



ALBYN HOUSING SOCIETY LTD

TITLE: DEBT PREVENTION AND RECOVERY POLICY

Authorised by the Board	June 2012
Housekeeping Review	Jan 2023
Next Full Review Due By	May 2023
Staff Affected	Customer Services Finance & Corporate
Lead Officers	Policy: Director of Customer Services Operation: Customer Services Managers

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Purpose

The key objectives of this policy are:

- To prevent and minimise debts
- To sustain tenancies where possible
- To be clear and simple to implement

We will meet these objectives through the following key aims:

Debt Prevention and Recovery Policy

- a) Our priority is to prevent debts from occurring or re-occurring through early intervention and prevention wherever we can; by giving good quality information and assistance to tenants that takes their individual circumstances into account.
- b) We aim to minimise debts, so tenants do not lose their homes. We will act quickly, firmly, fairly, consistently, efficiently and effectively to contain and reduce debts. We will only consider repossession of a tenant's home as a last resort.
- c) We will help and inform tenants about their rights and also their responsibilities and will actively encourage a payment culture.
- d) We will contact tenants as soon as possible about missed payments.
- e) We will make sure our tenants know where they can get independent debt counselling, welfare advice or housing support before we take any legal action against them.
- f) We will make sure that effective monitoring and reporting systems are in place which will help us to identify, prevent and recover debts, and to proactively monitor trends.
- g) We will clearly identify the respective roles and authority of staff and Board members, and will provide clear guidance and procedures for the prevention and recovery of debts.

Scope

This policy applies to all housing related charges, although the specific action taken may vary depending on the type of the debt. The charges covered include:

- Current tenant rent and service charges
- Former tenant rent and service charges
- Garage rents
- Legal costs associated with tenancy and debt recovery actions
- Rechargeable repair debts
- Factoring charges to owners
- Insurance charges to owners
- Occupancy charges to owners

The policy applies to all tenures managed by us, including:

- Scottish Secure Tenancies
- Short Scottish Secure Tenancies
- Occupancy Agreements
- Short Assured Tenancies
- Supported Tenancies
- Shared Ownership
- Shared Equity
- Owner Occupiers
- Garage Tenancies

Definitions

In the context of this policy and associated procedures, we use particular terms which are defined as follows:

'Tenancy' means the occupation of all property for which a charge is paid to us, including licensed occupants and owners on occupancy agreements, unless other specific mention is made of actions relating to particular tenure types

'Rent' means all payments due to us that are due because of occupation of a property owned or managed by us, or for services provided by us in relation to tenancy (including service charges for the management and maintenance of communal or shared facilities).

'Debts' means any charges that are due to us and have not been paid when they are due.

Framework

This policy has been prepared to take into account the following:

- All existing and future relevant legislative requirements, including the following:
 - Housing (Scotland) Act 2001
 - Housing (Scotland) Act 2010
 - The Scottish Secure Tenancies (Proceedings for Possession)(Pre-Action Requirements) Order 2012
 - Mortgage Rights Protection Act 2001
 - Human Rights Act 1998
 - Children (Scotland) Act 1995
 - Equality Act 2010
 - Debtors (Scotland) Act 1997
 - Data Protection Act 1998
- Our own Vision, Mission and Strategic Goals
- Successful Tenancies Strategy
- Social Housing Charter 2012
- Scottish Housing Regulator's Regulatory Framework
- Our operating context (See **Appendix 1**)

The following publications have also been taken into account in preparing this policy:

- Thematic Study: Evictions in Practice - Communities Scotland (2004) Internal audit recommendations
- Improving the Effectiveness of Rent Arrears Management: Good Practice Guidance - ODPM (2005)
- The Housing Manual - Chartered Institute of Housing best practice guidance

The policy also contributes to the following strategic frameworks

- Joint Highland Homelessness Strategy
 - Strategic outcome 1 - A higher proportion of those at risk of homelessness will be assisted through early, effective intervention to prevent the crisis of homelessness or repeated homelessness
 - Strategic outcome 3 - More effective support will be provided to those who need it so that they can live independently successfully and not lose their home

Related Policies and Procedures

The following policies and procedures are directly relevant to this document:

- Guidance for Serving Notices
- Rent Setting Policy
- Tenancy Abandonment
- Allocations (Highland Housing Register joint policy & procedures)
- New Tenancies
- Rechargeable Repairs
- Void management
- Right to Purchase
- Customer Service Strategy & Service Promises
- Guidance on Effective Communication
- Personal Safety at Work
- Referrals to Advice and Support agencies

We will also work towards accreditation schemes that will directly support the delivery of this policy, including the following:

- National Standards for Advice and Information
- Tenant Participation - landlord accreditation

This policy is also supported by a comprehensive procedure and proforma documents to be used at different stages.

Policy Statements

Rent Collection

- Rent is due at the beginning of each calendar monthly payment period and will normally be expected in advance. Exceptions will be considered such as situations where the applicant is homeless and has no access to funds.
- We will make sure that we offer a wide range of payment methods and opportunities to allow rents and debts to be paid.
- We will use the most cost-effective means of collection available for both us and our customers.
- We will meet the cost of any payment options directly wherever possible, and will make clear to customers the costs to them of any options available.
- We will routinely check tenant's satisfaction with the range of options available to them.
- We will audit payments received on a sample basis to make sure that we receive them promptly; and that they are credited to the correct accounts within agreed timescales.
- Wherever possible, we will arrange for automated electronic payments from banks, post offices, other payment outlets and the local authority

Prevention

- We will actively promote a 'payment culture', by regularly emphasising the importance of and the responsibility to pay rent and other charges and the negative consequences for not doing so. This will be at sign up, in our new tenancy welcome packs, tenant's handbook, website, social media, leaflets and regular newsletter articles.
- We will always use clear and simple language when we contact our customers and aim to foster good and open communication with them.
- We will collect information about vulnerability, next of kin, emergency contact details, and special communication needs at the start of each tenancy. We will review this information on a regular basis to make sure we provide the most appropriate help to tenants.

- We will work with tenants at the very start of their tenancy: to emphasise the importance of keeping rent payments up to date and to encourage them to contact us at the earliest possible stage if problems arise with this. We will provide them with a Tenant's Handbook in an easy to understand format, which will include advice and information about benefits and payment methods.
- We will do a general financial assessment before a tenancy starts, to check whether a new tenant is likely to be entitled to housing benefit or universal credit.
- New tenants will normally be expected to pay a full month's rent or complete a housing benefit application form, before the keys are handed over.
- We will work with local advice agencies to provide benefits advice, money management and budgeting training for tenants. We will refer tenants and others who may be vulnerable to attend relevant courses before, early on or during their tenancy where such courses are available.
- We will actively help tenants to make successful housing benefit or universal credit claims whenever they appear to have an entitlement - especially at the beginning of a tenancy or if their circumstances change during it. We will help to complete forms and verify income details wherever possible. We will encourage tenants to agree that housing benefit payments are paid direct to us wherever possible.
- We will identify tenants who are vulnerable to debt and failed tenancies - either because of their individual circumstances or because of their client group. We will make sure that vulnerable tenants are referred to external agencies for targeted and appropriate assistance.
- We will aim to carry out a settling in visit where possible or have established verbal contact with all new tenants within the first 12 weeks of their tenancy. Settling in visits will be arranged sooner for tenants identified as potentially vulnerable.

Management and Recovery

- We will make prompt contact with tenants when debts arise. We will contact them personally using such means as telephone, text, e-mail or home visit and will record all outcomes agreed in writing.
- Tenants with complex and multiple debts or money management issues will be referred to a specialist agency for personal money advice and/or housing support. We will offer general advice on welfare, housing benefits and universal credit through our Customer Services Teams.

- We aim to provide clear rent account statements to all customers at least annually.
- We will be clear about the difference between rent and other debts when we contact tenants.
- We will make sure that staff dealing with rent debts have been trained on housing benefit regulations, universal credit and other welfare benefits and that they are kept up to date with legislative changes on a regular basis.
- We will help tenants to check on their housing benefit entitlements to maximise their income, to appeal against housing benefit award decisions, and challenge housing benefit overpayments where necessary.
- If initial repayment arrangements fail, we will make every effort to make personal contact with the tenant to carry out a full interview, establish the tenant's circumstances and reasons for being in debt and to establish a reasonable and mutually agreeable repayment arrangement.
- We will offer tenants the opportunity to reach a repayment arrangement with us to repay debts by instalments. This will normally be set up to recover the debt within 12 months of the first agreement made.
- We will offer tenants a limited number of opportunities to reach successful repayment arrangements before proceeding to enforcement action. These arrangements must be recorded in writing with the tenant. They will be agreed according to circumstances to ensure that they are reasonable and sustainable, and do not leave tenants in hardship.
- If the debt is not repaid or increases after repayment arrangements have been agreed, we will take prompt follow up action and will progress our debt recovery actions in a fair and consistent manner.

Enforcement Actions

Tenants have a responsibility to pay their rent, and we have a duty to make sure that rent due is paid to us. In situations where arrears grow despite all our practical interventions, advice and assistance, our only solution may be to end a tenancy. We will only serve a Notice of Proceedings and court action where we are committed to pursue and after all other measures to prevent and control the escalation of debts appear to have failed.

Eviction will be used as a last resort to prevent any further increase of the debt.

Notices

We will take full cognisance of Scottish Secure Tenancies (Proceedings for Possession) (Pre-Actions Requirements) Order 2012, and act within its terms

- We will not serve a Notice Seeking Possession on a tenant unless we have complied with Pre-Action Requirements.
- We will not serve a Notice Seeking Possession if a housing benefit claim has been submitted, is being processed and where we think that if the claim is successful, that the level of entitlement will allow them to address the arrears on their account.
- Once we issue a Notice, it will be our firm intention to proceed to court action unless a reasonable repayment arrangement is made and maintained to reduce and clear the debt. We will generally only offer tenants one opportunity to reach and maintain a repayment arrangement at this stage.
- If a repayment arrangement is not made within the 28-day notice period, or if a repayment arrangement fails during the period that the notice remains valid, we will instruct our solicitor to issue a 7-day warning letter of our intention to apply for court proceedings.
- We will actively advise tenants to seek independent specialist or legal advice on any level of recovery action that we plan to take.

Fast-track Actions

- We should consider a 'fast track' approach to tenants who fall into debt within 12 months of an earlier Notice or court action or following sequestration. However, it is essential that will still comply fully with Pre-Action Requirements and we can evidence this should we proceed to Court.

Court Action

- When we apply for court action, we will continue to make every effort to keep in contact with the tenant to carry out a pre-court interview.
- We will actively advise tenants to seek independent specialist or legal advice.
- We will let them know where local advice can be obtained.

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- We will set up case conferences including other relevant agencies or household members where appropriate.
- Where repayment agreements reached during court actions proceedings, we will usually seek to sist or continue proceedings. If payments fail, action should be started again immediately.
- We will only agree to withdraw or dismiss an action if the tenant contacts us and clears their debt in full, including an arrangement to meet legal costs. Any exceptions to this must be agreed by the Director of Customer Services.
- We will seek approval from the Chief Executive Officer to enforce decree once the extract document has been received from the court for appropriate cases and in line with legislative requirements.

Eviction

- Eviction will always be seen as a last resort.
- The decision to recommend enforcement of a decree will be taken by the Chief Executive Officer before any instruction is given to our Solicitor to action.
- We will notify the local authority homelessness service and social work service of all likely enforcements.

Actions for Tenures other than Scottish Secure Tenancies

Short Scottish Secure Tenancies

- The recovery actions for tenants on Short Scottish Secure Tenancies (Short SSTs) will follow our normal process up to and including the final reminder.
- If a successful repayment arrangement is not obtained by this stage, the Customer Services Manager may approve that a Notice is served to prevent the tenancy continuing by tacit relocation.
- If the tenant does not then leave the tenancy on a voluntary basis at the end date of the tenancy, court proceedings will be raised to have the tenancy recovered.

Shared Ownership, Shared Equity and Owner Occupiers

Debt Prevention and Recovery Policy

- Initial reminders will be issued when debts of £15 or more have arisen.
- Our usual recovery process will be followed up to and including the final reminder.
- If no suitable repayment agreement has been reached, we may consider using a debt collection agency to pursue debts of up to £100.
- If the debt is £100 or more, we may instruct our solicitor to issue a formal letter 7-day letter advising of our intention to raise court action to recover the debt. Any private lender for a sharing owner will also be advised of our intended action at this stage.
- If a sharing owner does not respond or we cannot negotiate a repayment agreement, we will ask our solicitor to issue a 28-day notice ending their right to occupy the property under the Minute of Agreement.
- Where the debt is £500 or more, the Customer Services Manager may authorise repossession action being pursued jointly by us and the private lender.
- A repayment order through a small claims action will be sought in cases as appropriate.

Garages

- Where a garage has been let in conjunction with a tenancy, all arrears will be treated as current rent arrears.
- Where a garage has been let on a separate agreement, the debt will be pursued through our normal processes up to the value of £50.
- For debts of £50 or more, a Notice to Quit will be issued, which will be enforced after 14 days if the debt has not been cleared.
- Notice may also be served if payments are being made but the tenant owes other debts to us and has not made a suitable arrangement for their repayment.

Final Actions

Sequestration

- If a current or former tenant has gone through a process of sequestration (also known as bankruptcy), we cannot pursue debts that arose before the date of sequestration in court. However, it is not prevented in law for us to consider pursuing possession of the tenancy where sequestration occurs after court proceedings to repossess a tenancy have begun. Whether repossession is pursued or not, the pre-sequestration debt will no longer be recoverable. Each case should be treated on its own merits and the Chief Executive Officer will still have to provide final approval to recover the tenancy.
- The tenancy does not end at sequestration. Accounts will be adjusted with the pre sequestration debt figure. If the tenant's financial circumstances improve before discharge of the bankruptcy, representations will be made to the trustees for full or partial repayment of the debt. In all other cases, the debt will be written off.
- We will pursue any new debt after the date of sequestration in the usual way.

Former Tenancy Debts

- Our procedures for management of current tenant debts and our void procedures are designed to minimise the risk of us being left with tenancy related debt at the end of a tenancy.
- Where debts are left at the end of a tenancy we will pursue repayment if it is cost effective to do so unless the tenant has died, can no longer be easily traced or is especially vulnerable because of a physical or mental disability.
- We will advise tenants of all debts due when we receive notice to end a tenancy. We will also obtain a forwarding address and current contact details wherever possible.
- We aim to write to former tenant debtors within 4 weeks of the end of their tenancy once final settlement of housing benefit is received or rechargeable repairs applied to the account.
- Where the tenant cannot be traced, no response is received after two letters and the debt is greater than £50, the case will be passed to our approved debt collection agency
- Small claims actions may be considered where the debt is more than £250.

Write Off

Debts that cannot be collected will be written off on a quarterly basis to make sure our assets are not overstated in year-end accounts. These will generally be former tenancy debts. Current tenancy debts will only be written off in exceptional circumstances.

- Credit balances will be written off annually where it cannot be returned to a former tenant or their agent.
- The Customer Services Manager will approve all former debts and credits for write off up to the value of £500.
- The Board must approve the write off of debts and credits above the value of £500.

Responsibilities for Actions

- Debt prevention and its management is the responsibility of our Customer Services Department.
- Members of our Corporate & Finance Teams also have roles to play in the effective delivery of this policy.
- Our Board have ultimate responsibility for agreeing and approving the policy and for monitoring its effectiveness through regular performance reports presented to them.

Performance Monitoring

- We will agree key performance indicators and targets for current and former tenancy debts with our Board on an annual basis.
- We will monitor our arrears levels by individual case and by overall trends on a regular basis to make sure that we are progressing towards meeting and improving on our targets. We will investigate causes of underperformance and identify remedial actions as quickly as possible.
- We will regularly collate information on tenancies that fail as a result of rent arrears.

Debt Prevention and Recovery Policy

- We will compare our performance against the performance of other relevant housing providers and will seek out, take advantage of and share out our own good practices.
- We will report performance to the Board of Management on a quarterly basis and to the Scottish Housing Regulator on an annual basis.
- We will publish our performance at the end of each financial year in an annual report, tenant newsletters and on our website.

Monitoring and Review

Our Debt Prevention and Recovery Policy and associated procedures will be reviewed every five years in consultation with our staff, committee members and customers. The review will make sure that:

- We are providing the appropriate service to meet our customer's needs.
- The policy and procedures are helping us to reach our targets on debt prevention and recovery in line with our operating context and business planning assumptions.
- We will carry out interim reviews of the policy and procedures to comply with future legislative or regulatory requirements as and when they occur.