly monitored and the necessary checks made at each stage of the control and recovery action. Tenants who regularly go into arrears will be contacted and a financial assessment will be completed.

Housing staff will maintain a comprehensive record of all action taken and contact with a tenant in arrears.

Housing staff will provide tenants in arrears with clearly written arrears letters which detail the current balance on an account, what action they need to take with appropriate phone numbers to get assistance.

Housing staff will provide tenants in arrears with a financial assessment of their circumstances with a view to making realistic and sustainable arrangements to pay off the arrears.

The Association will: -

- Give priority to establishing personal contact with tenants throughout the debt recovery process;
- Enable an appropriate assessment of their needs and circumstances to inform the delivery of support if required;
- Enable money management advice and assistance;
- Provide effective controls on the recovery of debts, with legal action being taken only when all other means of recovery of rent arrears have been exhausted; and
- Encourage tenants to advise the Association of a change in their circumstances that may affect their ability to pay rent.

Former tenants in arrears will be encouraged to agree a repayment plan that is affordable and sustainable.

Detailed procedures for arrears recovery ensure that each case will be regularly monitored and appropriate action taken.

Where attempts to recover arrears by letter have failed, or the former tenant's whereabouts are unknown, the debt will be referred to the Debt Collection Agency used by the Association.

Legal action to recover the arrears will be taken in cases where, an assessment of the former tenant's financial circumstances, indicate that such action would be appropriate.

Where the arrears are in respect of a deceased tenant action will be limited to contacting the next of kin or executor to claim against the estate.

Where a debt is uneconomic to pursue or there is no prospect of recovery, the debt will be written off in accordance with the Association's policy on irrecoverable deb.

#### **1.4 Serious/Persistent Arrears Action**

Housing staff will write and inform the tenant that if the payment of rent and arrears are not made on a regular basis, that a Notice of Proceedings for Recovery of Possession will be served and that legal action may be taken.

Emphasis will continue on personal contact and ensuring that family members where appropriate are involved.

## **1.5 Repayment Arrangements**

The housing officer should make a written agreement with the tenant, where possible, on how to manage and reduce their rent arrears. This agreement should include the level of current arrears, the tenant's ability to pay, the size and frequency of arrears repayments, the repayment dates and the method of making future rent payments.

Once the tenant has made an agreement to repay arrears, the rent account of the tenant should continue to be monitored. If payments continue to be missed, further action will be taken.

## **1.6 Legal Action**

Housing staff must serve the tenant with a Notice of Proceedings for Recovery of Possession at least 28 days before court proceedings will commence. Before serving a Notice of Proceedings for Recovery of Possession, the housing officer will make reasonable enquiries to establish, so far as is reasonably practical, whether there are any qualifying occupiers in the house. The Notice of Proceedings for Recovery of Possession must also be served on all qualifying occupiers of the house. A qualifying occupier is a person who occupies the house as his/her only or principal home and who is :

- a member of the tenant's family aged at least 16; or
- a person to whom the tenant has, with the landlord's consent, assigned, sublet or otherwise given up possession of the house;
- a person who is a lodger and the landlord has given consent.

Tenants in rent arrears should be informed that any qualifying occupiers will be notified of the rent arrears and may at the tenant's discretion be invited to contribute to the financial risk assessment process.

Tenants will be kept informed and fully involved of the legal process involved in all stages of legal action. Legal action may include a payment decree or ejection decree. In all cases, the housing staff will seek recovery of expenses. Expenses may be awarded where the arrears have been repaid. Where appropriate, housing staff will refer the tenant to suitable agencies to provide advice or assist in representation at court hearings.

Where the court orders the repayment of arrears, it may order an open decree for repayment, which the Association can enforce for full payment of the debt, or it may make an installment decree requiring the tenant to clear the arrears at an agreed rate.

## **1.7 Former Tenant Arrears**

Housing staff should agree a repayment arrangement with former tenants in arrears when they terminate their tenancy. The repayment plan should be affordable and sustainable.

Housing staff should ensure that each case is regularly monitored and appropriate action taken.

Where attempts to recover arrears by letter have failed, or the former tenant's whereabouts are unknown, the debt will be referred to the Debt Collection Agency used by the Association.

Legal action to recover the arrears will be taken in cases where an assessment of the former tenant's financial circumstances, indicate that such action would be appropriate.

Where the arrears are in respect of a deceased tenant housing staff should contact the next of kin or executor to claim against the estate.

Where a debt is uneconomic to pursue or there is no prospect of recovery, the debt will be written off in accordance with the Association's policy on irrecoverable debt.

## Appendix 2 : Delegated Responsibility

<b>Day 1-7</b>	All payments to be posted by the last day of the Month (including rent and housing benefit)	HA
	On the first day of the new month the ledger for the previous month will be closed and balances will be carried forward to the new month.	HM
	The arrears report will be run and non-technical arrears identified	HM/HO
	Complete stats for Housing Manager	HO
<b>On day 7</b>	The first reminder will be issued with a deadline to contact within 5 working days, or receipt of full payment. Welfare Rights advice and assistance to be offered.	HO
<b>By day 14</b>	If no contact/payment made, then second or final letter issued. This will usually stipulate an appointment time for the customer to call to the Office.	HO
<b>By day 21</b>	Final date for meeting/visit	HO
<b>Between Day 21 - 28</b>	Monitoring meeting between HM, HO and HA to review each case in arrears	HO/HM/HA
<b>Day 28</b>	Notice of Proceedings/Court Action : <ul style="list-style-type: none"> <li>• contact Social Work Dept – (ie children)</li> <li>• copy notice and relevant paperwork to Solicitors</li> </ul>	HO/HM
<b>Monthly</b>	Continue to try to establish contact with customer and continue to send reminders	
	Decree/wage arrestment/Eviction	HM/Man Com

### Appendix 3 : Repayment Agreement Procedure

<b>Day 1 – 7</b>	Repayment plan agreed Signed by the tenant and omni system updated Copy retained on file Copy sent to tenant	HO/HA
<b>Day 7 – 14</b>	Agreement monitored on weekly/monthly basis	HO
<b>Within 28 days 1 month</b>	If agreement broken, hold discussion with tenant if possible and decide if a Notice of Proceedings should served	HO/HM
	If the tenant has a live Notice of Proceedings Hold discussion with the tenant and inform them of possible court action.	
	If no contact, instruct Solicitor and advise agencies accordingly.	HO/HM

#### Appendix 4 : Former Tenant Arrears Procedure

	Once a customer has given 28 days notice – before leaving tenancy get as many details as possible (forwarding address, NI No. etc.) make repayment plan and inform customer of final balance on account.	HO/HA
<b>Day 1</b>	Check arrears print for former arrears	HA
<b>Day 1 – 7</b>	Send first reminder and make repayment plan, Customer to sign agreement, Copy to Customer, copy to file, omni updated.	HA
<b>Day 14 – 28</b>	Repayments monitored in-line with procedure where arrangement has not been adhered to, send to solicitor/debt collectors	HA
<b>Day 14 – 28</b>	Where forwarding address not known, cost benefit analysis taken on which course of action to take. Only debts over £ 50 worth pursuing	HA/M
	Decision to be taken on course of action	HA/HM
	Debt passed to debt collectors or written-off if under £ 50	HA

## **Appendix 5: Maintenance of Arrears Information**

The tenancy file will be used to file all information regarding the Tenant's arrears.	HO
The file will include copies of all letters received and sent to the Tenant	HO
Any minutes of meetings with the tenant	HO
Repayment arrangements	HO
All steps of arrears action must be loaded onto the OMNI system	HO