

DEBT PREVENTION AND RECOVERY POLICY

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1 INTRODUCTION & POLICY STATEMENT

- 1.1 A key aim of the Albyn Group is to build the mission, values, and vision of the organisation into its decision making on a daily basis. The Albyn Group aims to follow its guiding principles in all policies and procedures:
<https://www.albynhousing.org.uk/about-us/>
- 1.2 This policy outlines the Group's approach to preventing, minimising, and managing debts with a view to sustaining tenancies where possible. Where sustainment may not be possible, the Group will use the powers available to it to effectively deal with tenant debt.
- 1.3 This policy will be accompanied by formal written procedures to ensure its proper implementation. The procedures will provide a more practical operational level of guidance to assist staff to execute their duties in accordance with the policy.

2. AIMS AND OBJECTIVES

- 2.1 The key objectives of this policy are:

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

- 2.2 We will meet these objectives through the following key aims:

- 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.
- We aim to minimise debts, so tenants do not lose their homes. We will act quickly, firmly, and fairly to contain and reduce debts. We will only consider repossession of a tenant's home as a last resort.
- We will help and inform tenants about their rights and their responsibilities and will actively encourage a culture of payment of rent in advance.
- We will contact tenants as soon as possible about missed payments.

- 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, including referrals to our Tenancy Sustainment Team or independent advice agencies.
- 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.
- We will clearly identify the respective roles and authority of staff and will provide clear guidance and procedures for the prevention and recovery of debts.

3. SCOPE

3.1 This policy applies to all Albyn Group staff, contractors, partnership agencies, tenants, and customers with an interest in our Debt Prevention and Recovery Policy and Procedures.

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

- Current tenant rent and service charges.
- Former tenant rent and service charges.
- Garage rents.
- Leased properties.
- Legal costs associated with tenancy and debt recovery actions.
- Rechargeable repair debts.
- Insurance charges to owners.
- Sharing owners' occupancy charges.

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

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

3.4 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.

4 RESPONSIBILITIES

- 4.1 The Boards of the Albyn Group have overall responsibility for approving this policy for implementation. The Leadership Team are responsible for implementing the policy in accordance with legislative and regulatory requirements. The staff are responsible for ensuring the policy and procedures are followed.

5 DATA PROTECTION

- 5.1 All personal data processed when implementing this policy will be done so in accordance with the Data Protection Act (2018) and UK GDPR.
- 5.2 A Privacy Notice setting out how Albyn Housing Society will process the personal data of its customers is available at:
<https://www.albynhousing.org.uk/privacy-notice/>. Privacy Notices for customers of Highland Residential (Inverness) Ltd are available at:
<https://www.highlandresidential.co.uk/data-protection/>.

6 EQUALITIES

- 6.1 We will make copies of this policy available in a range of formats, including large print and in other languages where required. We will also work to meet the Equalities section of the Social Housing Charter, which states that Registered Social Landlords perform all aspects of their housing services so that every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and

housing services. Staff will also be alert to whether any incidences of antisocial behaviour are or are linked to hate crime.

7 LEGISLATION

7.1 With regard to statutory requirements the Society has considered the following legislation:

- The Housing (Scotland) Act 2001 (the “2001 Act”), which established the regime of Scottish Secure Tenancies, the terms of such tenancies, the grounds for repossession of a tenancy and procedural requirements.
- The Housing (Scotland) Act 2010, which introduced new pre-action requirements for court actions to recover possession of a Scottish Secure Tenancy on grounds which include rent arrears, by amending sections 14, 14A and 16 (“the 2001 Act”)
- 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
- Social Housing Charter 2012
- Scottish Housing Regulator's Regulatory Framework
- The Equality Act 2010 (the public sector equality duty) requires public bodies to have due regard to the need to eliminate discrimination, promote equality of opportunity and foster good relations. the Equality Act 2010 introduced 9 protected characteristics:
 - Age
 - Disability
 - Gender reassignment
 - Marriage and civil partnership
 - Pregnancy and maternity
 - Race
 - Religion or belief
 - Sex
 - Sexual orientation
- The Data Protection Act 2018 and UK GDPR, which sets the rules for gathering, processing, and sharing personal information.

8 POLICY / PROCEDURE DETAIL

8.1 Rent Collection

- Rent is payable in advance, on or before the first day of each rental period. Exceptions may be considered dependent on individual circumstances. Tenants will need to enter into repayment arrangements to make up any shortfall in rent.
- We will offer a wide range of payment methods to allow rents and debts to be paid.
- 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.
- As part of our tenant satisfaction survey, we will check tenant's satisfaction with the range of options available.
- 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, local authorities, and benefits agencies.

8.2 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 consequences for not doing so. This will be at the pre-allocation discussion, 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 positive and open communication with them.
- Prior to the start of a tenancy, we will collect information about vulnerability, next of kin, emergency contact details, and special communication needs. We will review this information on a regular basis to make sure we provide the most appropriate help to our tenants.

- We will work with tenants prior to the 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 making payments. 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 discuss with tenants in advance of sign up how they will pay their rent and signpost them for financial advice to determine if they may be entitled to help with their housing costs. Where appropriate, a referral will be made to our Tenancy Sustainment Team before a tenancy starts to undertake a benefits check and support them to make or update claims as required.
- New tenants will be required to pay a full month's rent on or before they receive the keys for their new home. Where this will not be possible, the tenant will be supported to make a repayment plan to minimise debt from accruing on their account.
- We will work with local advice agencies to provide benefits advice, money management, and budgeting advice 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 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 few months of their tenancy. Settling in visits will be arranged sooner for tenants identified as potentially vulnerable or at higher risk of their tenancy failing.

8.3 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 agreed outcomes 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 tenants as and when it is deemed necessary or upon request.

- 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 or Universal Credit 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 establish the tenant's circumstances and their reasons for being in debt and to establish a reasonable and mutually agreeable repayment arrangement.
- If a tenant is unable to pay the debt in full, 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.
- If a tenant is failing to engage, and the debt is over £500, we will consider an employment trace with a view to wages arrestment if the debt is not cleared in full or a suitable repayment arrangement is agreed. The costs associated with these actions will be recharged to the tenant.

8.4 Enforcement Actions

- Tenants have a responsibility to pay their rent, and we have a duty to make sure that rent due is paid to the Group. In situations where arrears grow despite all our practical interventions, advice and assistance, our only solution may be to take formal action to end a tenancy. We will only serve a Notice of Proceedings and commence court action where we are committed to pursue the debt owed, 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.

8.5 Notices

- We will take full cognisance of Scottish Secure Tenancies (Notice of Proceedings for Recovery of Possession) (Pre-Actions Requirements) Order 2012, and act within its terms.
- We will not serve a Notice of Proceedings for Recovery of Possession unless we have complied with Pre-Action Requirements.
- We may not serve a Notice of Proceedings for Recovery of Possession if a housing benefit or Universal Credit 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 in full.
- Once we issue a Notice, it will be our firm intention to proceed with 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 before the notice becomes effective, or if a repayment arrangement fails during the period that the notice remains valid, we will escalate action which may include instructing our solicitors to issue a 7-day warning letter of our intention to commence with 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.

8.6 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 or entry into a debt management programme. However, it is essential that we still comply fully with Pre-Action Requirements, and we can evidence this should we proceed to court.

8.7 Court Action

- When we apply for court action, we will continue to make every effort to keep in contact with the tenant.
- We will actively advise tenants to seek independent specialist or legal advice, and we will let them know where local advice can be obtained.
- We will set up case conferences including other relevant agencies or household members where appropriate.
- We will notify the relevant local authorities via a Section 11 notification that court proceedings are commencing against a tenant.

- Where repayment agreements are reached during court actions proceedings, we will usually seek to sist or continue proceedings for a limited period to monitor payments. If payments fail, action will 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 court awarded legal costs.

8.8 Eviction

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

8.9 Credit Balances

- Where credit balances are identified, measures will be taken to notify the tenant and discuss refunds where appropriate subject to the below.
- Credit balances will not normally be refunded if the amount is less than one month's rent. This is because the rent is payable on or before the first day of each rental period and so a credit balance of less than a month's rent is not a technical credit. Therefore, only amounts over and above a month's rent will be refunded.
- Where credits are the result of benefit overpayments, refunds will not be issued to the tenant.

8.10 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 to Quit 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 and Shared Equity

- Initial reminders will be issued when debts 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 the options available to us to recover the debt including debt collection agencies, simple procedure actions or instructing our solicitors. The debtor will be responsible for any associated additional costs. 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.
- Where our normal processes have failed to see the debt addressed, 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.

8.11 Final Actions

Sequestration & Debt Management Programmes

- If a current or former tenant has gone through a process of sequestration or has entered into any other debt management programme, we cannot pursue debts that arose before the date these are awarded unless they breach any conditions attached to these programmes. However, it is not prevented in law for us to consider pursuing possession of the tenancy where sequestration/DMP 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 Group 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 continue to pursue any new debt after the date of sequestration/DMP.

8.12 Former Tenancy Debts

- Our procedures for management of current tenant debts and our void procedures are designed to minimise the risk of the Group 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 related benefits are 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 £100, all available formal measures, including wages arrestment and the use of debt collecting agencies will be considered to recover the debt and recover associated costs.

8.12 Write Off

- Debts that cannot be collected will be written off on a regular 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.
- Former tenant credit balances will be written off annually where they 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.

9. RESPONSIBILITIES FOR ACTIONS

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

10 PERFORMANCE MONITORING

- 10.1 We will agree key performance indicators and targets for current and former tenancy debts with our Board on an annual basis.
- 10.2 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.
- 10.3 We will regularly collate information on tenancies that fail as a result of rent arrears.
- 10.4 We will compare our performance against the performance of other relevant housing providers and will seek out, take advantage of, and share good practices.
- 10.5 We will report performance to the Board of Management on a quarterly basis and to the Scottish Housing Regulator on an annual basis.
- 10.6 We will publish our performance at the end of each financial year in an annual report, tenant newsletters and on our website.

11 COMPLAINTS

- 11.1 Complaints regarding our response to, or management of tenants who fall into debt, will be referred in the first instance to the Group's Customer Services Manager (Income). If the matter is not resolved, complainants will be advised to use the Group complaints procedure, copies of which are available on our website, at our offices and from our staff.

12 POLICY REVIEW

- 12.1 Our Debt Prevention and Recovery Policy and associated procedures will be reviewed every five years or earlier if required by legislation, guidance, or evolving best practice.
- 12.2 The review will take into account legislative changes, policy guidance, good practice advice, the performance of the Group, and the views of tenants and customers.
- 12.3 The Group will seek to involve tenants in discussions concerning the review of the policy and will ensure that all tenants are consulted on and informed of any changes made to the policy.

END OF POLICY